Department of the Interior

Bureau of Land Management

Colorado State Office

Fluid Minerals Program

2003

A Booklet ***Containing:***

Code of Federal Regulations
25 CFR Parts 211, 212, and 225 (BIA)
36 CFR Part 228 (FS)
43 CFR Groups 3100 and 3200 (BLM)

Onshore Oil and Gas Orders
National Notice-to-Lessees

Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA)
Federal Onshore Oil and Gas Leasing Reform Act of 1987 (FOOGLRA)
Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (FOGRS&FA)
Federal Land Policy and Management Act of 1976 (FLPMA)

SURFACE OPERATING STANDARDS FOR OIL AND GAS EXPLORATION AND DEVELOPMENT

Prepared By:

United States Department of the Interior
Bureau of Land Management
and
United States Department of Agriculture
Forest Service

THIRD EDITION

Prepared by the BLM/FS Rocky Mountain Regional Coordinating Committee (RMRCC)

January 1989

Copies of this brochure are available in limited quantities, free of charge, from RMRCC member BLM State Offices or FS member Regional Offices. These member offices are identified on the map on page 45 of this brochure. This brochure has been developed for use primarily in the Rocky Mountain states area.

Surface Operating Standards for Oil and Gas Exploration and Development "Gold Book"

CONTENTS

Chapters

Introduction	1
1. Geophysical Operations	3
2. Procedural Guidelines	4
3. Surface Use	9
4. Drilling Operations	28
5. Producing Operations	30
6. Reclamation and Abandonment	33
7. Appeals	38
Index	43
Acronyms	44
Maps/Office Locations	45

LIST OF FIGURES/PHOTOGRAPHS

Figures

Figures	Page
1 - Reserve Pit Construction	11
2 - Commonly Used Terms in Road Design	12
3 - Cross Sections and Plans of Typical Road Sections	18
4 - Typical Road Plan and Profile	19
5 - Drainage Dip Illustration	21
6 - Drainage Dip Profile	22
7 - Diagrams for Proper Culvert Installation	24
8 - Typical Culvert Construction	25
9 - Low Water Dry Creek Drainage Crossing	27
10 - Waterbreak Construction for Pipelines	34
11 - Well site Restoration by Terracing	35
12 - Sample NOS Submittal	39
13 - APD	40
14 - Sundry Notice Forms	41
15 - Example Spill, Blowout, Fire, Etc., Report Data	42

Photographs

Photographs	Page
1 - Properly Constructed Drillsite	9
2 - Well-Constructed Crowned and Ditched Road	22
3 - Acceptable Culvert Installation	23
4 - Typical Onsite Produced Water Disposal Pits	32
5 - Production Facilities with Firewall	32
6 (A-E) - Well site Reclamation	36
7 (A-B) - Completed Road Reclamation	37

CHAPTER 1
GEOPHYSICAL OPERATIONS

Introduction

Geophysical operations may be conducted on most federal lands by bonded geophysical operators, regardless of whether the federal lands are leased.

Prior to conducting operations, the operator must contact the SMA. With prior approval, lessees may conduct geophysical operations on their lease as a lease right.

BLM Requirements

The responsibilities for geophysical operations on public lands are as follows:

Geophysical Operator

An operator is required to file with the BLM authorized officer a "Notice of Intent to Conduct Oil and Gas Exploration Operations" (Form 3040-1) and be apprised of practices and procedures to be followed prior to commencing operations on BLM administered lands. The "Notice of Intent" shall include a map showing the location of the line, all access routes, and ancillary facilities. The map should be a minimum scale of one-half inch equal to one mile. A 1:24,000 U.S.G.S. topographic map is recommended. The party filing the "Notice of Intent" (named on the top of the Notice) shall be bonded. A copy of the bond or other evidence of satisfactory bonding shall accompany the Notice. Holders of statewide or nationwide oil and gas lease bonds may obtain a rider to include coverage of geophysical operations. For geophysical operation methods involving surface disturbance, a cultural resources survey may also be required.

The completion and signing of the "Notice of Intent" signifies agreement to comply with the terms and conditions of the Notice and subsequent practices and procedures specified by the Authorized Officer. A prework field conference may be conducted. Earth moving equipment shall not be used without prior approval. Upon completion of operations, including any required rehabilitation, the operator is required to file a "Notice of Completion of Oil and Gas Exploration Operations" (Form 3045-2).

Authorized Officer

The authorized officer shall contact the operator after the "Notice of Intent" is filed and apprise the operator of the practices and procedures to be followed.

The authorized officer shall complete a final inspection and notify the operator if the terms and conditions of the "Notice of Intent" have been met or that additional action is required. Consent to release the bond or termination of liability shall not be granted until the terms and conditions have been met.

FS Requirements

Geophysical operations on National Forest System lands are authorized under a Prospecting Permit issued by the FS. The sequence of actions by the geophysical operator and the FS authorized officer is as follows:

Geophysical Operator

The operator is required to file an application for a Prospecting Permit detailing all proposed operations on National Forest System lands. The application will include map(s) showing access routes and location of lines and all other activities. The map should be a minimum scale of one-half inch equal to one mile. A 1:24,000 U.S.G.S. topographic map is recommended. After the application has been reviewed by the FS, a permit will be sent to the applicant for review. The operator will sign and return the permit with any fee (if applicable) and bond requested.

The operator must have an approved Prospecting Permit prior to initiating operations on National Forest System lands and must comply with all stipulations. The operator must notify the authorized officer of scheduled entry and receive prior approval of any changes in the original plans. A prework conference may be required. For geophysical exploration methods involving surface disturbance, a cultural resources survey may also be required.

The operator is required to notify the authorized officer when operations are completed.

FS Authorized Officer

Upon receipt of the application, the FS will review the proposed activities to determine the stipulations necessary to protect surface uses and resources. The operator will be sent the resulting Prospecting Permit indicating the stipulations, any fee to be paid (if applicable) and amount of bond required.

The FS makes final inspections prior to approval of termination of the permit and release of bond.

State and Local Requirements

There may be State or local requirements for geophysical operations. It is the operator's responsibility to be aware of these requirements.

Other Federal SMA Requirements

The requirements of other Federal SMA's may vary. Authorization of the SMA is normally required prior to entry on the land.

Split Estate Minerals Administered by the BLM

Where the minerals are federally owned and the surface is private or state owned, no authorization is necessary from the Federal Government. Operators must work with the surface owner to obtain access.

CHAPTER 2
PROCEDURAL GUIDELINES FOR OIL AND GAS OPERATIONS

The summary on the following pages is provided to acquaint the operator with the basic procedures for approval of lease operations. The procedures are presented in chart form which summarize the federal agency requirements and responsibilities contained in Onshore Oil and Gas Order No. 1. It also contains a synopsis of the timeframe requirements and corresponding field activities associated with the federal and operators' responsibilities. The major actions are presented in relative order and time perspective to assist the coordination efforts of both the operator and Federal agencies.

Two procedure options, namely the Notice of Staking (NOS) and Application for Permit to Drill (APD) (see table below), are available to the operator for securing approval to drill. Although timeframes set forth in the regulations are the same for both options, they do contain individual advantages. The NOS system, H properly coordinated at the beginning of the action, may expedite final permit approval; however, the APD system is the most familiar to the oil and gas operators and often requires less upfront coordination effort. The choice is the operator's as to which option to use.

On National Forest System lands the FS has approval authority on the surface use plan of operations.

Access roads and pipelines located on federal surface outside of the leasehold or the unitized area, require a right-of-way (ROW) for BLM lands or a Road Use Permit or Special Use Permit (SUP) for FS lands. The NOS or APD for BLM land will be accepted as a ROW application for these off lease facilities and the application should, therefore, detail the entire development proposal. At the NOS or APD onsite inspection, the operator will be provided form 2800-14 (ROW/Temporary Use Permit) containing standard terms and conditions, and form 1323-2 (ROW cost recovery and fee determination record) for any involved ROWs on BLM land. Complete APDs involving a BLM ROW should include a signed form 2800-14 and any required ROW cost recovery fees. APD conditions of approval will also apply to ROW portions of the permit.

Bonding

Bonding is required (43 CFR 3104, 36 CFR 228 E) for oil and gas lease operations in order to indemnify the

United States against losses associated with failure to meet royalty obligations, plugging wells not properly abandoned on a lease, and/or surface restoration and cleanup on abandoned operations. Bond coverage for operations is to be provided by the operator. The operator may post the bond itself, or obtain a consent of the surety under an existing lessee's bond or operating rights owner's bond, extending coverage under that existing bond to include such operations. The bond may be a surety or personal bond backed by cash, negotiable securities, Certificate of Deposit, or Letters of Credit in the minimum amount of $10,000. In lieu of a $10,000 lease bond, a bond of not less than $25,000 for statewide operations or $150,000 for nationwide operations may be furnished. When submitting APDs, operators should state the bond they will utilize. In extraordinary cases, the authorized officer may require additional bonding coverage. Bonded principals may request partial bond releases when portions of the abandonment or reclamation process are deemed complete by the authorized officer. Upon the completion of all leasehold abandonment and reclamation, the operator should notify the authorized officer.

	NOS OPTION	APD OPTION
STEP I	Staking Notice Submitted	Application for Permit to Drill
STEP II	Onsite Inspection	Onsite Inspection
STEP III	APD Submission and Processing	APD Review and Processing

	APPROVED DRILLING PLAN
STEP IV	Operations Conducted Under an Approved Plan
STEP V	Production/Dry Hole-Subsequent Actions
STEP VI	Abandonment

NOTICE OF STAKING PROCEDURES GUIDELINES (NOS OPTION)

	Step I **Staking Notice**	**Step II** **Onsite Inspection**	**Step III** **APD Review and Processing**
Operator Action:	1. Contact SMA prior to staking for potential conflicts and concerns. (Operator's option) 2. File Notice of Staking with BLM and SMA.	1. Arranges participation of drilling and dirt contractors, and if necessary, surveyors and archaeologist at inspec-tion. To be scheduled by the BLM or Forest Service. 2.Participates in inspection, secures information for surface-use program or devel-ops program onsite.	1. Prepares surface use & drilling programs. Incorporates onsite inspection information. 2. Files complete APD with BLM. 3. If necessary, files private surface agreement & archaeo- logical report with SMA. 4. Files application for off lease permit with SMA, if other than BLM. APD serves as formal ROW application for BLM lands.
Federal Action:	1. Upon initial contact, SMA apprises operator of conflicts and concerns. 2. Upon receipt of NOS, schedules onsite inspection with operator. 3. BLM and SMA initiates environmental review. Posts notice of proposal action.	1. BLM/FS schedules and conducts inspection with operator, contractors and SMA. 2. BLM/FS apprises operator of requirements for a complete APD at onsite or within 5 days. 3.Identifies on lease ROW or other permit needs.	1. BLM & FS upon receipt of APD, reviews surface use and drilling programs for complete-ness. Returns incomplete APDs. 2. Completes environmental analysis and completes neces-sary documentation. 3. BLM consults with or obtains FS/SMA approval of surface-use program. 4. Completes conditions of approval. 5. APD and permits approved or rejected. 6. Ensure adequate bonding or surety to cover approved opera-tions.
Field Activities:	1. Operator surveys and stakes well, access road and ancillary facilities prior to inspection.	1. Conduct onsite inspection. 2. Stake location of well site, roads, and ancillary facilities as agreed at onsite. 3. Operator secures cultural resource inventory, if required.	
Timeframe:	1. Onsite inspection to be scheduled within 15 days of NOS receipt.	1. Onsite inspection conduct-ed within 15 days of receipt of NOS. 2. Furnish operator with additional requirements at the onsite or within 5 working days of inspection.	1. Operator submits complete APD within 45 days of inspec-tion. 2. BLM advises operator within 7 days as to completeness of APD. 3. BLM processes complete APD and either approves or rejects within 10 days of receipt.

APPLICATION FOR PERMIT TO DRILL PROCEDURES GUIDELINES (APD OPTION)

	Step I Application for Permit to Drill	Step II Onsite Inspection	Step III Final APD Review and Processing
Operator Action:	1. Contacts SMA for potential land-use conflicts, areas of concern and permit needs. (Operator's option.) 2. Prepares APD (surface-use and drilling programs) and files with BLM. 3. Files for permits required by SMA. On BLM lands APD serves as rights-of-way (ROW) application.	1. Arranges participation of drilling and dirt contractors and others, as applicable. 2. Participates in the onsite inspection.	1. Corrects, revises and/or amends APD and permit applications, as needed. 2. Files revised and completed APD with BLM and permit application amendments with the SMA. 3. If necessary, files private surface agreement & archaeological report with SMA. 4. Files application for off-lease permit with SMA, if other than BLM. APD serves as formal ROW application for BLM lands.
Federal Action:	1. Upon initial contact, SMA apprises operator of conflicts or concerns and other permit needs. 2. Uponreceipt of APD, BLM conducts preliminary review for completeness. 3. Posts Notice of Proposed Action. 4. BLM sendssurface-use - plan to SMA. 5. Upon receipt of APD, BLM/FS schedules onsite inspection. 6. BLM/SMA initiates environmental analysis.	1. BLM/FS conducts onsite predrill inspection with operator, contractors and SMA. 2. Location of well, access road and facilities and construction standards agreed upon. 3. Additional permit needs identified. 4. Operator advised of any deficiencies in surface use or drilling programs and provided with additional requirements.	1.Upon receipt of any APD revisions, reviews for completeness and approvability. 2. Completes environmental analysis and prepares necessary documentation. 3. Consults with SMA or obtains FS approval of SUP and conditions of approval. 4.Completes conditions of approval. 5. APD and permits approved or rejected. 6. Ensure adequate bonding or surety to cover approval operations.
Field Activities:	1. Operator surveys and stakes well, access road and ancillary facilities for onsite inspection.	1. Conducts inspection. 2. Operator secures cultural resource inventory, if required.	
Timeframe:	1. BLM advises operator within 7 working days asto completeness of APD. 2. Onsite inspection to be scheduled within 15 days after receipt of complete APD.	1. Onsite inspection conducted within 15 days after receipt of complete APD. 2. Operator furnished with additional requirements onsite or within 5 working days of onsite inspection.	1. Operator submits complete APD within 45 days of inspection. 2. BLM advises operator within 7 days as to completeness of APD 3. BLM processes APD and either approvesor rejects within 30 days of receipt of a complete APD.

APPROVED DRILLING PLAN

	Step IV Operations Conducted Under Approved Plan	Step V Producer/Dry Hole Actions	Step VI Abandonment
Operator Action:	1. Conducts operations in accordance with approved plan etc. (See Chapter 3.)	1. Files Well Completion Report (WCR) and, if needed, proposed modification to the surface-use plan if well is productive. (See Chapter 3.)	1. Files Subsequent Report of Abandonment (SRA) following plugging of well.
	2.Files necessary reports and Sundry Notices.	2. Files Notice of Intent to Abandon (NIA) if well is dry hole or well no longer productive. Prepares abandonment plan for wells which do not have an approved abandonment plan.	2. Files FAN (Final Abandonment Notice) upon completion of reclamation and site is ready for inspection.
	3. Files monthly report of operations.	3. Participates in onsite inspection if requested. 4. Files required reports & applications related to production oper. (e.g., 5 day stan upnotice: site security diagrams, etc.)	3. Applies for release of the period of bond liability, if appropriate.
Federal Action:	1. Conducts Compliance Inspections. 2. Reviews, and when applicable, approves Sundry Notices.	1. Reviews WCR/NIA and proposed plans. 2. Conducts field review or requests joint field exam with operator and SMA, if needed. Develops conditions of approval or additional reclamation measures for abandonment. 3. Requests information/revision of plans, as needed. 4. Prepares environmental documentation, if necessary. 5. Consults with SMA as to approvability of plan or obtains FS approval. 6. Approves or rejects plan.	1. Performs compliance checks of final reclamation. 2. Obtains FS approval of abandonment on FS lands. 3. Approves final abandonment and release of bond liability, as appropriate.
Field Activities:	1. Operator begins construction and drilling operations. 2. Federal agencies conduct compliance inspections.	1. Field review or joint field exam conducted. 2. Operator begins construction, completes well and installs production facilities. 3. Operator plugs well. 4. Operator initiates reclamation of well site, etc., in accordance with abandonment plan.	1. Operator completes all work and well site, road, etc., are reclaimed and ready for inspection. 2. Field inspection conducted by BLM and SMA
Timeframe:	1. APD approval is valid for 1 year.	1. Required timeframes for various production related reports and applications are detailed in Chapter 3. 2. Review, approve or reject plans or applications normally within 30 days.	1. Files SRA within 30 days following completion of plugging. 2. Final abandonment approval timeframe variable, usually 1 to 2 years, depend-using on acceptable revegetation. 3. Inspection and bond release normally completed within 30 days (if final abanonment approved).

CHAPTER 3
SURFACE USE

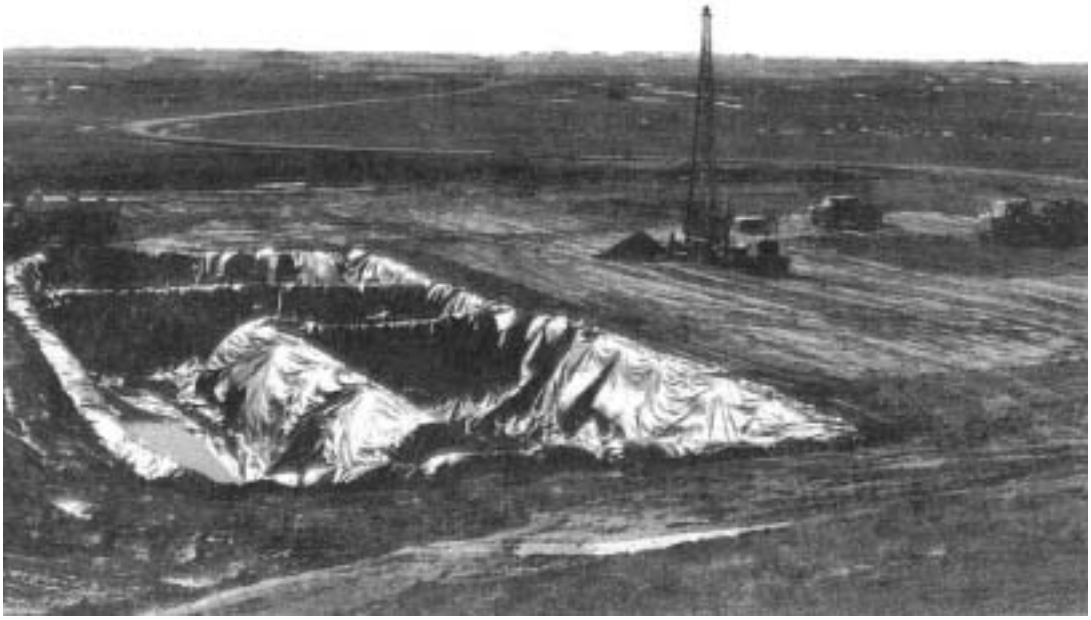
Well Sites

Locations

To the extent permitted by the geologic target, the locations selected for well sites, tank batteries, pits, and pumping stations, etc., should be planned so as to minimize long-term disruption of the surface resources. Design and construction techniques and other practices should be employed that would minimize surface disturbance and effects on other resources, and maintain the reclamation potential of the site. The following guidelines can be used to assist in meeting these objectives and reduce the overall impacts from well sites and other construction areas.

Well sites should be located on the most level location available that will accommodate the intended use. The site layout should be oriented to conform to the best topographic situation given the geologic target and any safety considerations. However, safety considerations may be an overruling factor (such as operations in a hydrogen sulfide area). Steeply sloping locations which require deep nearly vertical cuts and steep, fill slopes should be avoided or appropriately mitigated. The location of the well site should also be reviewed to determine its effect upon the location of the access road. Advantages gained on a good well site or tank battery location may be negated by adverse effects of the access road location. A well constructed drillsite is shown in Photograph 1.

Photograph 1 - Properly Constructed Drillsite



Construction

Construction procedures must conform to the approved surface use plan of operations. Generally, all surface soil materials shall be removed from the entire cut and fill area and stockpiled. The depth of topsoil to be removed and stockpiled should be determined at the predrill inspection and should be stated either in the proposed surface use plan of operations or specified in the conditions of approval. Surface soil material stockpiles should be located to avoid mixing with subsurface materials during construction and reclamation. Stockpile locations should be located so wind and water erosion are minimized and reclamation potential is maximized.

Normally, excavation of the cut and fill slopes is guided by information on the slope stakes. Fills should be compacted to minimize the chance of slope failure. If appropriate, terraces can be used on cut and fill slopes to reduce land impacts, such as length of slope, to prevent excessive water accumulation and erosion. If excess cut material exists after fill areas have been brought to grade, the excess material will be disposed of or stockpiled at approved locations. Snow and frozen soil material shall not be used in the construction of fill areas and pits.

The area of the well pad that supports the drilling rig substructure should be level and capable of supporting the rig. The drill rig, tanks, heater-treater, etc., are not to be placed on uncompacted fill material. The area used for mud tanks, generators, mud storage, and fuel tanks, etc., should be slightly sloping to provide surface drainage from the work area. Runoff water from offsite areas should be diverted away from the well site by ditches, waterbars, or terraces above and below the cut slopes.

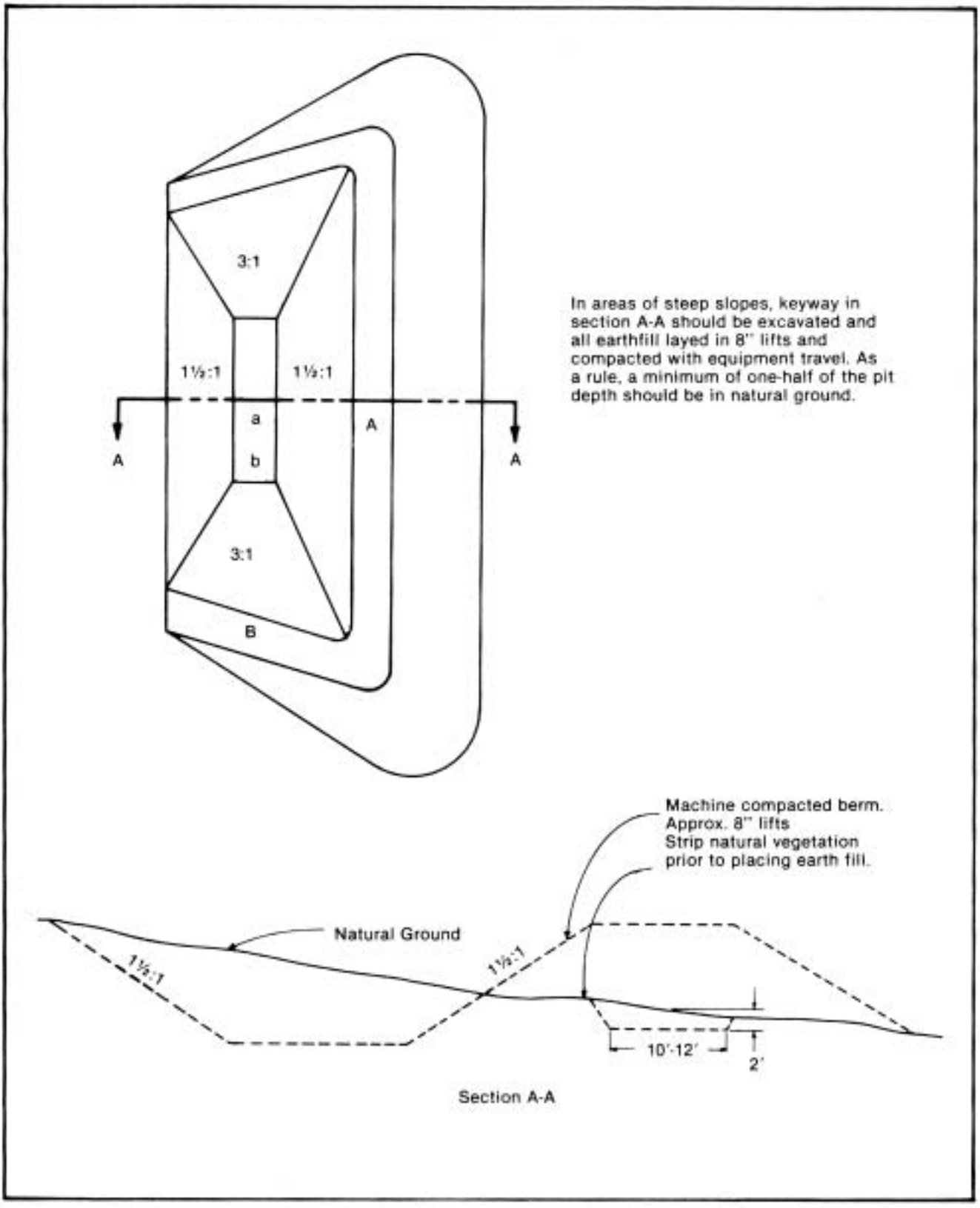
Reserve or "mud" pits are normally a part of a well site and are used for storage or disposal of water, drill mud, and cuttings. The reserve pit should be located in cut material. If this is not possible, at least 50 percent of the reserve pit should be constructed below original ground level to prevent failure of the pit dike. Fill dikes should be properly compacted in lifts (i.e., by rubber-tired construction equipment, sheeps foot roller, etc.). The necessary degree of compaction depends on soil texture and moisture content.

Pits improperly constructed on slopes may leak along the plane between the natural ground level and the fill. There is a significant potential for pit failure in these situations. When constructing impoundments by fill embankment, a keyway or core trench 10- to 12-feet wide should be excavated to a minimum depth of 2- to 3-feet below the original ground level. The core of the embankment is then constructed with water-impervious material. An alternative method of reserve pit construction on steeply sloping sites is to locate the pit on the drill pad next to the high wall. The pits are constructed totally in cut at such locations.

It may be necessary to line reserve pits to prevent contamination of ground water and soil. Bentonite, plastic, or other synthetic liners are most commonly used. In some environmentally sensitive areas, self-contained mud systems may be required with the drilling fluids, mud and cuttings being transported to approved offsite disposal areas. Fencing of reserve pits may be required to prevent access by persons, wildlife, or livestock. A plan of a typical, reserve pit is shown in Figure 1.

The operator's representative shall ensure compliance with all plans and designs. The representative should be designated prior to construction and have immediate access to an approved copy of all maps, drawings, templates, and construction standards and authority to order changes prior to initiating dirt work.

FIGURE 1. RESERVE PIT CONSTRUCTION



Roads and Access Ways

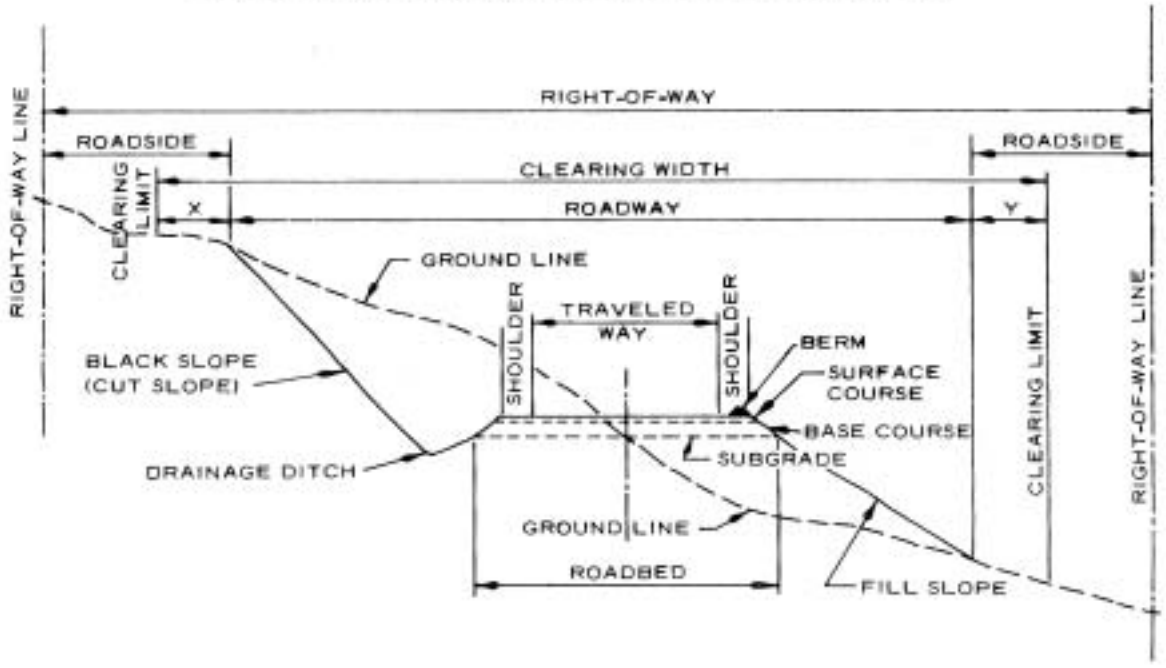
INTRODUCTION

These guidelines have been developed to provide oil and gas operators with BLM and FS policy and standards relative to planning, location, design, construction, maintenance and operation of roads and access ways on public and National Forest System lands. This chapter provides minimum guidelines. It is the policy of the BLM and FS that all permanent roads constructed by nongovernment entities across public or National Forest System lands must be designed by, or constructed under the direction of, a licensed professional engineer.

Special concerns such as steep slopes, erosion hazards, visual resources and other concerns require special consideration when roads and access ways are involved. In areas of high environmental sensitivity, special road location, design and construction techniques may be required. The operator is encouraged to contact local offices of the appropriate SMA prior to submission of an APD or NOS. This early contact will provide the operator with specific requirements and identify any special access needs.

Figure 2 illustrates commonly used terms in road design, and should be referred to when reviewing this chapter.

FIGURE 2. ILLUSTRATION OF COMMONLY USED TERMS IN ROAD DESIGN AND POTENTIALLY DISTURBED AREA WITHIN THE RIGHT-OF-WAY



NOTE; SHAPES AND DIMENSIONS WILL VARY TO FIT LOCAL CONDITIONS
SEE DRAWINGS FOR TYPICAL SECTIONS
X AND Y DENOTE CLEARING OUTSIDE OF ROADWAY

TRANSPORTATION PLANNING

The goal of transportation planning is to identify and analyze feasible alternatives for access which meet the objectives of the SMA and include the needs of users of federal lands. The planning process considers other resource values, public access needs, and future use of the road and avoids “leapfrogging” from one well site to another. Transportation planning can prevent the unnecessary expenditure of time and money and prevents unnecessary surface disturbance.

It is the policy of the BLM and FS that existing roads will be considered for use as access routes and may be used when they meet agency standards and transportation objectives. When access involves use of existing agency roads, operators may be required to contribute to road maintenance. Existing multiple use roads may be used by oil and gas operators when approved by the SMA, usually this is authorized by a joint use agreement in which each user's pro rata share of costs is based upon the anticipated use of the road.

Road locations and design criteria are developed to implement the goals of transportation planning. New road construction, or reconstruction, by the operator will be done to BLM/FS standards consistent with the needs of the users.

Road Location

Road location is the most critical stage for the engineering and environmental success of a road construction project. The surface and subsurface conditions of a road location largely determine the cost to survey, design, construct, and maintain a road.

Operators are strongly encouraged to contact the SMA about possible route locations before surveying and staking. Early SMA contact will inform the operator of any environmental concern that may affect road location.

The initial steps in road location are (1) determination of the intended use of the road, planned season of use, type of vehicles to be used, and road class, (2) examination of the SMA's transportation plan which may already have identified feasible routes for the area, and (3) examination of existing data, including maps and air photos, of administrative, biological, physical, and cultural conditions of the area.

Geotechnical Factors

The field reconnaissance of alternative routes should provide information on such factors as type of excavation, landslide areas, subgrade conditions indicating the need for surfacing, potential cut slope problems, surface or subsurface water problem areas, suitability of fill material, potential gravel pits or quarries for road aggregate, potential borrow and waste sites. A good road location analysis may avoid costly problems and identify cost-saving opportunities.

Other factors to be considered that are unique to the oil and gas industry include:

1. The prevailing wind direction in relation to the potential for encountering sour gas (H2S) and the need for a clear escape route from the drillsite.

2. The potential for year-round operation: drill sites and producing locations may require all-weather access and special maintenance considerations for snow removal.

3. The potential for exploratory drilling to result in a producing operation. Usually the initial road alignments will be such that the road can be upgraded.

When the road location information is submitted to the SMA, the acceptability of the proposed route, and if applicable, alternative routes, can be evaluated. Final selection of the road location will be approved by the SMA at the predrill inspection or during final APD processing.

DESIGN AND CONSTRUCTION

Road Classes

BLM Temporary or FS Short-term Roads

These are low volume, single-lane roads built for a specific purpose or use. They normally have a 12-foot wide travelway and are located, designed, and constructed for temporary use. In many cases they may be constructed with little or no grading or blade use. They are usually built for dry weather use, but may be surfaced, drained, and maintained for all-weather use if the SMA concurs. Such roads are to be made impassable to vehicle travel and returned to a near natural condition upon completion of use.

BLM Resource or FS Local Roads

These are low volume, single-lane roads, which may be reclaimed after a particular use terminates. These roads normally have a 12-14 foot travelway with intervisible turnouts. They are usually used for dry weather, but may be surfaced, drained and maintained for all weather use. These roads connect terminal facilities, such as a well site, to collector, local, arterial, or other higher class roads. They serve low average daily traffic and are located on the basis of the specific resource activity need rather than travel efficiency. They may be developed for either long- or short-term service and operated either closed or open to use as determined by the SMA.

BLM Local or FS Collector Roads

These roads may be single- or double-lane with travelways 12-24 feet in width, with intervisible turnouts. They are normally graded, drained, and surfaced and are capable of carrying highway loads. These roads provide access to large areas and for various uses. They collect traffic from resource or local roads or terminal facilities and are connected to arterial roads or public highways. The location and standard are based on both long-term resource needs and travel efficiency. They may be operated for either constant or intermittent service, depending on land use and resource management objectives for the area being served.

BLM Collector or FS Arterial Roads

These roads are usually double-lane, graded, drained and surfaced, with a 20-24-foot travelway. They serve large land areas and are the major access route into development areas with high average daily traffic rates. The locations and standards are often determined by a demand for maximum mobility and travel efficiency rather than a specific resource management service. They usually connect with public highways or other arterials to form an integrated network of primary travel routes and are operated for long-term land and resource management purposes and constant service.

DEFINITIONS

Design Criteria. Requirements that govern the selection of elements and standards for a road, such as resource management objectives, road management objectives, safety requirements, and traffic characteristics.

Design Elements. Physical characteristics such as the traveled way clearing limits, curve widening, slopes, and drainage characteristics.

Design Standards. Lengths, widths, and depths of design elements, such as 14-foot wide traveled way. The design terms are illustrated in Figure 2.

Design Vehicle. This is the vehicle that the road is designed to carry. Usually it is a low-boy, with dimensions and typical use patterns.

Critical Vehicle. At times a limited number of vehicles wider than the design vehicle may use the road. The travelway and shoulder width should be large enough to accommodate this occasional use, however, these vehicles will usually be unable to traverse the road at the design speed of the road.

DESIGN SPECIFICATIONS:

BLM Temporary or FS Short-term Roads

1. Design Requirements

a. Design speed is 15 miles per hour or less.

b. Travel width is normally 12 feet.

c. Recommended minimum horizontal curve radius, 100 feet. Where terrain will not allow 100 foot curve radii, curve widening is necessary. Specifications are available from SMA offices.

d. Normal road gradients should not exceed 8 percent except for short pitches of 300 feet or less. In mountainous terrain, grades greater than 8 percent may be allowed with prior approval of SMA.

e. Turnouts are generally naturally occurring, such as additional widths on ridges or other available areas on flat terrain.

f. Drainage must be provided over the entire road. Usually this is accomplished by use of drainage-dips insloping, and naturally rolling topography. Ditches and culverts may be required in some situations, but are not expected as the norm.

g. Generally, gravel surfacing is not required, but if all weather access is needed, it may be necessary.

2. Field Survey Requirements. These vary with topography, geologic hazard, or other concerns. Each SMA has survey requirements based upon the design requirements and concern specific to the area. The SMA should be contacted as early as possible to determine survey requirements. The following general requirements are imposed to control the work and produce the desired road:

a. A flagline is established along the construction route. Flags should be placed approximately every 100 feet, or be intervisible, whichever is less.

b. Construction control staking may be required depending on conditions of the site.

c. Culvert installations are located and flagged.

3. Construction.

a. Drainage Dips. Drainage dips are an integral part of temporary and short-term roads. They should be located and spaced according to directions of SMA for the locale. Construction of drainage dips is described and illustrated in *Figures 5 and 6.*

b. Construction Standards. Standards for each road are provided by the SMA. The operator is responsible for ensuring that each road is constructed according to plans and specifications approved by the SMA. The degree of construction control should complement the survey and design methods. Lower standard surveys and design may require more intensive construction control and inspection to assure acceptability of the end product. An inspector designated by the operator and acceptable to the SMA should be readily available during construction to provide quality control.

BLM Resource and FS Local Roads

1. Design Requirements.

a. Design speed 15 miles per hour.

b. Travelway width--minimum 12 feet with turnouts.

c. Recommended minimum horizontal curve radius, 100 feet. Where terrain will not allow 100-foot curve radii, curve widening is necessary. Specifications are available from appropriate SMA offices.

d. Normal road gradients should not exceed 8 percent except for pitch grades (i.e., 300 feet or less in length). In mountainous terrain grades greater than 8 percent may be possible with prior approval of the SMA.

e. Turnouts are required on all single lane roads (travelway of 12-14 feet). Turnouts must be located at 1,000-foot intervals or be intervisible, whichever is less.

f. Drainage control shall be ensured over the entire road through the use of drainage dips, insloping, natural rolling topography, ditch turnouts, or culverts. Culverts, drainage crossings, and other controls should be designed for a 10-year frequency or greater storm, with an allowable head of one foot at the pipe inlet.

g. Roadbed culverts should be used to drain inside road ditches when drainage dips are not feasible.

h. Surfacing with gravel should be required where all weather access is needed.

i. At times a limited number of oil field vehicles (critical vehicles) larger than the design vehicle may make occasional use of the road. The operator should consider these needs in road design.

2. Field Survey Requirements. These are the same as for Temporary and Short-term roads.

3. Design Drawings and Templates.

a. On slopes of 0-20 percent, where horizontal and vertical alignment can be worked out on the

ground, a plan and profile drawing may not be required. Standard templates, drainage dip spacing, culvert locations, and turnout spacing guides would be acceptable.

b. A plan and profile view would be the minimum drawing required on steeper slopes and in areas of environmental concern. This would identify grade, alignment, stationing, turnouts, and culvert locations.

c. Standard templates of road cross-sections and drainage dips are required for all Resource, Local, and higher class roads. Figures 2 and 3 illustrate these sections.

d. Additional information may be required in areas of environmental or engineering concern.

4. Construction. The lessee or operator's representative shall ensure compliance with all plans and designs. The representative should be designated prior to construction and have immediate access to an approved copy of all maps, drawings, templates, and construction standards and authority to order changes prior to initiating dirt work.

The operator must take all necessary precautions for the protection of the work and safety of the public during construction of the road. Warning signs must be posted during blasting operations.

a. Clearing and Grubbing: Clearing and grubbing will normally be required on all sections of the road. Exceptions would be allowed in areas of sparse, nonwoody vegetation.

All clearing and grubbing should be confined to a specified clearing width (see Figure 2) which is usually somewhat wider than the limits of actual construction (roadway). Branches of all trees extending over the roadbed should be trimmed to give a clear height of 14 feet above the roadbed surface. All vegetative debris must be disposed of as specified by the SMA.

b. Excavation: All soil material and fragmented rock removed in excavation is to be used as directed in the approved plan. Excess cut material shall not be wasted unless specified in the approved plan.

c. Roadbed Construction: Roadbed material should never be placed when the materials or the surface are frozen or too wet for satisfactory compaction. Equipment should be routed over the layers of roadbed material already in place to help avoid uneven compaction anywhere along the travel route.

Borrow material shall not be used until material from roadway excavation has been placed in the embankments, unless otherwise permitted. Borrow areas used by the operator must be approved prior to the start of excavation.

Roadside ditches should conform to the slope, grade, and shape of the required cross-section with no projections of roots, stumps, rocks, or similar debris. Side ditches must be excavated to a depth of one foot minimum below finished road surface. Backslopes on the road ditches should not be cut flatter than two to one. Drainage turnout spacing on these ditches should not exceed 500 feet; slopes greater than 5 percent would require closer spacing of turnout furrows (wing ditches or relief ditches).

BLM Local and FS Collector Roads

1. Design Requirements.

a. Design speed 15-25 miles per hour.

b. Traveled way minimum 12 feet (single lane), maximum 24 feet (double lane) with intervisible turnouts as may be required.

c. Recommended minimum horizontal curve radius 100 feet. Where terrain will not allow 100-foot curve radii, curve widening is necessary. Specifications are available from SMA engineering offices.

d. Maximum grades should not exceed 8 percent. Pitch grades for lengths not to exceed 300 feet may be allowed to exceed 8 percent in some cases.

e. All culverts must be sized in accordance with accepted engineering practices and any special environmental concerns. The minimum size culvert in any installation must be 18 inches. Drainage crossings and culverts should be designed for a 1 O-year frequency or greater storm.

f. Turnouts will be required on all single-lane roads. Turnouts must be located at 750-foot intervals or be intervisible, whichever is less. The length should not be less than 100 feet with additional 25-foot transitional tapers at each end.

g. Surfacing is required for all weather access. Aggregate size, type, amount, and application method would be specified by the local office of the SMA. Subgrade analysis may be required to determine load bearing capacities.

2. Field Survey Requirements. Generally, the survey requirements for these roads are similar to those for Short-Term and Resource roads. However, these roads are designed for higher average daily traffic (ADT) rates and greater speeds. Thus, in addition to flagline and culvert survey requirements, a transit survey with preliminary center line staking and cross-sectioning is usually required on steep terrain and in areas requiring special engineering. Specific survey requirements are available at the local office of the SMA.

3. Design Drawings and Templates.

a. Generally, a plan and profile view would be the minimum required drawings for this road class (see Figure 3) . This would identify grade, location, stationing, turnouts, culvert locations, and drainage dip spacing.

b. Standard templates of the proposed road cross-section(s), (see Figures 2 and 3) and drainage dip design are required for these roads.

c. Additional information may be required in areas of environmental or engineering concern.

4. Construction.

a. Drainage dips, construction, and spacing is the same as for resource and forest local roads.

b. Culvert cross-drains should be used in lieu of drainage dips for road grades in excess of 10 percent. Culvert installation is discussed in the *Drainage and Drainage Structure Section and is illustrated in Figures 7 and 8.*

c. Construction standards are the same as given in the BLM Resource and FS Local Roads Section.

BLM Collector and FS Arterial Roads

1. Survey and Design Requirements.

a. Vertical, horizontal, and topographic data as well as significant features should be plotted on standard plan profile sheets to a scale of 1" = 100' or as otherwise directed by the SMA.

b. Plot "L" (layout) line along "P" (preliminary) line using the following design standards criteria:

1. Design speed 20 miles per hour minimum unless otherwise directed.

2. Travel width--minimum 20 feet, maximum 24 feet.

3. Minimum horizontal curve radius, 200 feet width unless shorter radius is approved.

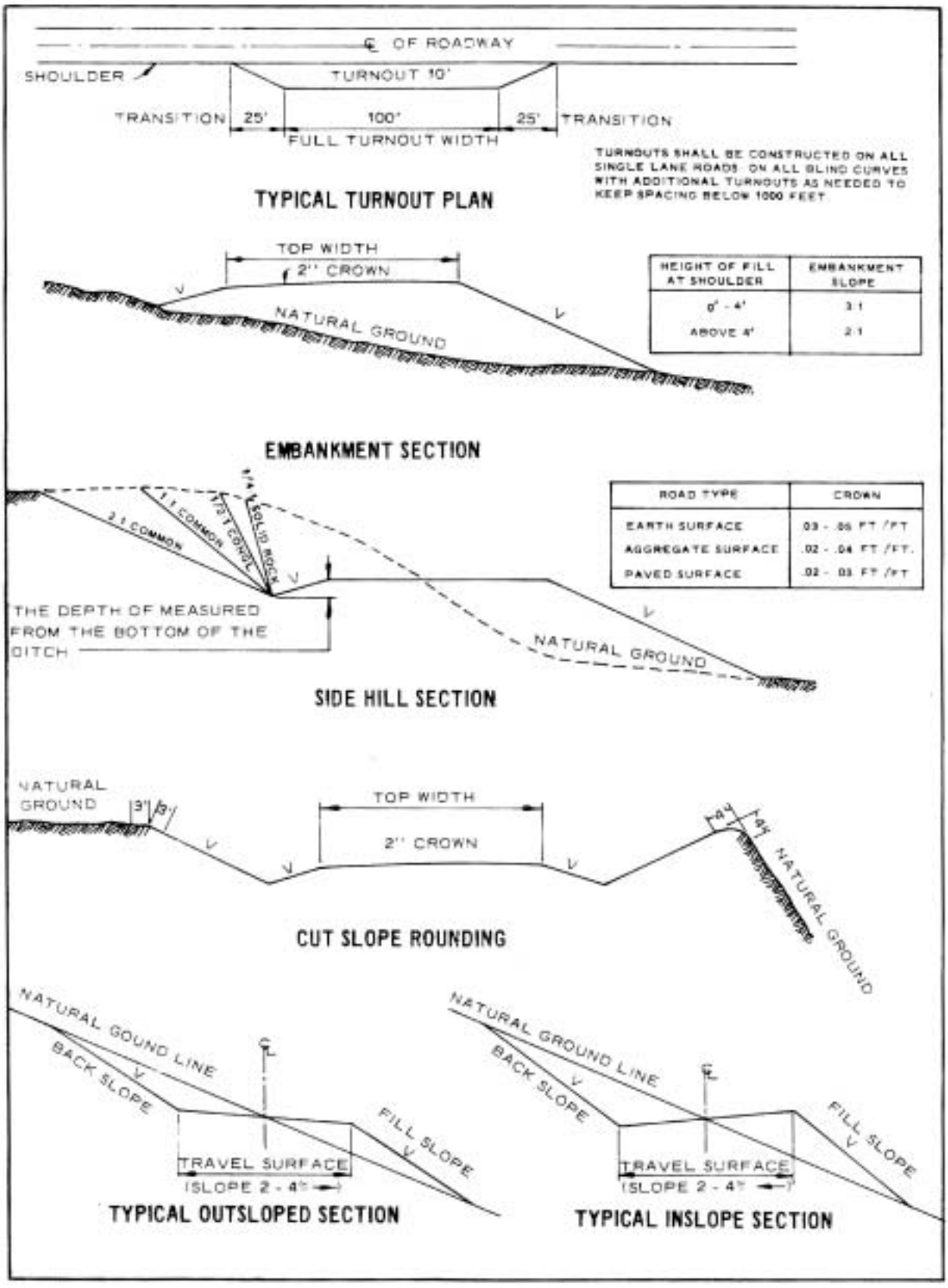
4. Design vertical curves for a maximum change of 2 percent per 50 feet of road length.

5. Maximum grade 8 percent (except pitch grades not exceeding 300 feet in length and 10 percent in grade).

6. Mass diagrams and earthwork balancing may be required. Obvious areas of waste or borrow shall be noted on the plan and profile as well as proposed locations of borrow or waste disposal areas.

7. All culverts would be designed for a minimum 25-year frequency storm with an allowable head of one foot at the pipe inlet. However, the minimum acceptable size culvert diameter is 18 inches. Show all culverts planned to accurate vertical scale on plan profile sheets.

FIGURE 3. CROSS-SECTIONS AND PLANS FOR TYPICAL ROAD SECTIONS. REPRESENTATIVE OF BLM RESOURCE OR FS LOCAL, AND HIGHER CLASS ROADS.



2. Design Drawings and Templates

a. Complete plan and profile drawings are required for any BLM Collector or FS Arterial road. (See Figure 4 for example.) These identify grade, location, stationing, and all culvert sizes and location. (See Figures 7 and 8 for examples).

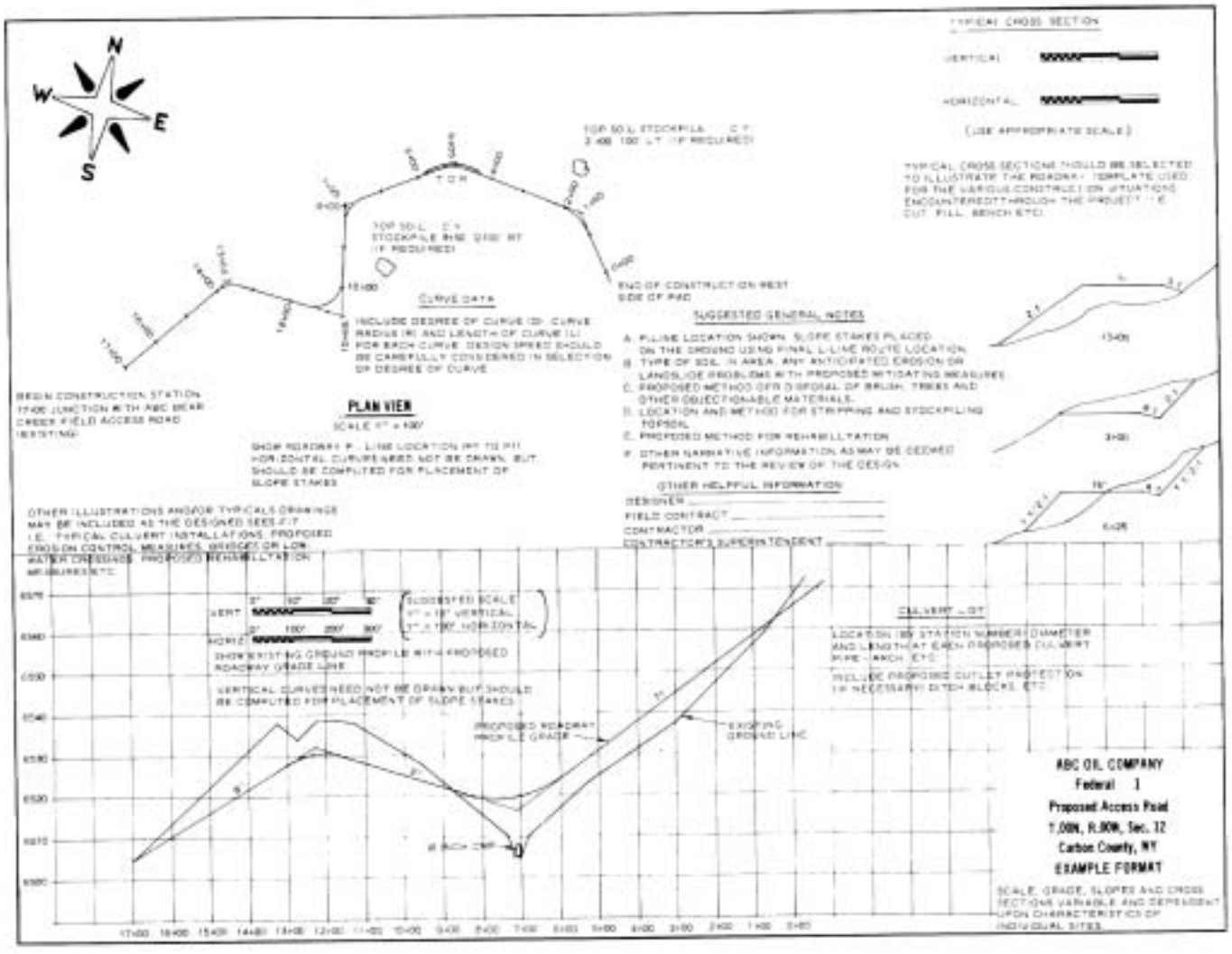
b. Standard templates of road cross-sections, drainage design, and culvert location and installation are required (see Figures 3 through 9 for examples).

c. Mass diagrams and materials investigation and classification may be required.

3. Construction. Except for the specific items provided below, construction standards are given in the BLM Resource/FS Roads or the BLM Local/FS Collector Roads Sections.

Excavation and fill construction will be performed to secure the greatest practicable degree of roadbed compaction and stability. Roadbed materials shall be placed parallel to the axis of the roadway in even, continuous, approximately horizontal layers not more than eight inches in thickness. The full cross-section of the fill must be maintained as each successive layer is placed. Place successive layers of material on embankment areas so as to produce the best practical distribution of the material. The materials throughout the roadbed shall be free from lenses, pockets, streaks, or layers of material differing substantially in texture, gradation, or compaction from the surrounding material.

FIGURE 4. TYPICAL ROAD PLAN AND PROFILE DRAWING FOR OIL AND GAS ROAD.



Ordinarily stones coarser than a three-inch square mesh opening should be buried at least four inches below the finished surface of the roadway.

The operator should route construction equipment over the layers of roadbed material already in place and shall distribute the gravel evenly over the entire width of the embankment so as to obtain the maximum compaction while placing the material and to avoid uneven compaction anywhere along the travel route.

Use excess excavation material, insofar as practical, to improve the road grade line or "flatten" fill slopes. Other waste areas must be approved prior to placement of waste material.

Drainage and Drainage Structures

The proper design and construction of structures for the drainage of water from or through the roadway often contributes the most to the long-term success of the structure and minimizes the maintenance and adverse environmental effects, such as erosion and sediment production.

Road Drainage Design. The most economical control measure should be designed to meet resource and road management objectives and constraints. The economic considerations shall include construction and maintenance costs. The need for drainage structures can be minimized by proper road location. However, adequate drainage is essential for a stable road. A proper drainage system should be the best combination of various design elements, such as ditches, culverts, drainage, dips, crown, in-slope or out-slope, low-water crossings, subsurface drains, and bridges.

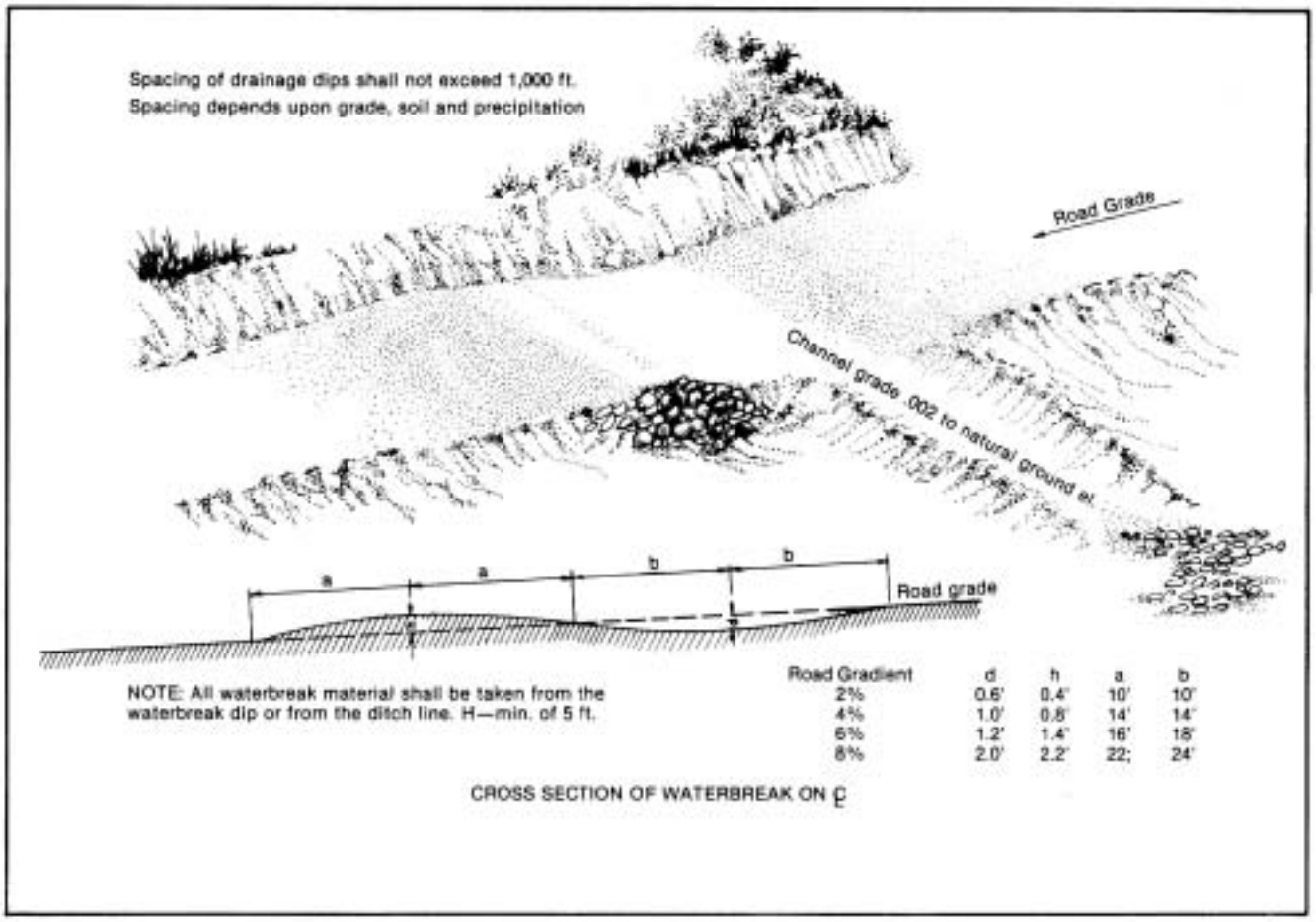
a. Surface Drainage. Surface drainage provides for the interception, collection, and removal of water from the surface of roads and slope areas. The design may need to allow for debris passage, mud flows, and water heavily laden with silt, sand, and gravel.

b. Subsurface Road Drainage. Subsurface drainage is provided to intercept, collect, and remove groundwater that may flow into the base course and subgrade, lower high water tables, and drain locally saturated deposits or soils.

Drainage Structures. Proper location and design can provide economical and efficient drainage in many cases. However, structural measures are often required to ensure proper and adequate drainage. Some of the most common structures are drainage dips, ditches, culverts, and bridges.

a. Drainage Dips. The primary purpose of a drainage dip is to intercept and remove surface water from the traveled way and shoulders before the combination of water volume and velocity begins to erode the surface materials. Drainage dips should not be confused with water bars which are normally used for drainage and erosion protection of closed or blocked roads. See Figures 5 and 6 for illustration and construction specifications.

FIGURE 5. DRAINAGE DIP ILLUSTRATION FOR SLIGHT TO MODERATE SLOPE FOR ACCESS ROADS.



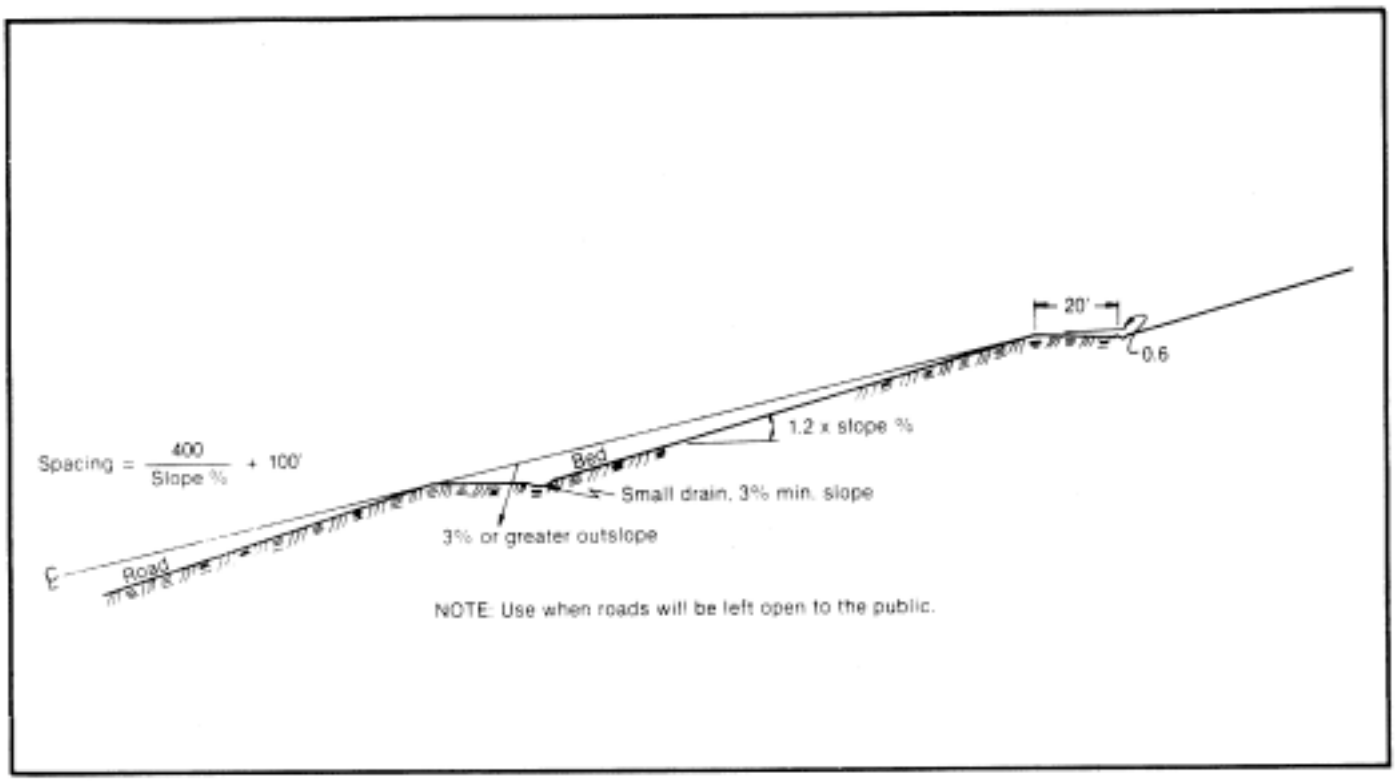
Road Gradient	d	h	a	b
2%	0.6'	0.4'	10'	10'
4%	1.0'	0.8'	14'	14'
6%	1.2'	1.4'	16'	18'
8%	2.0'	2.2'	22;	24'

Spacing of drainage dips depends upon local conditions such as soil material, grade, and topography. The SMA should be consulted for spacing instructions.

b. Ditches. The geometric design of ditches must consider there source objectives for soil, water, and visual quality, maintenance capabilities and associated costs, and construction costs. Ditch grades should be no less than 0.5 percent to provide positive drainage and to avoid siltation. The types of ditches normally used are: drainage, trap, interception, and outlet.

c. Road Crowning. Roads which use crowning and ditching are common and can be used with all road classes. This design provides good drainage of water from the surface of the road. Drainage of the inside ditch and side hill runoff is essential if the traveled way is to be kept dry and passable during wet weather. Snow removal becomes a simple task for common road maintenance equipment. Because the roadbed is raised, wind often blows the snow off the travel way. Photograph 2 illustrates a properly constructed and maintained, crowned and ditched road.

FIGURE 6. PROFILE VIEW OF BROAD BASED DRAINAGE DIP
USE FOR PERMANENT ROADS WHERE ROAD GRADIENT DOES NOT EXCEED 10 PERCENT



PHOTOGRAPH 2. A WELL-CONSTRUCTED AND MAINTAINED CROWNED AND DITCHED ROAD.
Photograph 2 illustrates an example of a properly maintained roadway. The crown is well defined, the roadbed is smooth, and there is no disturbance outside of the roadway. This level of maintenance is much more cost efficient in the long- term due to reduced travel time, wear on vehicles, emergency road work, and driver fatigue.

d. **Culverts.**

Culverts are used in two applications on oil and gas access roads; (1) in streams and gullies to allow normal drainage to flow under the traveled way, and (2) to drain inside road ditches. The latter may not be required H drainage dips are used.

The location of each culvert should be shown on the plan and profile or similar drawings submitted with the APD or ROW application. All culverts should be laid on natural ground or at the original elevation of any drainage crossed. Culverts should be placed on a 3 percent minimum grade; reverse camber is not allowed. See*Figures 7 and 8*for installation details.

The outlet of all culverts should extend at least one foot beyond the toe of any slope. Culverts should be installed as shown in *Photograph 3.*

All culverts used in construction of oil and gas access roads should be concrete or corrugated metal pipe (CMP) made of steel or aluminum. Only undamaged culverts are to be used, and any culvert should be inspected for damage prior to installation. All spots on the pipes where the zinc coating has been injured should be painted with two coats of zinc-rich paint or otherwise repaired as approved by the surface managing agency.

Excavation, bedding and backfilling of culverts should be conducted according to requirements of the SMA and good engineering practices.

PHOTOGRAPH 3. ACCEPTABLE CULVERT INSTALLATION.

FIGURE 7. DIAGRAMS FOR PROPER CULVERT INSTALLATION

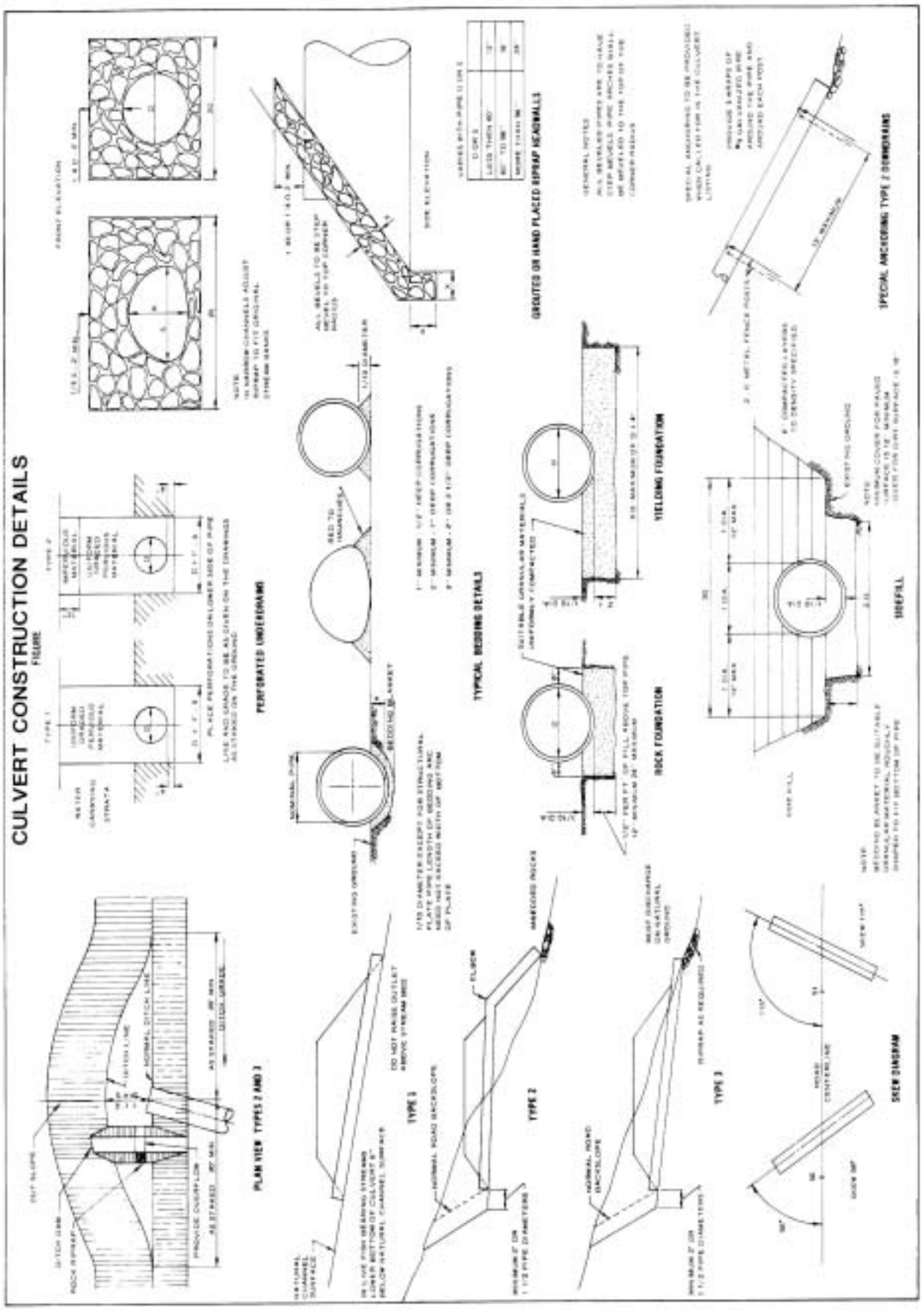
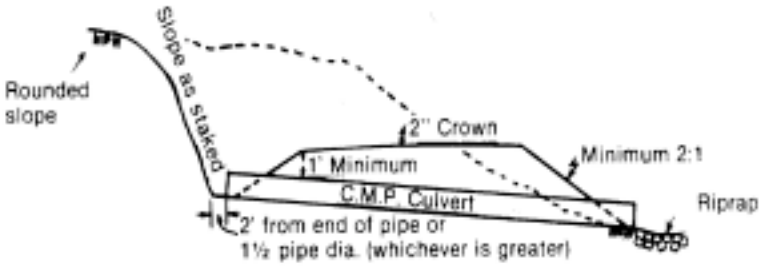
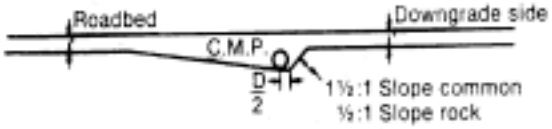


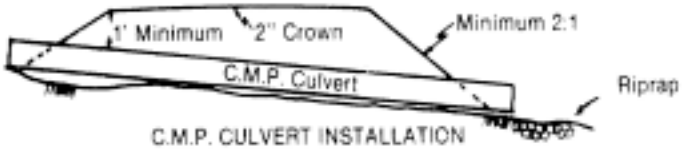
FIGURE 8. TYPICAL CULVERT CONSTRUCTION.



C.M.P. CULVERT INSTALLATION



DITCH CONSTRUCTION AT SIDE HILL
C.M.P. CULVERT INSTALLATION



C.M.P. CULVERT INSTALLATION
EMBANKMENT SECTION

General Notes:

1. In bedding of C.M.P. Culverts, if the foundation is rock, excavate to depth of 8 in. below culvert grade and replace with earth cushion.
2. Minimum cover over culvert is one foot (1').
3. Minimum culvert diameter 18".
4. Minimum culvert spacing:
   (a) 1 - 2% grade--1000 feet minimum
   (b) 2 - 4% grade-- 800 feet minimum
   (c) 4 - 6% grade-- 600 feet minimum
   (d) 6 - 8% grade-- 400 feet minimum
   (e) 8 - 10% grade--250 feet minimum

e. **Ditch Relief Culverts**. Ditch relief culverts are installed to periodically relieve the ditch line flow by piping water to the opposite side of the road where the flow can be dispersed away from the roadway. The spacing of ditch relief culverts is dependent on the road gradient, soil types, and runoff characteristics.

A culvert with an 18-inch diameter is the minimum for ditch relief to prevent failure from debris blockage.

The depth of culvert burial must be sufficient to ensure protection of the culvert barrel for the design life of the culvert. This requires anticipating the amount of material that may be lost due to road use and erosion.

Ditch relief culverts can provide better flow when skewed 15 to 30 degrees downgrade from a line perpendicular to the centerline of the road. This improves the flow hydraulics and reduces siltation and debris plugging the culvert inlet. Culverts placed in natural drainages can also be utilized for ditch relief. The design of culverts for later removal may be beneficial for intermittent use roads that will be closed for extended periods of time.

f. Bridges and Major Culverts. The BLM and FS Manuals require that all single or multiple culvert installations with end- or aperture-openings totalling more than 35-square feet have engineering approval at Regional or State Offices. This is also true of all bridge installations. Operators are encouraged to prepare applications requiring major culverts or bridges in sufficient time to allow for agency engineering evaluations.

g. Wetland Crossings. Wetlands are especially sensitive areas. Generally, these areas require crossings which prevent unnatural fluctuations in water level. Marshy and swampy terrain may contain bodies of water with no discernible current. The design of culverts for roads crossing these locations requires some unique considerations. Construction of some stream and wetland crossings may require a section 404, Corps of Engineers permit, in addition to the approval of the SMA.

The culvert should be designed with a flat grade so water can flow either way and maintain its natural water level on both sides. The culvert may become partially blocked by aquatic growth and should be installed with the flow line below the standing water level at its lowest elevation. Special attention must be given to the selection of culvert materials that will resist corrosion.

h. Low-Water Crossings. Roads commonly cross small drainages and intermittent streams. Here culverts and bridges are often unnecessary. The crossing can be effectively accomplished by dipping the road down to the bed of the drainage. Material moved from the banks of the crossing should be stockpiled near the right-of-way. Gravel, riprap, or concrete bottoms may be required in some situations. In no case should the drainage be filled so that water will be impounded. See Figure 9 for acceptable and unacceptable low-water crossings.

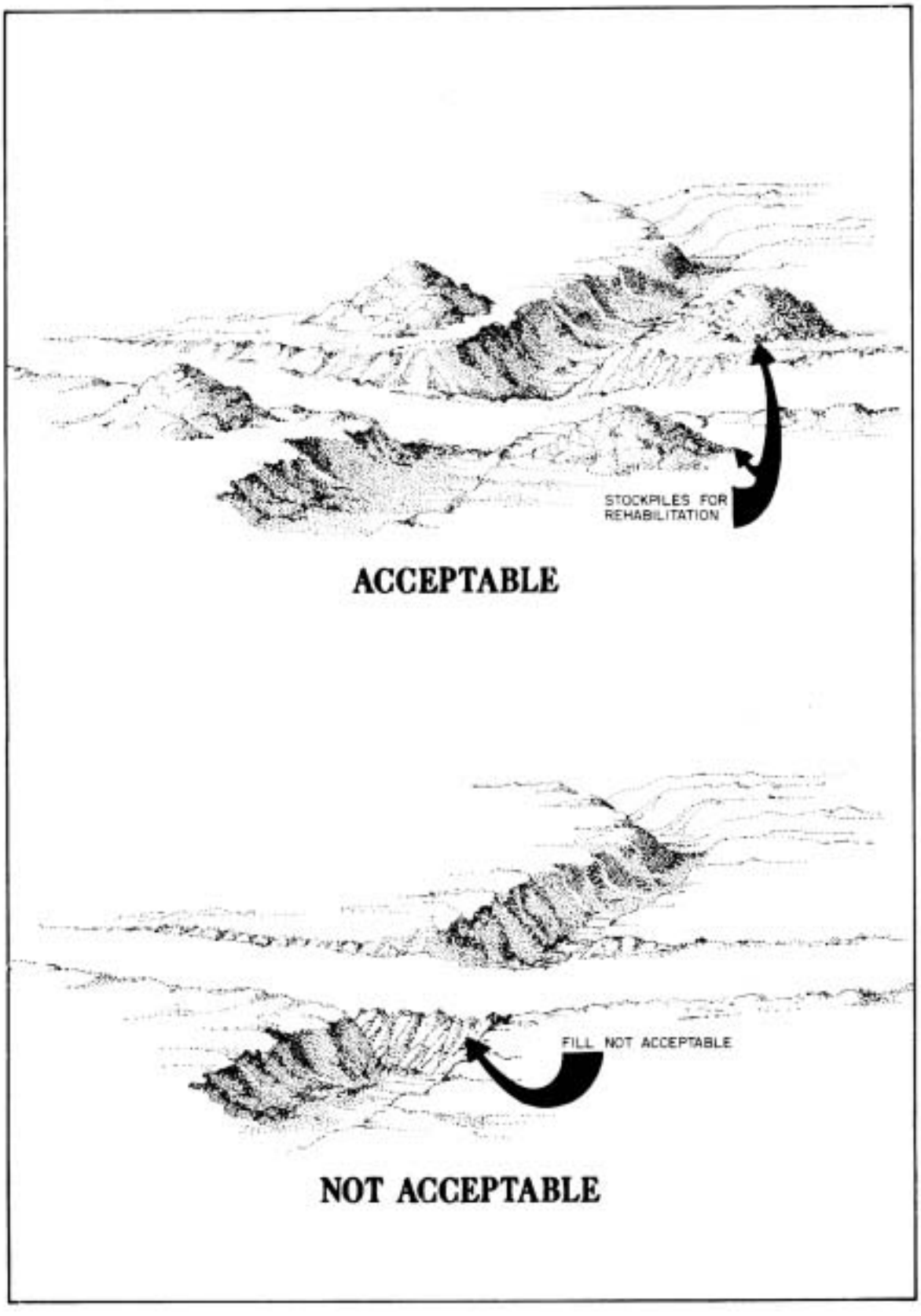
i. Subdrainage. If water is not removed from the subgrade or pavementstructure, it may create instability, reduce load bearing capacity, increasepossible damage from frost action, and create a safety hazard by freezing on the traveled way.

Perforated pipe drains and associated filter fabric or aggregate filters may be used when necessary to provide subdrainage. Other methods may be approved by the authorized officer.

Subdrainage systems may effectively reduce final road costs by decreasing the depth of basecourse needed, thereby reducing subgrade widths. This, in turn, results in less clearing and excavation. Maintenance savings may also be realized as the result of a more stable subgrade.

The solutions to subdrainage problems can be expensive. Road management techniques, such as reducing traffic loads or removing traffic until a subgrade dries out, should be considered as an alternative.

FIGURE 9. LOW-WATER/DRY CREEK DRAINAGE CROSSING



ROAD MAINTENANCE

Users may perform their share of road maintenance or may be required to deposit sufficient funds with the SMA to provide for their share. If the road has only one permitted user, other than incidental use, that user has the total responsibility for maintenance.

When required, the operator shall submit a road maintenance plan for all roads which will be constructed or used in conjunction with the drilling program. The maintenance plan will contain provisions for perpetuating the traveled way, protection of the roadway appurtenances, requirements for road management, and the method to be used in carrying out the maintenance activities. The activities normally required include: blading, surface replacement, dust abatement, spot repairs, slide removal, ditch cleaning, culvert cleaning, brush removal, litter cleanup, weed control, and snow removal. Specific areas shall be identified in the road maintenance plan for disposal of slide material, borrow or quarry sites, stockpiles, or other uses which are needed for the project.

PIPELINES AND FLOWLINES

Construction. Steep hillsides and water courses should be avoided in the location of pipelines and flowlines. Flowline routes should take advantage of road locations wherever practicable to minimize surface disturbance.

Blading of pipeline routes located on gentle topography should be limited to removal and smoothing of brush and surface irregularities, leaving most of the under story vegetation undisturbed. When clearing is necessary, the width disturbed should be kept to a minimum. Bladed materials should be placed back into the cleared route upon completion of construction. Surface soil material should be stockpiled to the side of the routes where cuts and fills or other surface disturbance occur during pipeline construction. Surface soil material should be segregated and should not be mixed or covered with subsurface material.

Pipeline trenches should be compacted during backfilling. These pipeline rights- of-way should be maintained in order to correct backfill settling and prevent erosion.

Pipeline routes should be graded to conform to the adjacent terrain. Cuts and fills on pipelines should be made only where necessary. After construction cut and fill slopes may need to be water barred or regraded to conform to the adjacent terrain.

Pipeline construction should not block, dam, or change the natural course of any drainage. Suspended pipelines should provide adequate clearance for runoff debris, wildlife, or livestock.

CHAPTER 4
DRILLING OPERATIONS

All proposed drilling operations and related surface disturbance activities, as well as any change from an approved Application for Permit to Drill (APD), must be approved before such activities are conducted. Approval will be in accordance with: (1) lease ter and conditions of approval, (2) 43 CFR 3160, (3) appropriate Onshore Oil and Gas Orders, and (4) Notices to Lessees (NTLs). For NFS lands, approval must also be in accordance with 36 CFR 228 E.

Initiating the Process

The process of obtaining approval to drill is initiated by filing either a Notice of Staking (NOS) or an APD. The choice of options is the operator's, but eventually a complete and acceptable APD must be filed.

By filing a NOS, the operator triggers an onsite inspection prior to filing an APD and is then furnished appropriate surface use and reclamation requirements for incorporation into their APD. NOS or APD filing also triggers the mandatory BLM/FS 30-day public notification requirement. This may result in a more complete and readily approvable APD at an earlier time. There is no required form for a NOS but the informational requirements are specific. See Figure 12 for an example. If the APDoption is selected, the onsite inspection is held after the filing of the APD with the BLM. The APD form is shown in Figure 13. When the lands involved aremanaged by a Federal agency other than the BLM, the NOS must be filed with the appropriate SMA **and** the BLM.

Surveying and Staking

Regardless of the option selected, the well location must be staked and access roads to be constructed flagged **prior** to the onsite predrill inspection.Surveying and staking may be done without advance approval from BLM or the SMA except for lands used for military purposes, Indian lands, or where significant surface disturbance is likely during the staking process. Operators are strongly encouraged to notify the SMA prior to entry to allow the SMA to advise them of difficult or problem conditions. With respect to private or state surface, the operator is responsible for making access arrangements with the surface owner prior to entry thereon (see Chapter 6).

Staking includes the well location, two 200-foot directional reference stakes, the exterior dimensions of the drill pad, reserve pit, other areas of surface disturbance, cuts and fills, and centerline flagging of new roads with road stakes being visible from one to the next. Cut and fill staking is required for the well site, reserve pit, and any ancillary facilities. Slope staking may subsequently be required for road locations on steep terrain, stream crossings, and for other environmentally sensitive locations.

Application for Permit to Drill (APD)

No drilling operations or related construction activities may be conducted without an approved APD. The APD must be approved by the authorized officer of BLM, in consultation with the SMA as appropriate. On National Forest System Lands, the FS must approve the surface use plan of operations of the APD. A complete APD consists of a drilling plan (comprised of a surface use program and a drilling program), evidence of bond coverage, and such other information as may be required by applicable Orders and NTLs (e.g., H2S Contingency Plans where needed). Onshore Order No. 1 describes the specific informational requirements of the drilling plan. Operators are strongly encouraged to consult with the appropriate SMA as early as possible to identify potential concerns. Prior to beginning construction activities, the operator may be required to contact the BLM and appropriate SMA. Approved APDs are generally valid for 1 year.

Onsite Inspection - Environmental Review

An onsite, predrill inspection will normally be conducted within 15 days of BLM's receipt of a NOS, or an APD if no NOS was previously filed. The inspection team will include a BLM/SMA representative, the operator or agent, and other interested parties, such as the operator's principal dirt work contractor and, if known, the drilling contractor. When the inspection is on private surface, the surface owner will be invited by BLM.

The purpose of the onsite inspection is to identify problems and potential environmental impacts associated with the proposal and methods for mitigating these impacts. The BLM/FS, with the assistance of any other involved Federal agencies, will complete the environmental analysis process.

Other Authorizations

The BLM approval of an APD does not relieve the operator from obtaining any other authorizations required for drilling or subsequent operations. This includes requirements of other Federal, State, or local authorities.

CHAPTER 5
PRODUCING OPERATIONS

General Operating Standards and Objectives

Onshore oil and gas lease operations are subject to applicable laws, regulations, lease terms, Onshore Oil and Gas Orders, NTLS, written orders, and instructions of the authorized officer. These include but are not limited to, conducting operations in a manner which ensures the proper handling, measurement, disposition, and site security of leasehold production; protecting other natural resources, environmental quality, life and property. The objective is to maximize ultimate recovery of oil and gas with minimum waste and with minimum adverse effect on ultimate recovery of other mineral resources.

Drilling and production reports are required to be submitted to Minerals Management Service (MMS) pursuant to their regulatory requirements (form MMS 3160).

Well Completion Report

A Well Completion or Recompletion Report and Log, Form 3160-4, is required to be filed within 30 days after completion of a well either for abandonment or production. The completion report is to reflect the mechanical and physical condition of the well. Geologic information and, when applicable, information on the completed interval and production is required.

Subsequent Well Operations

Producing wells in active oil and gas fields will periodically require repair and workover operations. Operations involving no new surface-disturbance to redrill, deepen, and plug-back require the submission and prior approval of the authorized officer of the BLM. And in some cases, these operations may require the approval of the FS. Proposals to perform casing repair, alter casing, perform nonroutine fracturing jobs, recomplete a different interval, perform water shut-off, commingling production between intervals and/or conversion to injection or disposal well, etc., will require the submission of a Sundry Notice (Figure 14) for prior approval of the authorized officer.

Unless additional surface disturbance is involved and if the operations conform to standard and prudent operating practice, prior approval is not required for routine fracturing or acidizing jobs, or recompletion in the same interval. A subsequent report of these operations must be filed on Sundry Notices and Reports of Wells, Form 3160-5 (Sundry Notice) or Form 3160-4 for recompletion within 30 days of completion of the operations.

No prior approval or subsequent report is required for well cleanout work, routine well maintenance, bottom hole pressure survey or for repair, replacement, or modification of surface production equipment provided no additional surface disturbance is involved.

Approval Procedures

When prior approval is required, the operator must submit a Sundry Notice, or APD, as applicable. With the appropriate form, a detailed written statement of the plan of work is to be provided to the authorized officer. When additional surface disturbance will occur, a description of any subsequent new construction, reconstruction, or alteration of existing facilities, including roads, damsites, flowlines and pipelines, tank batteries, or other production facilities on any lease, must be submitted to the authorized officer for environmental reviews and approval. On NFS lands the BLM will coordinate with the FS to obtain their approval on surface disturbing activities. Emergency repairs may be conducted without prior approval provided the authorized officer is promptly notified.

Production Startup Notification

Operators will notify the authorized officer no later than the 5th business day after any well begins production anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well which has been off production for more than 90 days. The date on which a well commences production, or resumes production after having been off production for more than 90 days, is defined as follows:

1. Oil Wells. The date on which liquid hydrocarbons are first sold or shipped from a temporary storage facility, such as a test tank, and for which a run ticket is required to be generated or, the date on which liquid hydrocarbons are first produced into a permanent storage facility, whichever first occurs.

2. Gas Wells. The date on which associated liquid hydrocarbons are first sold or shipped from a temporary storage facility, such as a test tank, and for which a run ticket is required to be generated or, the date on which gas is first measured through permanent metering facilities, whichever first occurs. For purposes of this requirement, a gas well shall not be considered to have been out of production unless it is incapable of production.

Painting of Facilities

As specified in the Conditions of Approval (COA) of an APD, or a Sundry Notice for approval or modification of additional production facilities, a standard color may be specified. Standardized color charts are available from RMRCC member offices and most FS and BLM District offices.

Measurement of Production

If economically feasible, all oil, other hydrocarbons and gas produced from the leased lands are to be put in a marketable condition.

Oil production is to be measured by tank gauging, positive displacement metering system, or other methods acceptable to the authorized officer. In the absence of prior approval from the authorized officer, no oil is to be diverted to a pit except in emergency situations.

Gas production is to be measured by orifice meters or other methods acceptable to the authorized officer. The flaring/venting of gas from leasehold operations must meet the requirements of Notice to Lessees-4A, (NTL-4A) Royalty or Compensation for Oil and Gas Lost, or an applicable Onshore Oil and GasOrder.

Disposal of Produced Water

Produced water from leasehold operations will be disposed of by subsurface injection, lined pits or other methods acceptable to the authorized officer in accordance with the requirements of Notice to Lessees-2B (NTL-2B), Disposal of Produced Water, or an applicable Onshore Oil and Gas Order. Disposal of produced water by disposal/injection wells requires permit(s) from the primacy state or EPA. In some instances, an additional SMA authorization may be necessary. In most cases, water disposal pits should be fenced and flagged.

More information on Bird Mortality Associated with Oil in Pits or Open Vessels

Pollution Control/Hazardous Waste

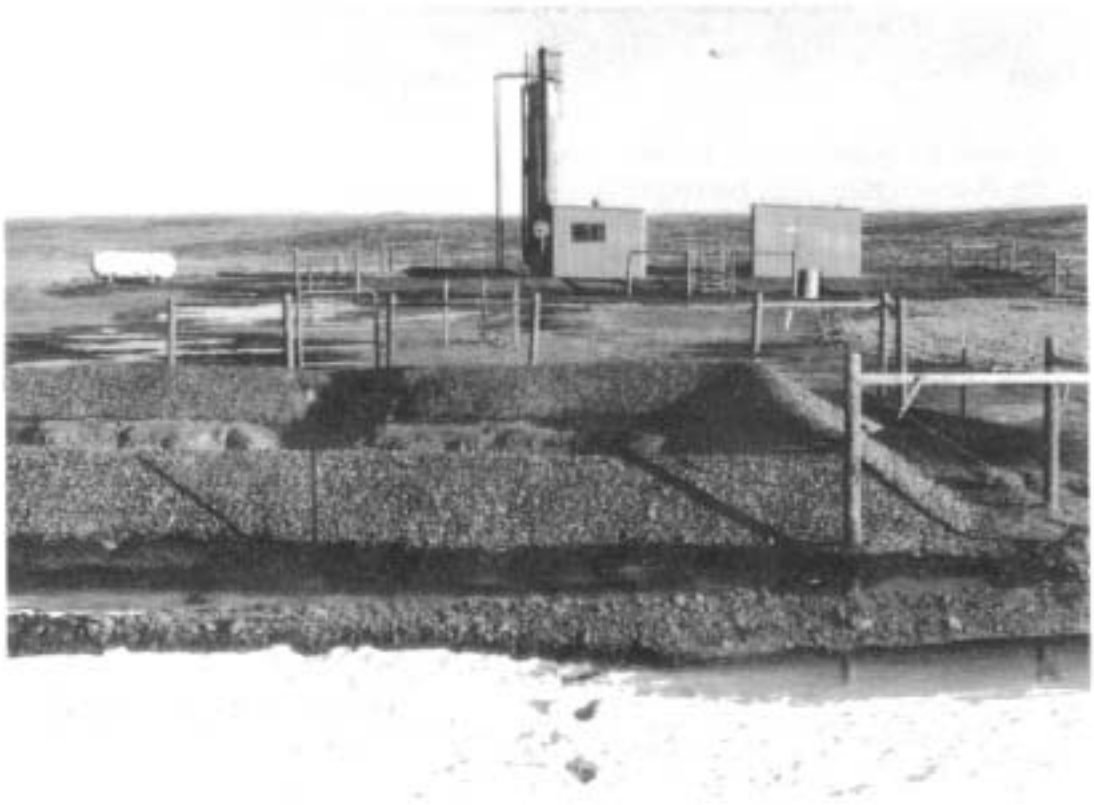
All spills or leakages of oil, gas, produced water, toxic liquids or waste materials, blowouts, fires, personal injuries, and fatalities shall be reported by the operator to the BLM and the SMA in accordance with the requirements of Notice to Lessees-3A, (NTL-3A), Reporting of Undesirable Events, or an applicable Onshore Oil and Gas Order. The BLM requires immediate reporting of all Class I events (more than 100 barrels of fluid/500 MCF of gas released or fatalities involved). Volumes discharged during any of the above incidents will be estimated as necessary. An example of the information normally required in reporting of spills, blowouts, fires, etc. is shown in Figure 15.

Firewalls/containment dikes are to be constructed and maintained around all storage facilities/ batteries. The containment structure must have sufficient volume to contain, at a minimum, the entire content of the largest tank within the facility/battery, unless more stringent protective requirements are deemed necessary by the authorized officer. (See Photographs 4 and 5).

Inspection and Enforcement

The BLM and FS have developed procedures to ensure that leaseholds which are producing or expected to produce significant quantities of oil or gas in any year, or have a history of noncompliance, will be inspected at least once a year. Other factors such as health and safety, environmental concerns, and potential conflict with other resources also determine inspection priority. Inspections of leasehold operations are made to ensure compliance with applicable laws, regulations, lease terms, Onshore Oil and Gas Orders, NTLs, and other written orders of the authorized officer.

PHOTOGRAPH 4. TYPICAL ONSITE PRODUCED WATER DISPOSAL PITS



PHOTOGRAPH 5. TYPICAL PRODUCTION FACILITY FIREWALL

CHAPTER 6
RECLAMATION AND ABANDONMENT

Reclamation Plan

A reclamation plan will be a part of the surface use plan of operations. Reclamation may be required of any surface previously disturbed that is not necessary for continued well operations. When abandoning well and other facilities that do not have a previously approved reclamation plan, a plan should be submitted with a Notice of Intent to Abandon (NIA). Additional reclamation measures may be required based on the conditions existing at the time of abandonment. Any additional reclamation requirements would be made a part of the condition of approval of the NIA. The following are generally components of the reclamation plan.

Pit Reclamation

All pits must be reclaimed to a natural condition similar to the rest of the reclaimed pad area. In addition, the reclaimed pit must be restored to a safe and stable condition. In most cases, if it was necessary to line the pit with a synthetic liner, the pit should not be trenched (cut) or filled while still containing fluids (squeezed). Pits must be allowed to dry, be pumped dry, or solidified in situ prior to filling. The pit area should usually be mounded to allow for settling. The mounding will also allow for positive surface drainage off the reclaimed pit, to help lessen the leaching or lateral movement of undesirable substances from the wellpad area into surface streams or shallow aquifers.

The concentration of hazardous substances in the reserve pit at the time of pit backfilling must not exceed the standards set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). All oil and gas drilling-related CERCLA hazardous substances removed from a location and not reused at another drilling location must be disposed of in accordance with applicable state and federal regulation.

Prior Approval of Abandonment

Well abandonment operations may not be started without prior approval of the "Sundry Notices and Reports on Wells," Form 3160-5, by the authorized officer. The Sundry Notice serves as the operator's Notice of Intention of Abandon (NIA). In the case of newly drilled dry holes, failures, and in emergency situations, oral approval may be obtained from the authorized officer subject to written confirmation by application. In such cases, the surface reclamation requirements will have been discussed with the operator and stipulated in the approved APD. Additional surface reclamation measures may be required. For older, existing wells not having an approved surface use plan of operations, a reclamation plan must be submitted with the NIA. Reclamation requirements will be made part of approval of abandonment. The operator must contact the BLM prior to plugging a well to allow for approval and witnessing of the plugging operations.

Revegetation

Disturbed areas should be revegetated after the site has been satisfactorily prepared. Site preparation may include ripping contour furrowing, terracing, reduction of steep cut and fill slopes, waterbarring, etc. The operator will be advised as to species, methods of revegetation and seasons to plant.

Seeding should be done by drilling on the contour whenever practical or by other approved methods. Seeding and/or planting should be repeated until satisfactory revegetation is accomplished, as determined by BLM/FS. Mulching, fertilizing, fencing, or other practices may be required.

Visual Resources

For all activities which alter landforms, disturb vegetation or require temporary or permanent structures, the operator may be required to comply with visual resource management objectives for the area. Site-specific practices may be required by BLM or FS.

Additional Guidelines

Supplemental guidelines and methods may be available that reflect local site and geographic conditions. These guidelines or methods may be obtained from the local BLM/FS office. Technical advances in reclamation practices are continually being developed that may be successfully applied to oil and gas construction practices.

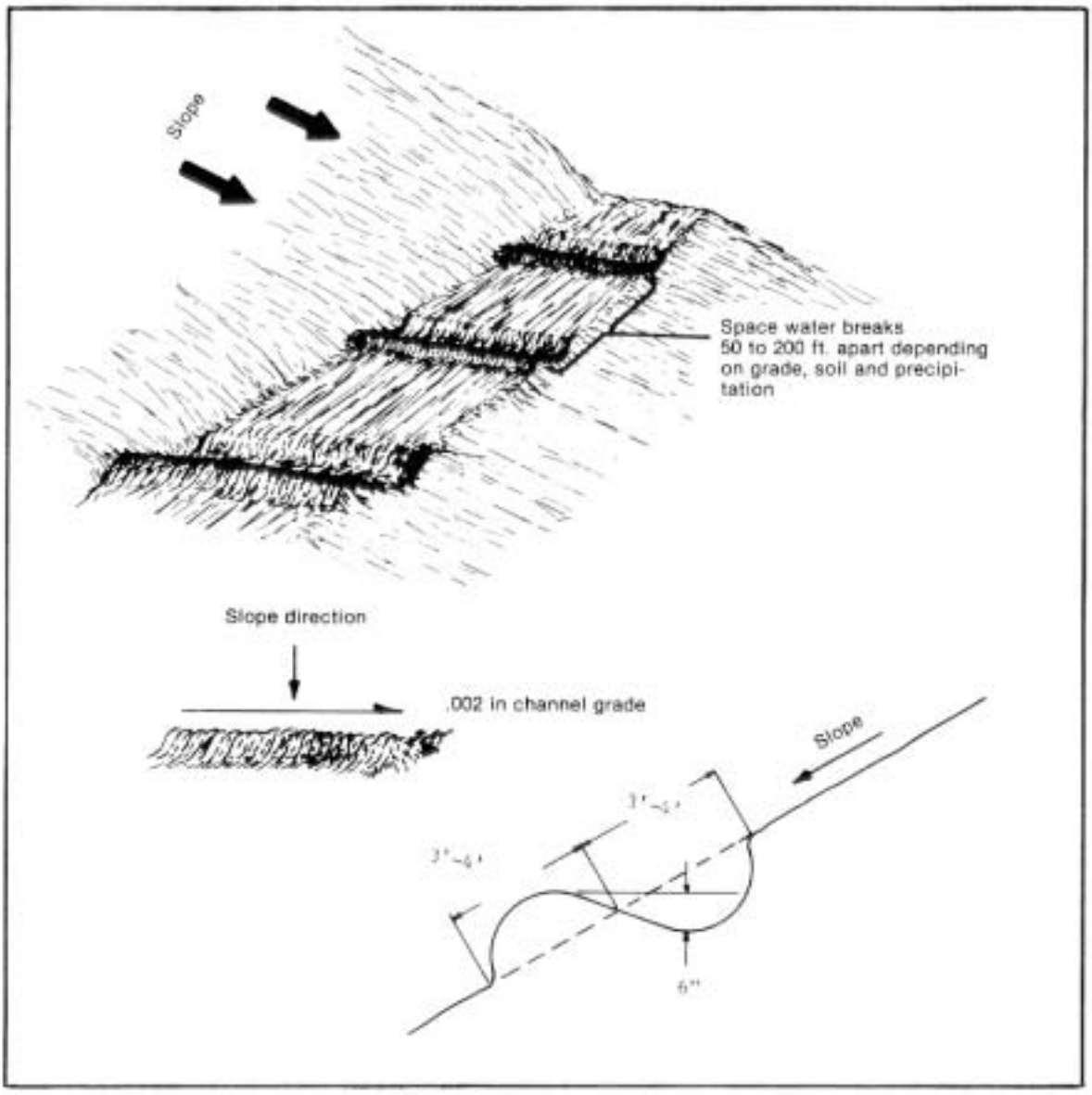
Pipeline and Flowline Reclamation

Reclamation and abandonment of pipelines and flowlines may involve replacing fill in the original cuts, reducing and grading cut and fill slopes to conform to the adjacent terrain, replacement of surface soil material, waterbarring and revegetating in accordance with a reclamation plan.

Pipeline trenches are to be compacted during backfilling and must be maintained to correct backfill settling and prevent erosion. Waterbars and other erosion control devices must be repaired as necessary. Pipeline routes shall not be used for roads unless they are properly constructed and authorized for such purposes.

Abandoned pipeline routes must be waterbarred as shown in Figure 10. Supplemental guidelines and methods may be available that reflect local site and geographic conditions. These guidelines or methods may be obtained from the local BLM/SMA office.

FIGURE 10. WATERBREAK CONSTRUCTION FOR PIPELINE AND BURIED CABLES



Well Site Reclamation

Reclamation Procedures: Recontouring involves bringing all construction material back onto the well pad and reestablishing the natural contours where desirable and practical. Figure 11 illustrates this type of restoration on a typical sidehill section. In recontouring areas which have been surfaced with gravel, the gravel is to be buried deep in the recontoured cut to prevent possible surface exposure.

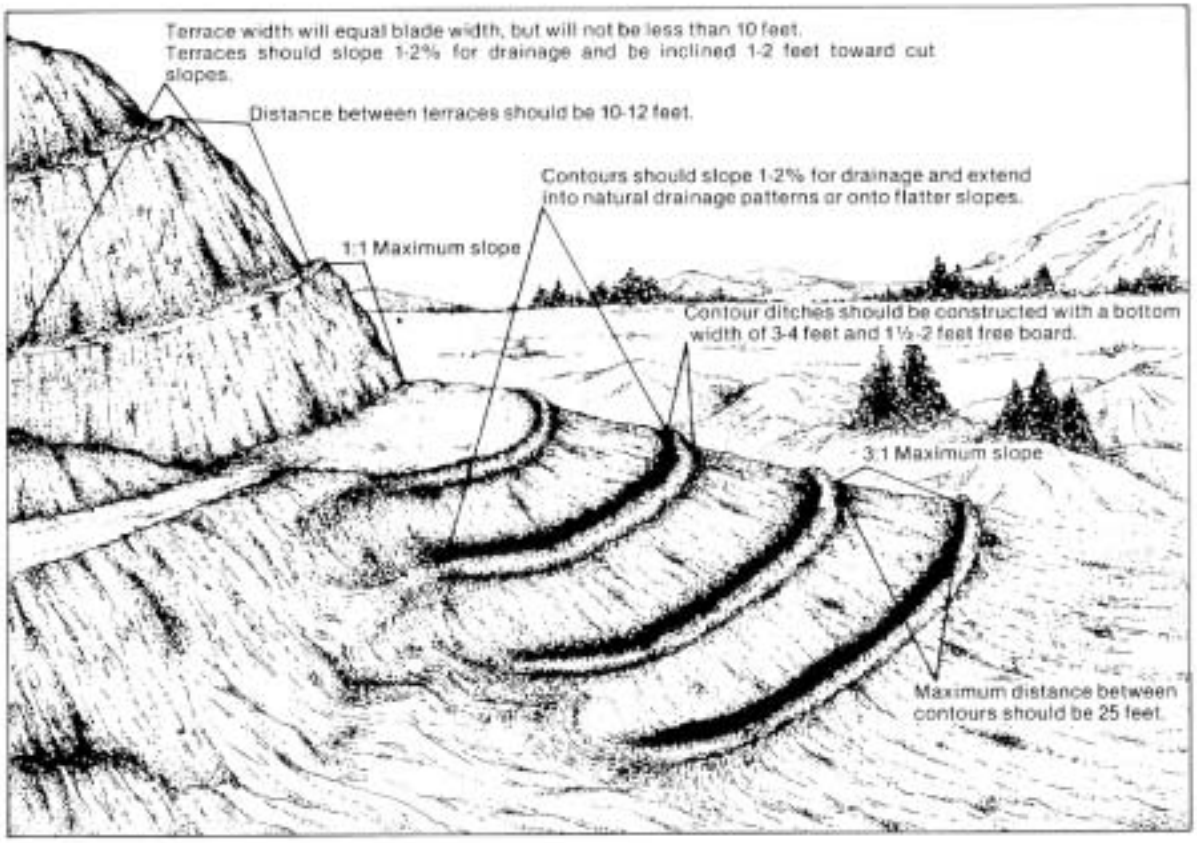


Figure 11. WELL SITE RESTORATION AND STABILIZATION BY TERRACING CUT SLOPES
Fill slope shows waterbreaks on reduced slope

Well site reclamation should be planned on both producing and abandoned well sites. The entire site or portion thereof, not required for the continued operation of the well, should be reclaimed. Final grading of backfilled and cut slopes should be done to prevent erosion and encourage establishment of vegetation. (See Photographs 6(A-E).)

Cut and fill slopes should be reduced and graded to blend the site to the adjacent terrain. The disturbed sites should be prepared to provide a seedbed for reestablishment of desirable vegetation and reshaped to blend with the natural contour. Such practices may include contouring, terracing, gouging, scarifying, mulching, fertilizing, seeding, and planting.

All excavations, pits, or drillholes should be closed by backfilling when they are dry and graded to conform to the surrounding terrain. Waterbreaks and terracing may be installed to prevent erosion of fill material.

PHOTOGRAPHS 6(A-E). WELL SITE RECLAMATION

A. Abandoned well site.

C. Slope reduction and installation of waterbreaks completed

B. Slope reduction on the well site.

D. Mulching of the well site.

E. Well site 1 year after revegetation.

Road Reclamation

Roads not on the SMA Transportation System shall be abandoned, closed, and obliterated. Reclamation of abandoned roads will involve one or more of the following techniques: (1) recontouring to the original contour; (2) recontouring to blend with natural contours; (3) recontouring only selected section of the roadway; and (4) obliteration of the roadway surface with no other modification of the profile.

PHOTOGRAPHS 7(A-B). COMPLETED RECLAMATION OF ROADBED.
ROADWAY RESTORED TO THE APPROXIMATE ORIGINAL CONTOUR AND REVEGETATED.

A. Roadway during use

B. Roadway after reclamation

Reclamation may include ripping, scarifying, waterbarring, and barricading. See Figure 10 for details on waterbreak construction. Stockpiled soil, debris, and fill materials should be replaced on the roadbed and cut slopes so as to conform to the approved reclamation plan.

Spacing of the waterbreaks is dependent on slope and soil type. For most soil types, the following table may be used for determining the space needed.

SLOPE	SPACING
2%	200 feet
2-4%	100 feet
4-5%	75 feet
+5%	50 feet

All disturbed areas should be revegetated where practical. Native perennial species, or other plant materials specified by the SMA, will be used.

Inspection

Final abandonment will not be approved until the surface reclamation work required by the APD or NIA has been completed and the required reclamation is acceptable to the SMA.

Water Well Conversion

In some instances, the SMA or private landowner may wish to acquire a well that has encountered usable fresh water. In those cases, requirements for abandonment may be modified. The operator will be reimbursed for any expenses incurred solely because the well is to be completed as a water well.

Final Abandonment Approval

The operator must file a Subsequent Report of Abandonment (SRA) following the plugging of a well. A Final Abandonment Notice (FAN) must be filed upon completion of reclamation operations which indicates that the site is ready for inspections. Upon receipt of the FAN, the SMA will inspect the site. A water supply well drilled in association with drilling an oil and gas well must be plugged and abandoned before the FAN is approved, if the water well is not acquired by the SMA or private landowner.

Release of Bonds

If the well is covered by an individual lease bond, the period of liability on that bond can be terminated once the final abandonment or phased bonding release has been approved. The principal can request termination of the period of liability from the State Office holding the bond. If the well is covered by a statewide or nationwide bond, termination of the period of liability of these bonds is not approved until final abandonment of all activities conducted under the bond have been approved.

CHAPTER 7
APPEALS

Administrative Relief (BLM)

State Director Reviews (SDRs) are conducted according to 43 CFR 3165.3. Appeals are processed according to 43 CFR 3165.4. All actions and decisions of the BLM pursuant to the oil and gas program as governed by 43 CFR 3160, and all Onshore Oil and Gas Orders and Notices to Lessees promulgated therefrom, are subject to SDRs, appeals, or both upon request. Note that before pursuing an appeal under this set of regulations, a SDR must be conducted first. SDRs apply to decisions related to APD conditions of approval or stipulations, inspection and enforcement actions, APD or Sundry Notices, etc. SDRs and appeals must be filed in the appropriate office according to the regulatory timeframes prescribed.

Forest Service Appeals

Forest Service appeals are conducted according to currently approved regulation. Decisions requiring FS consent or approval for use of National Forest System Lands are generally subject to appeal under these regulations subject to the additional provisions and limitations given in 36 CFR 228 E.

FIGURE 12. SAMPLE NOS SUBMITTAL

<table>
<tr><td colspan="2">NOTICE OF STAKING
Not to be used in place of Application for Permit to Drill (Form 3160- 3)</td><td colspan="2">6. Lease Number</td></tr>
<tr><td colspan="2">1. Oil Well _____ Gas Well _____ Other (Specify)</td><td colspan="2">7. If Indian, Allottee or Tribe Name</td></tr>
<tr><td colspan="2">2. Name of Operator:</td><td colspan="2">8. Unit Agreement Name</td></tr>
<tr><td colspan="2">3. Name of Specific Contact Person:</td><td colspan="2">9. Farm or Lease Name</td></tr>
<tr><td colspan="2">4. Address & Phone No. of Operator or Agent</td><td colspan="2">10. Well No.</td></tr>
<tr><td colspan="2">5. Surface Location of Well</td><td colspan="2">11. Field or Wildcat Name</td></tr>
<tr><td colspan="2">Attach:
a) Sketch showing road entry onto pad, pad dimensions, and reserve pit.
b) Topographical or other acceptable map showing location, access road, and lease boundaries.</td><td colspan="2">12. Sec., T., R., M., or Blk and Survey or Area</td></tr>
<tr><td>5. Formation Objectives(s)</td><td>16. Estimated Well Depth</td><td>13. County, Parish, or Borough</td><td>14. State</td></tr>
<tr><td colspan="4">17. Additional Information (as appropriate; shall include surface owner's, name, address and, if known, telephone number)</td></tr>
</table>

18. Signed_____ Title _____ Date _____

Note: Upon receipt of this Notice, the Bureau of Land Management (BLM) will schedule the date of the onsite predrill inspection and notify you accordingly. The location must be staked and access road must be flagged prior to the onsite.

Operators must consider the following prior to the onsite:

a) H2S Potential
b) Cultural Resources (Archeology)
c) Federal Right of Way or Special Use Permit

FIGURE 13. APD

Form 3160-3
(December 1990)

SUBMIT IN TRIPLICATE*
(Other instructions on reverse side)

Form approved.
Budget Bureau No. 1004-0136
Expires December 31, 1991

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

APPLICATION FOR PERMIT TO DRILL, DEEPEN

5. LEASE DESIGNATION AND SERIAL NO.

6. IF INDIAN, ALLOTTEE OR TRIBE NAME

1a. TYPE OF WORK
DRILL ☐ DEEPEN ☐

7. UNIT AGREEMENT NAME

b. TYPE OF WELL
OIL WELL ☐ GAS WELL ☐ OTHER SINGLE ZONE ☐ MULTIPLE ZONE ☐

8. FARM OR LEASE NAME, WELL NO.

2. NAME OF OPERATOR

9. API WELL NO.

3. ADDRESS AND TELEPHONE NO.

10. FIELD AND POOL, OR WILDCAT

4. LOCATION OF WELL (Report location clearly and in accordance with any State requirements.*)
At surface

At proposed prod. zone

11. SEC., T., R., M., OR BLK.
AND SURVEY OR AREA

14. DISTANCE IN MILES AND DIRECTION FROM NEAREST TOWN OR POST OFFICE*

12. COUNTY OR PARISH

13. STATE

15. DISTANCE FROM PROPOSED* LOCATION TO NEAREST PROPERTY OR LEASE LINE, FT. (Also to nearest drlg. unit line, if any)	16. NO. OF ACRES IN LEASE	17. NO. OF ACRES ASSIGNED TO THIS WELL
18. DISTANCE FROM PROPOSED LOCATION* TO NEAREST WELL, DRILLING, COMPLETED, OR APPLIED FOR, ON THIS LEASE, FT.	19. PROPOSED DEPTH	20. ROTARY OR CABLE TOOLS
21. ELEVATIONS (Show whether DF, RT, GR, etc.)		22. APPROX. DATE WORK WILL START*

23. PROPOSED CASING AND CEMENTING PROGRAM

SIZE OF HOLE	GRADE, SIZE OF CASING	WEIGHT PER FOOT	SETTING DEPTH	QUANTITY OF CEMENT

IN ABOVE SPACE DESCRIBE PROPOSED PROGRAM: If proposal is to deepen, give data on present productive zone and proposed new productive zone. If proposal is to drill or deepen directionally, give pertinent data on subsurface locations and measured and true vertical depths. Give blowout preventer program, if any.

24.
SIGNED _____ TITLE _____ DATE _____

(This space for Federal or State office use)

PERMIT NO. _____ APPROVAL DATE _____

Application approval does not warrant or certify that the applicant holds legal or equitable title to those rights in the subject lease which would entitle the applicant to conduct operations thereon.

CONDITIONS OF APPROVAL, IF ANY:

APPROVED BY _____ TITLE _____ DATE _____

*See Instructions on Reverse Side

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

FIGURE15. EXAMPLE SPILL REPORT DATA

To: (Appropriate BLM or FS Office) From: (Oil & Gas Operator)

_____ _____

_____ _____

_____ _____

Subject: **Report of Undesirable Event** (NTL-3A; CDM 642.3.36)

Date of Occurrence: _____ Time of Occurrence: _____ a.m., p.m.

Date Report to BLM: _____ Time Reported to BLM: _____ a.m. p.m

Date Report to FS: _____ Time Reported to FS: _____ a.m. p.m.

Location: State _____ County _____

__ ¼ ___ ¼ Section ___ T. ___ __, R. ___ __; _____ Meridian

Operator: _____

Surface Ownership [FEDERAL (FS, BLM, Other), INDIAN, FEE, STATE]:

Lease Number: _____; Unit Name or C.A. Number _____

Type of Event: BLOWOUT, FIRE, FATALITY, INJURY, PROPERTY DAMAGE, OIL SPILL, SALTWATER SPILL, TOXIC FLUID SPILL, OIL AND SALTWATER SPILL, OIL AND TOXIC FLUID SPILL, SALTWATER AND TOXIC FLUID SPILL, GAS VENTING, OR OTHER (Specify)

_____

Cause of Event:_____

_____

_____

Volumes of Pollutants I. Discharged or Consumed: _____

II. Recovered: _____

Time Required to Control Event (in hours):__

Action Taken to Control the Event, Description of Resultant Damage, Clean-up Procedures, and Dates:_____

_____

Cause and Extent of Personnel Injury: __

_____

Other Federal, State, and Local Governmental Agencies Notified: _

_____

Action Taken to Prevent Recurrence: _____

_____

General Remarks: _

_____

Signature _____ Date _____

Title _____

FOR BLM OR FS USE ONLY

District _____ Date Reported to BLM of FS

Optional _____ Event Classification _____

Date of Onsite Inspection _____ Remarks_____

_____

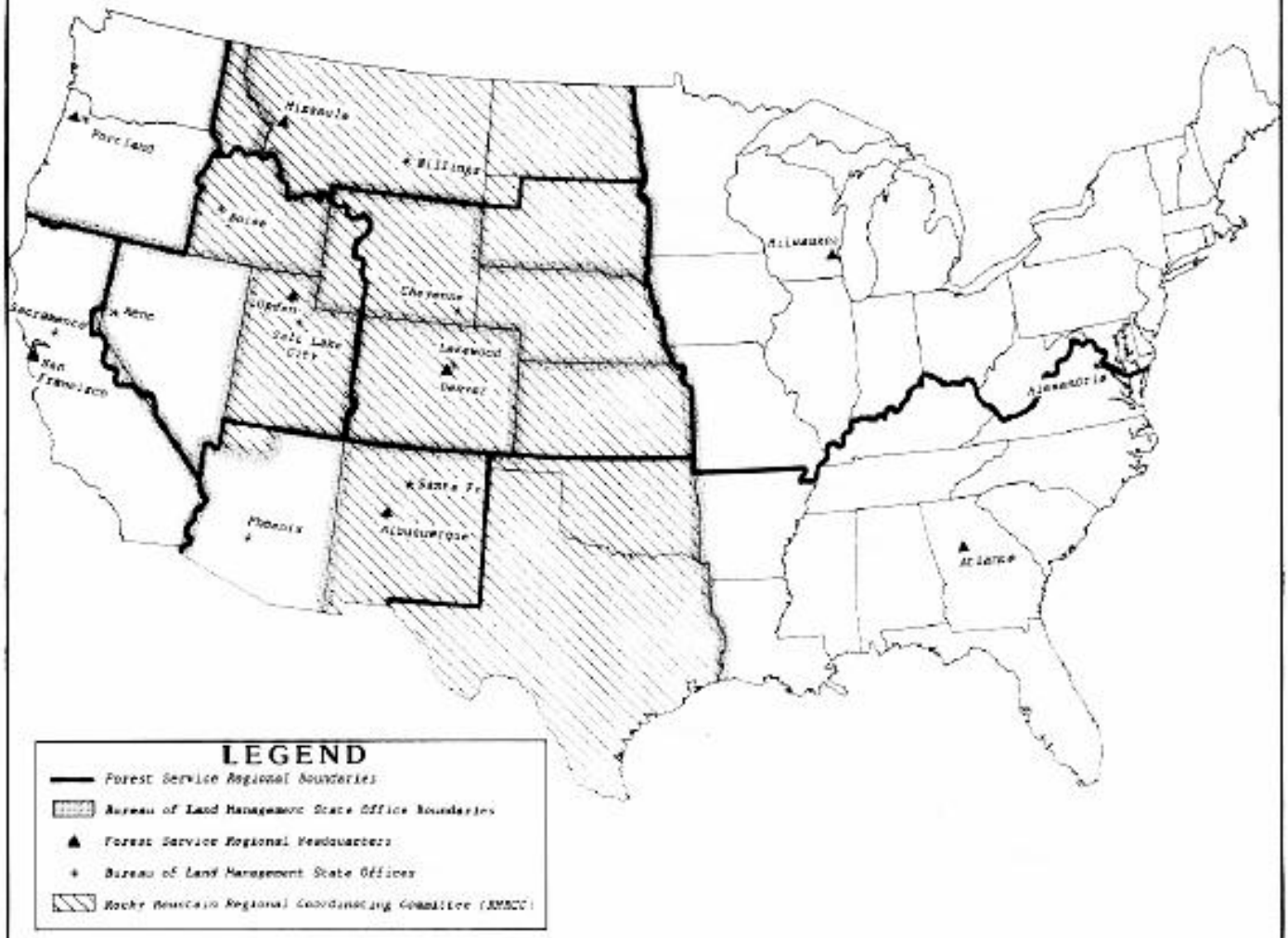
INDEX

abandonment 2,33,38
acronyms 44
appeals 38
application for permit to drill (APD) 2,4,5,7,29,40
approved drilling plan 8,12
authorized officer 3,4
BLM collector roads 14,17
BLM local roads 14,16
BLM resource roads 14,15
BLM temporary roads 13,14
bonds 4,38
bridges and major culverts 26
Bureau of Indian Affairs 1
constraints 2
crowned and ditched road 22
culverts 23,24,25
disposal of produced water 31
ditch relief culverts 26
ditches 21
drainage dips 20,22
drainage structures 20
drilling operations 29
environmental analysis 2
federal jurisdiction 1
FS arterial roads 14,17
FS collector roads 14,16
FS local roads 14,15
FS short-term roads 13,14
gas wells 31
geophysical operations 3
hazardous waste 31
inspection and enforcement 31
low water crossings 26
measurement of production 31
Notice of Completion of Oil and Gas Exploration Operations 3
Notice of Intent to Conduct Oil and Gas Exploration Operations 3
Notice of Staking (NOS) 2,4,5,6,12,29,39
oil wells 30
Onshore Oil and Gas Order No. 1 4
onsite inspection 2,29
operating requirements 1
operating standards 30
other authorizations 2,29
other permits 2
painting of facilities 31
pipeline and flowline reclamation 33
pipelines and flowlines 28
pit reclamation 33
pollution control 31
privately owned surface 1
producing operations 30
production startup notification 30
prospecting permit 3
reclamation plan 33
report of undesirable event 42
reserve pit 10,11
revegetation 33
right-of-way (ROW) 4
road classes 13
road crowning 21
road design 12
road drainage design 20
road location 13
road maintenance 28
road plan 19
road reclamation 37
road use permit 4
roads and access ways 12
special use permit 4
spill report 42
split estate 1,4
staking 28
subdrainage 26
sundry notice forms 41
surface management agency 1
surface use plan of operations 4,10
surveying 29
subsequent well operations 30
transportation planning 13
visual resources 33
water disposal 32
water well conversion 38
waterbreak construction 34,38
well completion report 30
well sites 9
well site reclamation 35,36
wetland crossings 26

ACRONYMS USED IN THIS TEXT

ADT - Average Daily Traffic
APD - Application for Permit to Drill
BLM - Bureau of Land Management
CA - Communitization Agreement
CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act of 1980
CFR - Code of Federal Regulations
CMP - Corrugated Metal Pipe
COA - Condition of Approval
EPA - Environmental Protection Agency
FAN - Final Abandonment Notice
FS - Forest Service
MLA - Mineral Leasing Act
NEPA - National Environmental Policy Act of 1969
NIA - Notice of Intention to Abandon
NOI - Notice of Intent
NOS - Notice of Staking
NTL - Notice to Lessee, National, State or District
POD - Plan of Development
RMP - Resource Management Plan
ROD - Record of Decision
ROW - Rights-of-Way
SDR - State Director Review
SMA - Surface Managing Agency
SN - Sundry Notice
SRA - Subsequent Report of Abandonment
SUP - Special Use Permit
SWD - Salt Water Disposal
UA - Unit Agreement

BLM/FS OFFICE LOCATIONS



LEGEND

- Forest Service Regional Boundaries
- Bureau of Land Management State Office Boundaries
- ▲ Forest Service Regional Headquarters
- \+ Bureau of Land Management State Offices
- Rocky Mountain Regional Coordinating Committee (RMRCC)

AUTHORITY: Sec. 4, Act of May 11, 1938, (52 Stat. 347): Act of August 1, 1956 (70 Stat. 774): 25 U.S.C. 396a-g; and 25 U.S.C. 2 and 9.

SOURCE: 61 FR 35653, July 8, 1996, unless otherwise noted.

Subpart A—General

§ 211.1 Purpose and scope.

(a) The regulations in this part govern leases and permits for the development of Indian tribal oil and gas, geothermal, and solid mineral resources except as provided under paragraph (e) of this section. These regulations are applicable to lands or interests in lands the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States. These regulations are intended to ensure that Indian mineral owners desiring to have their resources developed are assured that they will be developed in a manner that maximizes their best economic interests and minimizes any adverse environmental impacts or cultural impacts resulting from such development.

(b) The regulations in this part shall be subject to amendment at any time by the Secretary of the Interior. No regulation that becomes effective after the date of approval of any lease or permit shall operate to affect the duration of the lease or permit, rate of royalty, rental, or acreage unless agreed to by all parties to the lease or permit.

(c) The regulations of the Bureau of Land Management, the Office of Surface Mining Reclamation and Enforcement, and the Minerals Management Service that are referenced in §§ 211.4, 211.5, and 211.6 are supplemental to the regulations in this part, and apply to parties holding leases or permits for development of Indian mineral resources unless specifically stated otherwise in this part or in such other Federal regulations.

(d) Nothing in the regulations in this part is intended to prevent Indian tribes from exercising their lawful governmental authority to regulate the conduct of persons, businesses, operations or mining within their territorial jurisdiction.

(e) The regulations in this part do not apply to leasing and development governed by regulations in 25 CFR parts 213 (Members of the Five Civilized Tribes of Oklahoma), 226 (Osage), or 227 (Wind River Reservation).

§ 211.2 Information collection.

The information collection requirements contained in this part do not require a review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501; et seq.).

§ 211.3 Definitions.

As used in this part, the following words and phrases have the specified meaning except where otherwise indicated:

Applicant means any person seeking a permit, lease, or an assignment from the superintendent or area director.

Approving official means the Bureau of Indians Affairs official with delegated authority to approve a lease or permit.

Area director means the Bureau of Indian Affairs official in charge of an area office.

Authorized officer means any employee of the Bureau of Land Management authorized by law or by lawful delegation of authority to perform the duties described in this part and in 43 CFR parts 3160, 3180, 3260, 3280, 3480 and 3590.

Cooperative agreement means a binding arrangement between two or more parties purporting to the act of agreeing or of coming to a mutual arrangement that is accepted by all parties to a transaction (e.g., communitization and unitization).

Director's representative means the Office of Surface Mining Reclamation and Enforcement director's representative authorized by law or lawful delegation of authority to perform the duties described in 30 CFR part 750.

Gas means any fluid, either combustible or non-combustible, that is produced in a natural state from the earth and that maintains a gaseous or rarefied state at ordinary temperature and pressure conditions.

Geological and geophysical permit means a written authorization to conduct on-site surveys to locate potential deposits of oil and gas, geothermal or solid mineral resources on the lands.

Geothermal resources means:

per year of common varieties of minerals from Indian lands.

Secretary means the Secretary of the Interior or an authorized representative.

Solid minerals means all minerals excluding oil, gas and geothermal resources.

Superintendent means the Bureau of Indian Affairs official in charge of the agency office having jurisdiction over the minerals subject to leasing under this part.

§ 211.4 Authority and responsibility of the Bureau of Land Management (BLM).

The functions of the Bureau of Land Management are found in 43 CFR part 3160—Onshore Oil and Gas Operations, 43 CFR part 3180—Onshore Oil and Gas Unit Agreements: Unproven Area, 43 CFR part 3260—Geothermal Resources Operations, 43 CFR part 3280—Geothermal Resources Unit Agreements: Unproven Areas, 43 CFR part 3480—Coal Exploration and Mining Operations, and 43 CFR part 3590—Solid Minerals (other than coal) Exploration and Mining Operations; and currently include, but are not limited to, resource evaluation, approval of drilling permits, mining and reclamation, production plans, mineral appraisals, inspection and enforcement, and production verification. These regulations, apply to leases and permits approved under this part.

§ 211.5 Authority and responsibility of the Office of Surface Mining Reclamation and Enforcement (OSM).

The OSM is the regulatory authority for surface coal mining and reclamation operations on Indian lands pursuant to the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.). The relevant regulations for surface coal mining and reclamation operations are found in 30 CFR part 750. Those regulations apply to mining and reclamation on leases approved under this part.

§ 211.6 Authority and responsibility of the Minerals Management Service (MMS).

The functions of the MMS for reporting, accounting, and auditing are found in 30 CFR chapter II, subchapters A and C, which, apply to leases approved under this part. To the extent the parties to a lease or permit are able to provide reasonable provisions satisfactorily addressing the functions governed by MMS regulations, the Secretary may approve alternate provisions in a lease or permit.

§ 211.7 Environmental studies.

(a) The Secretary shall ensure that all environmental studies are prepared as required by the National Environmental Policy Act of 1969 (NEPA) and the regulations promulgated by the Council on Environmental Quality (CEQ), found in 40 CFR parts 1500 through 1508.

(b) The Secretary shall ensure that all necessary surveys are performed and clearances obtained in accordance with 36 CFR parts 60, 63, and 800 and with the requirements of the Archaeological and Historic Preservation Act (16 U.S.C. 469 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), The American Indian Religious Freedom Act (42 U.S.C. 1996), and Executive Order 11593, Protection and Enhancement of the Cultural Environment (3 CFR, 1971 through 1975 Comp., p. 559). If these surveys indicate that a mineral development will have an adverse effect on a property listed on or eligible for listing on the National Register of Historic Places, the Secretary shall:

(1) Seek the comments of the Advisory Council on Historic Preservation, in accordance with 36 CFR part 800;

(2) Ensure that the property is avoided, that the adverse effect is mitigated, or;

(3) Ensure that appropriate excavations or other related research is conducted and ensure that complete data describing the historic property is preserved.

§ 211.8 Government employees cannot acquire leases.

U.S. Government employees are prevented from acquiring leases or interests in leases by the provisions of 25 CFR part 140 and 43 CFR part 20 pertaining to conflicts of interest and ownership of an interest in trust land.

§ 211.9 Existing permits or leases for minerals issued pursuant to 43 CFR chapter II and acquired for Indian tribes.

(a) Title to the minerals underlying certain Federal lands, which were previously subject to general leasing and mining laws, is now held in trust by the United States for Indian tribes. Existing mineral prospecting permits, exploration and mining leases on these lands, issued prior to these lands being placed in trust status or becoming Indian lands, pursuant to 43 CFR chapter II (and its predecessor regulations), and all actions on the permits and leases shall be administered by the Secretary in accordance with the regulations set forth in 30 CFR chapters II and VII and 43 CFR chapter II, as applicable, provided, that all payment or reports required by a non-producing lease or permit, issued pursuant to 43 CFR chapter II, shall be made to the superintendent having administrative jurisdiction over the land involved, instead of the officer of the Bureau of Land Management designated in 43 CFR unless specifically stated otherwise in the statutes authorizing the United States to hold the land in trust for an Indian tribe. Producing lease payments and reports will be submitted to the Minerals Management Service in accordance with 30 CFR chapter II, subchapters A and C.

(b) Administrative actions regarding an existing lease or permit under this section, may be appealed pursuant to 25 CFR part 2.

Subpart B—How to Acquire Leases

§ 211.20 Leasing procedures.

(a) Indian mineral owners may, with the approval of the superintendent or area director, lease their land for mining purposes. No oil and gas lease shall be approved unless it has first been offered for bidding at an advertised lease sale in accordance with this section. Leases for minerals other than oil and gas shall be advertised for bids as prescribed in this section unless the Secretary grants the Indian mineral owners written permission to negotiate for lease. Application for leases shall be made to the superintendent having jurisdiction over the lands.

(b) Indian mineral owners may request that the Secretary prepare and advertise or negotiate (if the requirements of this section have been met) mineral leases on their behalf. If requested by an applicant interested in acquiring rights to Indian-owned minerals, the Secretary shall promptly notify the Indian mineral owner, and advise the owner in writing of the alternatives available, including the right to decline to lease. If the Indian mineral owner decides to have the leases advertised, the Secretary shall consult with the Indian mineral owner concerning the appropriate royalty rate and rental. The Secretary may then undertake the responsibility to advertise and lease in accordance with the following procedures:

(1) Leases shall be advertised to receive optimum competition for bonus consideration, under sealed bid, oral auction, or a combination of both. Notice of such advertisement shall be published in at least one local newspaper and in one trade publication at least thirty (30) days in advance of sale. If applicable, such notice must identify the reservation within which the tracts to be leased are found. No specific description of the tracts to be leased need be published. Specific description of such tracts shall be available at the office of the superintendent and/or area director upon request. The complete text of the advertisement, including a specific description, shall be mailed to each person listed on the appropriate agency or area mailing list. Individuals and companies interested in receiving advertisements of lease sales should send their mailing information to the appropriate superintendent or area director for future reference.

(2) The advertisement shall offer the tracts to the responsible bidder offering the highest bonus. The Secretary, after consultation with the Indian mineral owner, shall establish the rental and royalty rates which shall be stated in the advertisement and shall not be subject to negotiation. The advertisement shall provide that the Secretary reserves the right to reject any or all bids, and that acceptance of the lease bid by the Indian mineral owner is required.

surety shall furnish a power of attorney.

(b) A corporate applicant proposing to acquire an interest in a permit or lease shall have on file with the superintendent or area director a statement showing:

(1) The State(s) in which the corporation is incorporated, and that the corporation is authorized to hold such interests in the State where the land described in the instrument is situated; and

(2) A notarized statement that the corporation has power to conduct all business and operations as described in the lease or permit.

(c) The Secretary may, either before or after the approval of a permit, mineral lease, assignment, or bond, call for any reasonable additional information necessary to carry out the regulations in this part, or other applicable laws and regulations.

§ 211.24 Bonds.

(a) The lessee, permittee or prospective lessee acquiring a lease, or any interest therein, by assignment shall furnish with each lease, permit or assignment a surety bond or personal bond in an amount sufficient to ensure compliance with all of the terms and conditions of the lease(s), permit(s), or assignment(s) and the statutes and regulations applicable to the lease, permit, or assignment. Surety bonds shall be issued by a qualified company approved by the Department of the Treasury (see Department of the Treasury Circular No. 570).

(b) An operator may file a $75,000 bond for all geothermal, mining, or oil and gas leases, permits, or assignments in any one State, which may also include areas on that part of an Indian reservation extending into any contiguous State. Statewide bonds are subject to approval in the discretion of the Secretary.

(c) An operator may file a $150,000 bond for full nationwide coverage to cover all geothermal or oil and gas leases, permits, or assignments without geographic or acreage limitation to which the operator is or may become a party. Nationwide bonds are subject to approval in the discretion of the Secretary.

(d) Personal bonds shall be accompanied by:

(1) Certificate of deposit issued by a financial institution, the deposits of which are federally insured, explicitly granting the Secretary full authority to demand immediate payment in case of default in the performance of the provisions and conditions of the lease or permit. The certificate shall explicitly indicate on its face that Secretarial approval is required prior to redemption of the certificate of deposit by any party;

(2) Cashier's check;

(3) Certified check;

(4) Negotiable Treasury securities of the United States of a value equal to the amount specified in the bond. Negotiable Treasury securities shall be accompanied by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the provisions and conditions of a lease or permit; or

(5) Letter of credit issued by a financial institution authorized to do business in the United States and whose deposits are federally insured, and identifying the Secretary as sole payee with full authority to demand immediate payment in the case of default in the performance of the provisions and conditions of a lease or permit.

(i) The letter of credit shall be irrevocable during its term.

(ii) The letter of credit shall be payable to the Bureau of Indian Affairs upon demand, in part or in full, upon receipt from the Secretary of a notice of attachment stating the basis thereof (e.g., default in compliance with the lease or permit provisions and conditions or failure to file a replacement in accordance with paragraph (d)(5)(v) of this section).

(iii) The initial expiration date of the letter of credit shall be at least one (1) year following the date it is filed in the proper Bureau of Indian Affairs office.

(iv) The letter of credit shall contain a provision for automatic renewal for periods of not less than one (1) year in the absence of notice to the proper Bureau of Indian Affairs office at least ninety (90) days prior to the originally stated or any extended expiration date.

(v) A letter of credit used as security for any lease or permit upon which operations have taken place and final approval for abandonment has not been given, or as security for a statewide or nationwide bond, shall be forfeited and shall be collected by the Secretary if not replaced by other suitable bond or letter of credit at least thirty (30) days before its expiration date.

(e) The required amount of bonds may be increased in any particular case at the discretion of the Secretary.

§ 211.25 Acreage limitation.

A lessee may acquire more than one lease but no single lease shall be granted for mineral leasing purposes on Indian tribal or restricted lands in excess of the following acreage except where the rule of approximation applies:

(a) Leases for oil and gas and all other minerals except coal are to be contained within one United States Governmental survey section of land and shall be described by legal subdivisions including lots or tract equivalents not to exceed 640 acres; in instances of irregular surveys, including lands not surveyed under the United States Governmental survey, lands shall be considered in multiples of 40 acres or the nearest aliquot equivalent thereof;

(b) Leases for coal shall ordinarily be limited to 2,560 acres in a reasonably compact form and shall be described by legal subdivisions including lots or tract equivalents. In instances of irregular surveys, including lands not surveyed under the United States Governmental survey, lands shall be considered in multiples of 40 acres or the nearest aliquot equivalent thereof. The Secretary may, upon application and with the consent of the Indian mineral owner, approve the issuance of a single lease for more than 2,560 acres, in a reasonably compact form, upon a finding that the issuance is in the best interest of the lessor.

§ 211.26 [Reserved]

§ 211.27 Duration of leases.

(a) All leases shall be for a term not to exceed a primary term of lease duration of ten (10) years and, absent specific lease provisions to the contrary, shall continue as long thereafter as the minerals specified in the lease are produced in paying quantities. Absent specific lease provisions to the contrary, all provisions in leases governing their duration shall be measured from the date of approval by the Secretary.

(b) An oil and gas or geothermal resource lease which stipulates that it shall continue in full force and effect beyond the expiration of the primary term of lease duration (''commencement clause'') if drilling operations have commenced during the primary term, shall be valid and shall hold the lease beyond the primary term of lease duration if the lessee or the lessee's designee has commenced actual drilling by midnight of the last day of the primary term of the lease with a drilling rig designed to reach the total proposed depth, and drilling is continued with reasonable diligence until the well is completed to production or abandoned. However, in no case shall such drilling hold the lease longer than 120 days past the primary term of lease duration without actual production of oil, gas, or geothermal resources. *Provided*, that this extension does not allow a lease to continue past the 10-year statutory limitation. Drilling which meets the requirements of this section and occurs within a unit or communitization agreement to which the lease is committed shall be considered as if it occurs on the leasehold itself. If there is a conflict between the commencement clause and the habendum clause of a lease, the commencement clause will control.

(c) A solid minerals lease which stipulates that it shall continue in full force and effect beyond the expiration of the primary term of lease duration if mining operations have commenced during the primary term (commencement clause), shall be valid and hold the lease beyond the primary term of lease duration if the lessee or the lessee's designee has by midnight of the last day of the primary term of the lease commenced actual removal of mineral materials intended for sale and upon which royalties will be paid. If there is a conflict between the commencement clause and the habendum clause of a lease, the commencement clause will control.

§ 211.28 Unitization and communitization agreements, and well spacing.

(a) For the purpose of promoting conservation and efficient utilization of minerals, the Secretary may approve a cooperative unit, drilling or other development plan on any leased area upon a determination that approval is advisable and in the best interest of the Indian mineral owner. For the purposes of this section, a cooperative unit, drilling or other development plan means an agreement for the development or operation of a specifically designated area as a single unit without regard to separate ownership of the land included in the agreement. Such cooperative agreements include, but are not limited to, unit agreements, communitization agreements and other types of agreements that allocate costs and benefits.

(b) The consent of the Indian mineral owner to such unit or cooperative agreement shall not be required unless such consent is specifically required in the lease. However, the Secretary shall consult with the Indian mineral owner prior to making a determination concerning a cooperative agreement or well spacing plan.

(c) Requests for approval of cooperative agreements which comply with the requirements of all applicable rules and regulations shall be filed with the superintendent or area director.

(d) All Indian mineral owners of any right, title or interest in the mineral resources to be included in a cooperative agreement must be notified by the lessee at the time the agreement is submitted to the superintendent or area director. An affidavit from the lessee stating that a notice was mailed to each mineral owner of record for whom the superintendent or area director has an address will satisfy this notice requirement.

(e) A request for approval of a proposed cooperative agreement, and all documents incident to such agreement, must be filed with the superintendent or area director at least ninety (90) days prior to the first expiration date of any of the Indian leases in the area proposed to be covered by the cooperative agreement.

(f) Unless otherwise provided in the cooperative agreement, approval of the agreement commits each lease to the unit in the area covered by the agreement on the date approved by the Secretary or the date of first production, whichever is earlier, as long as the agreement is approved before the lease expiration date.

(g) Any lease committed in part to any such cooperative agreement shall be segregated into a separate lease or leases as to the lands committed and lands not committed to the agreement. Segregation shall be effective on the date the agreement is effective.

(h) Wells shall be drilled in conformity with a well spacing program approved by the authorized officer.

§ 211.29 Exemption of leases and permits made by organized tribes.

The regulations in this part may be superseded by the provisions of any tribal constitution, bylaw or charter issued pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461–479), the Alaska Act of May 1, 1936 (49 Stat. 1250; 48 U.S.C. 362,258a), or the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C., and Sup., 501–509), or by ordinance, resolution, or other action authorized under such constitution, bylaw or charter; Provided, that such tribal law may not supersede the requirements of Federal statutes applicable to Indian mineral leases. The regulations in this part, in so far as they are not so superseded, shall apply to leases and permits made by organized tribes if the validity of the lease or permit depends upon the approval of the Secretary of the Interior.

Subpart C—Rents, Royalties, Cancellations and Appeals

§ 211.40 Manner of payments.

Unless otherwise specifically provided for in a lease, once production has been established, all payments shall be made to the MMS or such other party as may be designated, and shall be made at such time as provided in 30 CFR chapter II, subchapters A and C. Prior to production, all bonus and rental payments, shall be made to the superintendent or area director.

§ 211.41 Rentals and production royalty on oil and gas leases.

(a) A lessee shall pay, in advance, beginning with the effective date of the lease, an annual rental of $2.00 per acre or fraction of an acre or such other greater amount as prescribed in the lease. This rental shall not be credited against production royalty nor shall the rental be prorated or refunded because of surrender or cancellation.

(b) The Secretary shall not approve leases with a royalty rate less than 16–⅔ percent of the amount or value of production produced and sold from the lease unless a lower royalty rate is agreed to by the Indian mineral owner and is found to be in the best interest of the Indian mineral owner. Such approval may only be granted by the area director if the approving official is the superintendent and by the Assistant Secretary for Indian Affairs if the approving official is the area director.

(c) Value of lease production for royalty purposes shall be determined in accordance with applicable lease provisions and regulations in 30 CFR chapter II, subchapters A and C. If the valuation provisions in the lease are inconsistent with the regulations in 30 CFR chapter II, subchapters A and C, the lease provisions shall govern.

(d) If the leased premises produce gas in excess of the lessee's requirements for the development and operation of said premises, then the lessor may use sufficient gas, free of charge, for any desired school or other buildings belonging to the tribe, by making his own connections to a regulator installed, connected to the well and maintained by the lessee, and the lessee shall not be required to pay royalty on gas so used. The use of such gas shall be at the lessor's risk at all times.

§ 211.42 Annual rentals and expenditures for development on leases other than oil and gas, and geothermal resources.

(a) Unless otherwise authorized by the Secretary, a lease for minerals other than oil, gas and geothermal resources shall provide for a yearly development expenditure of not less than $20 per acre. All such leases shall provide for a rental payment of not less than $2.00 for each acre or fraction of an acre payable on or before the first day of each lease year.

(b) Within twenty (20) days after the lease year, an itemized statement, in duplicate, of the expenditure for development under a lease for minerals other than oil and gas shall be filed with the superintendent or area director. The lessee must certify the statement under oath.

§ 211.43 Royalty rates for minerals other than oil and gas.

(a) Except as provided in paragraph (b) of this section, the minimum rates for leases of minerals other than oil and gas shall be as follows:

(1) For substances other than coal, the royalty rate shall be 10 percent of the value of production produced and sold from the lease at the nearest shipping point.

(2) For coal to be strip or open pit mined the royalty rate shall be 12½ percent of the value of production produced and sold from the lease, and for coal removed from an underground mine, the royalty rate shall be 8 percent of the value of production produced and sold from the lease.

(3) For geothermal resources, the royalty rate shall be 10 percent of the amount or value of steam, or any other form of heat or energy derived from production of geothermal resources under the lease and sold or utilized by the lessee. In addition, the royalty rate shall be 5 percent of the value of any byproduct derived from production of geothermal resources under the lease and sold or utilized or reasonably susceptible of sale or utilization by the lessee, except that the royalty for any mineral byproduct shall be governed by the appropriate paragraph of this section.

(b) A lower royalty rate shall be allowed if it is determined to be in the best interest of the Indian mineral owner. Approval of a lower rate may only be granted by the area director if the approving official is the superintendent or by the Assistant Secretary for Indian Affairs, if the approving official is the area director.

§ 211.44 Suspension of operations.

(a) After the expiration of the primary term of the lease the Secretary may approve suspension of operations for remedial purposes which are necessary for continued production, to protect the resource, the environment, or for other good reasons. *Provided*, that such remedial operations are conducted in accordance with 43 CFR part 3160, subpart 3165 and under such stipulations and conditions as may be prescribed by the Secretary and are conducted with reasonable diligence. Any suspension shall not relieve the lessee from liability for the payment of rental and other payments as required by lease provisions.

(b) An application for permission to suspend operations or production for economic or marketing reasons on a lease capable of production after the expiration of the primary term of lease duration must be accompanied by the written consent of the Indian mineral owner, an economic analysis, and an executed amendment by the parties to the lease setting forth the provisions pertaining to the suspension of operations and production. Such application shall be treated as a negotiated change to lease provisions, and as such, shall be subject to review and approval by the Secretary.

§ 211.45 [Reserved]

§ 211.46 Inspection of premises, books and accounts.

Lessees shall allow the Indian mineral owner, the Indian mineral owner's representatives, or any authorized representative of the Secretary to enter all parts of the leased premises for the purpose of inspection and audit. Lessees shall keep a full and correct account of all operations and submit all related reports required by the lease and applicable regulations. Books and records shall be available for inspection during regular business hours.

§ 211.47 Diligence, drainage and prevention of waste.

The lessee shall:

(a) Exercise diligence in mining, drilling and operating wells on the leased lands while minerals production can be secured in paying quantities;

(b) Protect the lease from drainage (if oil and gas or geothermal resources are being drained from the lease premises by a well or wells located on lands not included in the lease, the Secretary reserves the right to impose reasonable and equitable terms and conditions to protect the interest of the Indian mineral owner of the lands, such as payment of compensatory royalty for the drainage);

(c) Carry on operations in a good and workmanlike manner in accordance with approved methods and practices;

(d) Have due regard for the prevention of waste of oil or gas or other minerals, the entrance of water through wells drilled by the lessee to other strata, to the destruction or injury of the oil or gas, other mineral deposits, or fresh water aquifers, the preservation and conservation of the property for future productive operations, and the health and safety of workmen and employees;

(e) Securely plug all wells and effectively shut off all water from the oil or gas-bearing strata before abandoning them;

(f) Not construct any well pad location within 200 feet of any structures or improvements without the Indian surface owner's written consent;

(g) Carry out, at the lessee's expense, all reasonable orders and requirements of the authorized officer relative to prevention of waste;

(h) Bury all pipelines crossing tillable lands below plow depth unless other arrangements are made with the Indian surface owner; and

(i) Pay the Indian surface owner all damages, including damages to crops, buildings, and other improvements of the Indian surface owner occasioned by the lessee's operations as determined by the superintendent.

§ 211.48 Permission to start operations.

(a) No exploration, drilling, or mining operations are permitted on any Indian lands before the Secretary has granted written approval of a mineral lease or permit pursuant to the regulations in this part.

(b) After a lease or permit is approved, written permission must be secured from the Secretary before any

operations are started on the leased premises, in accordance with applicable rules and regulations in 25 CFR part 216; 30 CFR chapter II, subchapters A and C; 30 CFR part 750 (Requirements for Surface Coal Mining and Reclamation Operations on Indian Lands), 43 CFR parts 3160, 3260, 3480, 3590, and Orders or Notices to Lessees (NTLs) issued thereunder.

§ 211.49 Restrictions on operations.

Leases issued under the provisions of the regulations in this part shall be subject to such restrictions as to time or times for well operations and production from any leased premises as the Secretary judges may be necessary or proper for the protection of the natural resources of the leased land and in the interest of the lessor.

§ 211.50 [Reserved]

§ 211.51 Surrender of leases.

A lessee may, with the approval of the Secretary, surrender a lease or any part of it, on the following conditions:

(a) All royalties and rentals due on the date the request for surrender is received must be paid;

(b) The superintendent, after consultation with the authorized officer, must be satisfied that proper provisions have been made for the conservation and protection of the property, and that all operations on the portion of the lease surrendered have been properly reclaimed, abandoned, or conditioned, as required;

(c) If a lease has been recorded, the lessee must submit a release along with the recording information of the original lease so that, after acceptance of the release, it may be recorded;

(d) If a lessee requests to surrender an entire lease or an entire undivided portion of a lease document, the lessee must deliver to the superintendent or area director the original lease documents; *Provided,* that where the request is made by an assignee to whom no copy of the lease was delivered, the assignee must deliver to the superintendent or area director only its copy of the assignment;

(e) If the lease (or a portion thereof being surrendered) is owned in undivided interests, all lessees owning undivided interests in the lease must join in the request for surrender;

(f) No part of any advance rental shall be refunded to the lessee, nor shall any subsequent surrender or termination of a lease relieve the lessee of the obligation to pay advance rental if advance rental became due prior to the date the request for surrender was received by the superintendent or area director;

(g) If oil, gas, or geothermal resources are being drained from the leased premises by a well or wells located on lands not included in the lease, the Secretary reserves the right, prior to acceptance of the surrender, to impose reasonable and equitable terms and conditions to protect the interests of the Indian mineral owners of the lands surrendered. Such terms and conditions may include payment of compensatory royalty for any drainage; and

(h) Upon expiration or surrender of a solid mineral lease the lessee shall deliver the leased premises in a condition conforming to the approved reclamation plan. Unless otherwise provided in the lease, the machinery necessary to operate the mine is the property of the lessee. However, the machinery may not be removed from the leased premises without the written permission of the Secretary.

§ 211.52 Fees.

Unless otherwise authorized by the Secretary, each permit, lease, sublease, or other contract, or assignment, thereof shall be accompanied by a filing fee of $75.00 at the time of filing.

§ 211.53 Assignments, overriding royalties, and operating agreements.

(a) Approved leases or any interest therein may be assigned or transferred only with the approval of the Secretary. The Indian mineral owner must also consent if approval of the Indian mineral owner is required in the lease. If consent is not required, then the Secretary shall notify the Indian mineral owner of the proposed assignment. To obtain the approval of the Secretary the assignee must be qualified to hold the lease under existing rules and regulations and shall furnish a satisfactory bond conditioned for the

faithful performance of the covenants and conditions of the lease.

(b) No lease or interest therein or the use of such lease shall be assigned, sublet, or transferred, directly or indirectly, by working or drilling contract, or otherwise, without the consent of the Secretary.

(c) Assignments of leases, and stipulations modifying the provisions of existing leases, which stipulations are also subject to the approval of the Secretary, shall be filed with the superintendent within five (5) working days after the date of execution. Upon execution of satisfactory bonds by the assignee the Secretary may permit the release of any bonds executed by the assignor. Upon execution of satisfactory bonds the assignee accepts all the assignor's responsibilities and prior obligations and liabilities of the assignor (including but not limited to any underpaid royalties and rentals) under the lease.

(d) Agreements creating overriding royalties or payments out of production shall not be considered as interests in the leases as such provision is used in this section. Agreements creating overriding royalties or payments out of production, or agreements designating operators are hereby authorized and the approval of the Secretary shall not be required with respect thereto, but such agreements shall be subject to the condition that nothing in such agreements shall be construed as modifying any of the obligations of the lessee, including, but not limited to, obligations imposed by requirements of the MMS for reporting, accounting, and auditing; obligations for diligent development and operation, protection against drainage and mining in trespass, compliance with oil and gas, geothermal, and mining regulations (25 CFR part 216; 43 CFR parts 3160, 3260, 3480, and 3590; and those applicable rules found in 30 CFR chapter II, subchapters A and C) and the requirements for Secretarial approval before abandonment of any oil and gas or geothermal well or mining operation. All such obligations are to remain in full force and effect, the same as if free of any such overriding royalties or payments. The existence of agreements creating overriding royalties or payments out of production, whether or not actually paid, shall not be considered as justification for the approval of abandonment of any oil and gas or geothermal well or mining operation. Nothing in this paragraph revokes the requirement for approval of assignments and other instruments which is required in this section, but any overriding royalties or payments out of production created by the provisions of such assignments or instruments shall be subject to the condition stated in this section. Agreements creating overriding royalties or payments out of production, or agreements designating operators shall be filed with the superintendent unless incorporated in assignments or instruments required to be filed pursuant to this section.

§ 211.54 Lease or permit cancellation; Bureau of Indian Affairs notice of noncompliance.

(a) If the Secretary determines that a permittee or lessee has failed to comply with the terms of the permit or lease; the regulations in this part; or other applicable laws or regulations; the Secretary may:

(1) Serve a notice of noncompliance specifying in what respect the permittee or lessee has failed to comply with the requirements referenced in this paragraph, and specifying what actions, if any, must be taken to correct the noncompliance; or

(2) Serve a notice of proposed cancellation of the lease or permit. The notice of proposed cancellation shall set forth the reasons why lease or permit cancellation is proposed and shall specify what actions, if any, must be taken to avoid cancellation.

(b) The notice of noncompliance or proposed cancellation shall specify in what respect the permittee or lessee has failed to comply with the requirements referenced in paragraph (a), and shall specify what actions, if any, must be taken to correct the noncompliance.

(c) The notice shall be served upon the permittee or lessee by delivery in person or by certified mail to the permittee or lessee at the permittee's or lessee's last known address. When certified mail is used, the date of service shall be deemed to be when the notice is received or five (5) working days

after the date it is mailed, whichever is earlier.

(d) The lessee or permittee shall have thirty (30) days (or such longer time as specified in the notice) from the date that the notice is served to respond, in writing, to the official or the Bureau of Indian Affairs office that issued the notice.

(e) If a permittee or lessee fails to take any action that is prescribed in the notice of proposed cancellation, fails to file a timely written response to the notice, or files a written response that does not, in the discretion of the Secretary, adequately justify the permittee's or lessee's actions, then the Secretary may cancel the lease or permit, specifying the basis for the cancellation.

(f) If a permittee or lessee fails to take corrective action or to file a timely written response adequately justifying the permittee's or lessee's actions pursuant to a notice of noncompliance, the Secretary may issue an order of cessation of operations. If the permittee or lessee fails to comply with the order of cessation, or fails to timely file an appeal of the order of cessation pursuant to paragraph (h), the Secretary may issue an order of lease or permit cancellation.

(g) Cancellation of a lease or permit shall not relieve the lessee or permittee of any continuing obligations under the lease or permit.

(h) Orders of cessation or of lease or permit cancellation issued pursuant to this section may be appealed under 25 CFR part 2.

(i) This section does not limit any other remedies of the Indian mineral owner as set forth in the lease or permit.

(j) Nothing in this section is intended to limit the authority of the authorized officer or the MMS official to take any enforcement action authorized pursuant to statute or regulation.

(k) The authorized officer, MMS official, and the superintendent and/or area director should consult with one another before taking any enforcement actions.

§ 211.55 Penalties.

(a) In addition to or in lieu of cancellation under § 211.54, violations of the terms and conditions of any lease, or the regulations in this part, or failure to comply with a notice of noncompliance or a cessation order issued by the Secretary, or, in the case of solid minerals the authorized officer, may subject a lessee or permittee to a penalty of not more than $1,000 per day for each day that such a violation or noncompliance continues beyond the time limits prescribed for corrective action.

(b) A notice of a proposed penalty shall be served on the lessee or permittee either personally or by certified mail to the lessee or permittee at the lessee's or permittee's last known address. The date of service by certified mail shall be deemed to be the date when received or five (5) working days after the date mailed, whichever is earlier.

(c) The notice shall specify the nature of the violation and the proposed penalty, and shall specifically advise the lessee or permittee of the lessee's or permittee's right to either request a hearing within thirty (30) days from receipt of the notice or pay the proposed penalty. Hearings shall be held before the superintendent and/or area director whose findings shall be conclusive, unless an appeal is taken pursuant to 25 CFR part 2.

(d) If the lessee or permittee served with a notice of proposed penalty requests a hearing, penalties shall accrue each day the violations or noncompliance set forth in the notice continue beyond the time limits prescribed for corrective action. The Secretary may issue a written suspension of the requirement to correct the violations pending completion of the hearings provided by this section only upon a determination, at the discretion of the Secretary, that such a suspension will not be detrimental to the lessor and upon submission and acceptance of a bond deemed adequate to indemnify the lessor from loss or damage. The amount of the bond must be sufficient to cover the cost of correcting the violations set forth in the notice or any disputed amounts plus accrued penalties and interest.

(e) Payment in full of penalties more than ten (10) days after a final decision imposing a penalty shall subject the

after the date it is mailed, whichever is earlier.

(d) The lessee or permittee shall have thirty (30) days (or such longer time as specified in the notice) from the date that the notice is served to respond, in writing, to the official or the Bureau of Indian Affairs office that issued the notice.

(e) If a permittee or lessee fails to take any action that is prescribed in the notice of proposed cancellation, fails to file a timely written response to the notice, or files a written response that does not, in the discretion of the Secretary, adequately justify the permittee's or lessee's actions, then the Secretary may cancel the lease or permit, specifying the basis for the cancellation.

(f) If a permittee or lessee fails to take corrective action or to file a timely written response adequately justifying the permittee's or lessee's actions pursuant to a notice of noncompliance, the Secretary may issue an order of cessation of operations. If the permittee or lessee fails to comply with the order of cessation, or fails to timely file an appeal of the order of cessation pursuant to paragraph (h), the Secretary may issue an order of lease or permit cancellation.

(g) Cancellation of a lease or permit shall not relieve the lessee or permittee of any continuing obligations under the lease or permit.

(h) Orders of cessation or of lease or permit cancellation issued pursuant to this section may be appealed under 25 CFR part 2.

(i) This section does not limit any other remedies of the Indian mineral owner as set forth in the lease or permit.

(j) Nothing in this section is intended to limit the authority of the authorized officer or the MMS official to take any enforcement action authorized pursuant to statute or regulation.

(k) The authorized officer, MMS official, and the superintendent and/or area director should consult with one another before taking any enforcement actions.

§ 211.55 Penalties.

(a) In addition to or in lieu of cancellation under § 211.54, violations of the terms and conditions of any lease, or the regulations in this part, or failure to comply with a notice of noncompliance or a cessation order issued by the Secretary, or, in the case of solid minerals the authorized officer, may subject a lessee or permittee to a penalty of not more than $1,000 per day for each day that such a violation or noncompliance continues beyond the time limits prescribed for corrective action.

(b) A notice of a proposed penalty shall be served on the lessee or permittee either personally or by certified mail to the lessee or permittee at the lessee's or permittee's last known address. The date of service by certified mail shall be deemed to be the date when received or five (5) working days after the date mailed, whichever is earlier.

(c) The notice shall specify the nature of the violation and the proposed penalty, and shall specifically advise the lessee or permittee of the lessee's or permittee's right to either request a hearing within thirty (30) days from receipt of the notice or pay the proposed penalty. Hearings shall be held before the superintendent and/or area director whose findings shall be conclusive, unless an appeal is taken pursuant to 25 CFR part 2.

(d) If the lessee or permittee served with a notice of proposed penalty requests a hearing, penalties shall accrue each day the violations or noncompliance set forth in the notice continue beyond the time limits prescribed for corrective action. The Secretary may issue a written suspension of the requirement to correct the violations pending completion of the hearings provided by this section only upon a determination, at the discretion of the Secretary, that such a suspension will not be detrimental to the lessor and upon submission and acceptance of a bond deemed adequate to indemnify the lessor from loss or damage. The amount of the bond must be sufficient to cover the cost of correcting the violations set forth in the notice or any disputed amounts plus accrued penalties and interest.

(e) Payment in full of penalties more than ten (10) days after a final decision imposing a penalty shall subject the

lessee or permittee to late payment charges. Late payment charges shall be calculated on the basis of a percentage assessment rate of the amount unpaid per month for each month or fraction thereof until payment is received by the Secretary. In the absence of a specific lease provision prescribing a different rate, the interest rate on late payments and underpayments shall be a rate applicable under §6621(a)(2) of the Internal Revenue Code of 1954. Interest shall be charged only on the amount of payment not received and only for the number of days the payment is late.

(f) None of the provisions of this section shall be interpreted as:

(1) Replacing or superseding the independent authority of the authorized officer, the director's representative or the MMS official to impose penalties for violations of applicable regulations pursuant to 43 CFR part 3160, and 43 CFR Groups 3400 and 3500, 30 CFR part 750, or 30 CFR chapter II, subchapters A and C;

(2) Replacing or superseding any penalty provision in the terms and conditions of a lease or permit approved by the Secretary pursuant to this part; or

(3) Authorizing the imposition of a penalty for violations of lease or permit terms for which the authorized officer, director's representative or MMS official, have either statutory or regulatory authority to assess a penalty.

§211.56 Geological and geophysical permits.

Permits to conduct geological and geophysical operations on Indian lands which do not conflict with any mineral leases entered into pursuant to this part, may be approved by the Secretary with the consent of the Indian mineral owner under the following conditions:

(a) The permit must describe the area to be explored, the duration, and the consideration to be paid the Indian owner;

(b) The permit will not grant the permittee any option or preference rights to a lease or other development contract, or authorize the production of, or removal of oil and gas, geothermal resources, or other minerals, except samples for assay and experimental purposes, unless specifically so stated in the permit; and

(c) Copies of all data collected pursuant to operations conducted under the permit shall be forwarded to the Secretary and the Indian mineral owner, unless otherwise provided in the permit. Data collected under a permit may be held by the Secretary as privileged and proprietary information for the time prescribed in the permit. Where no time period is prescribed in the permit, the Secretary may release such information after six (6) years, with the consent of the Indian mineral owner.

§211.57 Forms.

Leases, bonds, permits, assignments, and other instruments relating to mineral leasing shall be on forms, prescribed by the Secretary, that may be obtained from the superintendent or area director. The provisions of a standard lease or permit may be changed, deleted, or added to by written agreement of all parties with the approval of the Secretary.

§211.58 Appeals.

Appeals from decisions of Bureau of Indian Affairs officers under this part may be taken pursuant to 25 CFR part 2.

PART 212—LEASING OF ALLOTTED LANDS FOR MINERAL DEVELOPMENT

Subpart A—General

Sec.
212.1 Purpose and scope.
212.2 Information collection.
212.3 Definitions.
212.4 Authority and responsibility of the Bureau of Land Management (BLM).
212.5 Authority and responsibility of the Office of Surface Mining Reclamation and Enforcement (OSM).
212.6 Authority and responsibility of the Minerals Management Service (MMS).
212.7 Environmental studies.
212.8 Government employees cannot acquire leases.

Subpart B—How to Acquire Leases

212.20 Leasing procedures.
212.21 Execution of leases.
212.22 Leases for subsurface storage of oil or gas.

212.23 Corporate qualifications and requests for information.
212.24 Bonds.
212.25 Acreage limitation.
212.26 [Reserved]
212.27 Duration of leases.
212.28 Unitization and communitization agreements, and well spacing.
212.29 [Reserved]
212.30 Removal of restrictions.
212.31–212.32 [Reserved]
212.33 Terms applying after relinquishment.
212.34 Individual tribal assignments excluded.

Subpart C—Rents, Royalties, Cancellations, and Appeals

212.40 Manner of payments.
212.41 Rentals and production royalty on oil and gas leases.
212.42 Annual rentals and expenditures for development on leases other than oil and gas, and geothermal resources.
212.43 Royalty rates for minerals other than oil and gas.
212.44 Suspension of operations.
212.45 [Reserved]
212.46 Inspection of premises, books and accounts.
212.47 Diligence, drainage and prevention of waste.
212.48 Permission to start operations.
212.49 Restrictions on operations.
212.50 [Reserved]
212.51 Surrender of leases.
212.52 Fees.
212.53 Assignments, overriding royalties, and operating agreements.
212.54 Lease or permit cancellation; Bureau of Indian Affairs notice of noncompliance.
212.55 Penalties.
212.56 Geological and geophysical permits.
212.57 Forms.
212.58 Appeals.

AUTHORITY: Act of March 3, 1909, (35 Stat. 783; 25 U.S.C. 396 (as amended)): Act of May 11, 1938, (Sec. 2, 52 Stat. 347; 25 U.S.C. 396 b-g: Act of August 1, 1956, (70 Stat. 774)); and 25 U.S.C. 2 and 9.

SOURCE: 61 FR 35661, July 8, 1996, unless otherwise noted.

Subpart A—General

§ 212.1 Purpose and scope.

(a) The regulations in this part govern leases for the development of individual Indian oil and gas, geothermal and solid mineral resources. These regulations are applicable to lands or interests in lands the title to which is held, for any individual Indian, in trust by the United States or is subject to restriction against alienation imposed by the United States. These regulations are intended to ensure that Indian mineral owners desiring to have their resources developed are assured that they will be developed in a manner that maximizes their best economic interests and minimizes any adverse environmental impacts or cultural impacts resulting from such development.

(b) The regulations in this part shall be subject to amendment at any time by the Secretary of the Interior. No regulation that becomes effective after the date of approval of any lease or permit shall operate to affect the duration of the lease or permit, rate of royalty, rental, or acreage unless agreed to by all parties to the lease or permit.

(c) Nothing in the regulations in this part is intended to prevent Indian tribes from exercising their lawful governmental authority to regulate the conduct of persons, businesses, operations or mining within their territorial jurisdiction.

(d) The regulations of the Bureau of Land Management, the Office of Surface Mining Reclamation and Enforcement, and the Minerals Management Service that are referenced in §§ 212.4, 212.5, and 212.6 of this part are supplemental to these regulations, and apply to parties holding leases or permits for development of Indian mineral resources unless specifically stated otherwise in this part or in such other Federal regulations.

(e) The regulations in this part do not apply to leasing and development governed by regulations in 25 CFR part 213 (Members of the Five Civilized Tribes of Oklahoma), 226 (Osage), or 227 (Wind River Reservation).

§ 212.2 Information collection.

The information collection requirements contained in this part do not require a review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501; et seq.).

§ 212.3 Definitions.

As used in this part, the following words and phrases have the specified meaning except where otherwise indicated:

silt, or any other energy or non-energy mineral.

Minerals Management Service official means any employee of the Minerals Management Service (MMS) authorized by law or by lawful delegation of authority to perform the duties described in 30 CFR chapter II, subchapters A and C.

Mining means the science, technique, and business of mineral development including, but not limited to: opencast work, underground work, and in-situ leaching directed to severance and treatment of minerals; *Provided*, when sand, gravel, pumice, cinders, granite, building stone, limestone, clay or silt is the subject mineral, an enterprise is considered ''mining'' only if the extraction of such a mineral exceeds 5,000 cubic yards in any given year.

Oil means all nongaseous hydrocarbon substances other than those substances leasable as coal, oil shale, or gilsonite (including all vein-type solid hydrocarbons). Oil includes liquefiable hydrocarbon substances such as drip gasoline and other natural condensates recovered or recoverable in a liquid state from produced gas without resorting to a manufacturing process.

Permit means any contract issued by the superintendent and/or area director to conduct exploration on; or removal of less than 5,000 cubic yards per year of common varieties of minerals from Indian lands.

Permittee means a person holding or required by this part to hold a permit to conduct exploration operations on; or remove less than 5,000 cubic yards per year of common varieties of minerals from Indian lands.

Secretary means the Secretary of the Interior or an authorized representative.

Solid minerals means all minerals excluding oil and gas and geothermal resources.

Superintendent means the Bureau of Indian Affairs official in charge of the agency office having jurisdiction over the minerals subject to leasing under this part.

§ 212.4 Authority and responsibility of the Bureau of Land Management (BLM).

The functions of the Bureau of Land Management are found in 43 CFR part 3160—Onshore Oil and Gas Operations, 43 CFR part 3180—Onshore Oil and Gas Unit Agreements: Unproven Area, 43 CFR part 3260—Geothermal Resources Operations, 43 CFR part 3280—Geothermal Resources Unit Agreements: Unproven Areas, 43 CFR part 3480—Coal Exploration and Mining Operations, and 43 CFR part 3590—Solid Minerals (Other Than Coal) Exploration and Mining Operations, and currently include, but are not limited to, resource evaluation, approval of drilling permits, mining and reclamation, production plans, mineral appraisals, inspection and enforcement, and production verification. Those regulations, apply to leases or permits issued under this part.

§ 212.5 Authority and responsibility of the Office of Surface Mining Reclamation and Enforcement (OSM).

The OSM is the regulatory authority for surface coal mining and reclamation operations on Indian lands pursuant to the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.). The relevant regulations for surface coal mining and reclamation operations are found in 30 CFR part 750. Those regulations apply to mining and reclamation on leases issued under this part.

§ 212.6 Authority and responsibility of the Minerals Management Service (MMS).

The functions of the MMS for reporting, accounting, and auditing are found in 30 CFR chapter II, subchapters A and C, which apply to leases approved under this part. To the extent the parties to a lease or permit are able to provide reasonable provisions satisfactorily addressing the functions governed by MMS regulations, the Secretary may approve alternate provisions in a lease or permit.

§ 212.7 Environmental studies.

The provisions of § 211.7 of this subchapter, as amended, are applicable to leases under this part.

§ 212.8 Government employees cannot acquire leases.

U.S. Government employees are prevented from acquiring leases or interests in leases by the provisions of 25 CFR part 140 and 43 CFR part 20 pertaining to conflicts of interest and ownership of an interest in trust land.

Subpart B—How to Acquire Leases

§ 212.20 Leasing procedures.

(a) Application for leases shall be made to the superintendent having jurisdiction over the lands.

(b) Indian mineral owners may request the Secretary to prepare, advertise and negotiate mineral leases on their behalf. Leases for minerals shall be advertised for bids as prescribed in this section unless one or more of the Indian mineral owners of a tract sought for lease request the Secretary to negotiate for a lease on their behalf without advertising. Unless the Secretary decides that negotiation of a mineral lease is in the best interests of the Indian mineral owners, he shall use the following procedure for leasing:

(1) Leases shall be advertised to receive optimum competition for bonus consideration, under sealed bid, oral auction, or a combination of both. Notice of such advertisement shall be published in at least one local newspaper and in one trade publication at least thirty (30) days in advance of sale. If applicable, such notice must identify the reservation within which the tracts to be leased are found. No specific description of the tracts to be leased need be published. Specific description of such tracts shall be available at the office of the superintendent and/or area director upon request. The complete text of the advertisement, including a specific description, shall be mailed to each person listed on the appropriate agency or area mailing list. Individuals and companies interested in receiving advertisements on lease sales should send their mailing information to the appropriate agency or area office for future reference.

(2) The advertisement shall offer the tracts to a responsible bidder offering the highest bonus. The Secretary shall establish the rental and royalty rates which shall be stated in the advertisement and will not be subject to negotiation. The advertisement shall provide that the Secretary reserves the right to reject any or all bids, and that acceptance of the lease bid by or on behalf of the Indian mineral owner is required. The requirements under § 212.21 are applicable to the acceptance of a lease bid.

(3) Each sealed bid must be accompanied by a cashier's check, certified check or postal money order, or any combination thereof, payable to the payee designated in the advertisement, in an amount not less than 25 percent of the bonus bid, which shall be returned if that bid is not accepted.

(4) A successful oral auction bidder will be allowed five (5) working days to remit the required 25 percent deposit of the bonus bid.

(5) A successful bidder shall, within thirty (30) days after notification of the bid award, remit to the Secretary the balance of the bonus, the first year's rental, a $75 filing fee, its prorated share of the advertising costs as determined by the Bureau of Indian Affairs, and file with the Secretary all required bonds. The successful bidder shall also file the lease in completed form, signed by the Indian mineral owner(s), at that time. However, for good reasons, the Secretary may grant extensions of time in thirty (30) day increments for filing of the lease and all required bonds, provided that additional extension requests are submitted and approved prior to the expiration of the original thirty (30) days or the previously granted extension. Failure on the part of the bidder to take all reasonable actions necessary to comply with the foregoing shall result in forfeiture of the required payment of 25 percent of any bonus bid for the use and benefit of the Indian mineral owner.

(6) If no satisfactory bid is received, or if the accepted bidder fails to complete all requirements necessary for

approval of the lease, or if the Secretary determines that it is not in the best interest of the Indian mineral owner to accept any of the bids the Secretary may re-advertise the tract for sale, or subject to the consent of the Indian mineral owner, a lease may be let through private negotiations.

(c) The Secretary shall advise the Indian mineral owner of the results of the bidding, and shall not approve the lease until the consent of the Indian mineral owner has been obtained. The requirements under § 212.21 are applicable to the approval of a mineral lease.

§ 212.21 Execution of leases.

(a) The Secretary shall not execute a mineral lease on behalf of an Indian mineral owner, except when such owner is deceased and the heirs to or devisee of the estate have not been determined, or if determined, some or all of them cannot be located. Leases involving such interests may be executed by the Secretary, provided that the mineral interest shall have been offered for sale under the provisions of section 212.20(b) (1) through (6).

(b) The Secretary may execute leases on behalf of minors and persons who are incompetent by reason of mental incapacity; *Provided*, that there is no parent, guardian, conservator, or other person who has lawful authority to execute a lease on behalf of the minor or person with mental incapacity.

(c) If an owner is a life tenant, the procedures set forth in 25 CFR part 179 (Life Estates and Future Interests), shall apply.

§ 212.22 Leases for subsurface storage of oil or gas.

The provisions of § 211.22 of this subchapter are applicable to leases under this part.

§ 212.23 Corporate qualifications and requests for information.

The provisions of § 211.23 of this subchapter are applicable to leases under this part.

§ 212.24 Bonds.

The provisions of § 211.24 of this subchapter are applicable to leases under this part.

§ 212.25 Acreage limitation.

The provisions of § 211.25 of this subchapter are applicable to leases under this part.

§ 212.26 [Reserved]

§ 212.27 Duration of leases.

The provisions of § 211.27 of this subchapter are applicable to leases under this part.

§ 212.28 Unitization and communitization agreements, and well spacing.

(a) For the purpose of promoting conservation and efficient utilization of minerals, the Secretary may approve a cooperative unit, drilling or other development plan on any leased area upon a determination that approval is advisable and in the best interest of the Indian mineral owner. For the purposes of this section, a cooperative unit, drilling or other development plan means an agreement for the development or operation of a specifically designated area as a single unit without regard to separate ownership of the land included in the agreement. Such cooperative agreements include, but are not limited to, unit agreements, communitization agreements and other types of agreements that allocate costs and benefits.

(b) The consent of the Indian mineral owner to such unit or cooperative agreement shall not be required unless such consent is specifically required in the lease.

(c) Requests for approval of cooperative agreements which comply with the requirements of all applicable rules and regulations shall be filed with the superintendent or area director.

(d) All Indian mineral owners of any right, title or interest in the mineral resources to be included in a cooperative agreement must be notified by the lessee at the time the agreement is submitted to the superintendent or area director. An affidavit from the lessee stating that a notice was mailed to each mineral owner of record for whom the superintendent or area director has an address will satisfy this notice requirement.

(e) A request for approval of a proposed cooperative agreement, and all

documents incident to such agreement, must be filed with the superintendent or area director at least ninety (90) days prior to the first expiration date of any of the Indian leases in the area proposed to be covered by the cooperative agreement.

(f) Unless otherwise provided in the cooperative agreement, approval of the agreement commits each lease to the unit in the area covered by the agreement on the date approved by the Secretary or the date of first production, whichever is earlier, as long as the agreement is approved before the lease expiration date.

(g) Any lease committed in part to any such cooperative agreement shall be segregated into a separate lease or leases as to the lands committed and lands not committed to the agreement. Segregation shall be effective on the date the agreement is effective.

(h) Wells shall be drilled in conformity with a well spacing program approved by the authorized officer.

§ 212.29 [Reserved]

§ 212.30 Removal of restrictions.

(a) Notwithstanding the provisions of any mineral lease to the contrary, the removal of all restrictions against alienation shall operate to divest the Secretary of all supervisory authority and responsibility with respect to the lease. Thereafter, all payments required to be made under the lease shall be made directly to the owner(s).

(b) In the event restrictions are removed from a part of the land included in any lease approved by the Secretary, the entire lease shall continue to be subject to the supervision of the Secretary until such times as the holder of the lease and the unrestricted Indian owner submits to the Secretary satisfactory evidence that adequate arrangements have been made to account for the mineral resources of the restricted land separately from those of the unrestricted. Thereafter, the unrestricted portion shall be relieved from the supervision of the Secretary, the lease, the regulations of this part, and all other applicable laws and regulations.

§§ 212.31–212.32 [Reserved]

§ 212.33 Terms applying after relinquishment.

All leases for individual Indian lands approved by the Secretary under this part shall contain provisions for the relinquishment of supervision and provide for operations of the lease after such relinquishment. These leases shall contain provisions that address the following issues:

(a) *Provisions of relinquishment.* If the Secretary relinquishes supervision at any time during the life of the lease instrument as to all or part of the acreage subject to the lease, the Secretary shall give the Indian mineral owner and the lessee thirty (30) days written notice prior to the termination of supervision. After notice of relinquishment has been given to the lessee, the lease shall be subject to the following conditions:

(1) All rentals and royalties thereafter accruing shall be paid directly to the lessor or the lessor's successors in title, or to a trustee appointed under the provisions of paragraph (b) of this section.

(2) If, at the time supervision is relinquished by the Secretary, the lessee has made all payments then due and has fully performed all obligations on the lessee's part to be performed up to the time of such relinquishment, the bond given to secure the performance of the lease, on file in the appropriate agency or area office, shall be of no further force or effect.

(3) Should relinquishment affect only part of the lease, then the lessee may continue to conduct operations on the land covered by the lease as an entirety; *Provided*, that the lessee shall pay, in the manner prescribed by the lease and regulations for the benefit of lessor, the same proportion of all rentals and royalties due under the provisions of this part as the acreage retained under the supervision of the Secretary bears to the entire acreage of the lessee, and shall pay the remainder of the rentals and royalties directly to the remaining lessors or successors in title or said trustee as the case may be, as provided in paragraph (a) (1) of this section.

(b) *Division of fee.* If, after the execution of the lease and after the Secretary relinquishes supervision thereof, the fee of the leased land is divided into separate parcels held by different owners, or if the rental or royalty interest is divided in ownership, the obligations of the lessee shall not be modified in any manner except as specifically provided by the provisions of the lease. Notwithstanding such separate ownership, the lessee may continue to conduct operations on said premises as an entirety. Each separate owner shall receive such proportion of all rental and royalties accruing after the vesting of its title as the acreage of the fee, or rental or royalty interest, bears to the entire acreage covered by the lease; or to the entire rental or royalty interest as the case may be. If at any time after departmental supervision of the lease is relinquished, in whole or in part, to rentals and royalties, whether said parties are so entitled by virtue of undivided interest or by virtue of ownership of separate parcels of the land covered, the lessee may elect to withhold the payment of further rentals or royalties (except as the portion due the Indian lessor while under restriction), until all of said parties shall agree upon and designate a trustee in writing and in a recordable instrument to receive all payments due thereunder on behalf of said parties and their respective successors in title. Payments to said trustee shall constitute lawful payments, and the sole risk of an improper or unlawful distribution of said funds by said trustee shall rest upon the parties naming said trustee and their said respective successors in title.

§ 212.34 Individual tribal assignments excluded.

The reference in this part to Indian mineral owners does not include assignments of tribal lands made pursuant to tribal constitutions or ordinances for the use of individual Indians and assignees of such lands.

Subpart C—Rents, Royalties, Cancellations, and Appeals

§ 212.40 Manner of payments.

The provisions of § 211.40 of this subchapter are applicable to leases under this part.

§ 212.41 Rentals and production royalty on oil and gas leases.

(a) A lessee shall pay, in advance, beginning with the effective date of the lease, an annual rental of $2.00 per acre or fraction of an acre or such other greater amount as prescribed in the lease. This rental shall not be credited against production royalty nor shall the rental be prorated or refunded because of surrender or cancellation.

(b) The Secretary shall not approve leases with a royalty rate less than 16–⅔ percent of the amount or value of production produced and sold from the lease unless a lower royalty rate is agreed to by the Indian mineral owner and is found to be in the best interest of the Indian mineral owner. Such approval may only be granted by the area director if the approving official is the superintendent and the Assistant Secretary for Indian Affairs if the approving official is the area director.

(c) Value of lease production for royalty purposes shall be determined in accordance with applicable lease provisions and regulations in 30 CFR chapter II, subchapters A and C. If the valuation provisions in the lease are inconsistent with the regulations in 30 CFR chapter II, subchapters A and C, the lease provisions shall govern.

§ 212.42 Annual rentals and expenditures for development on leases other than oil and gas, and geothermal resources.

The provisions of § 211.42 of this subchapter are applicable to leases under this part.

§ 212.43 Royalty rates for minerals other than oil and gas.

The provisions of § 211.43 of this subchapter are applicable to leases under this part.

§ 212.44 Suspension of operations.

The provisions of § 211.44 of this subchapter are applicable to leases under this part.

§ 212.45 [Reserved]

§ 212.46 Inspection of premises, books, and accounts.

The provisions of § 211.46 of this subchapter are applicable to leases under this part.

§ 212.47 Diligence, drainage and prevention of waste.

The provisions of § 211.47 of this subchapter are applicable to leases under this part.

§ 212.48 Permission to start operations.

The provisions of § 211.48 of this subchapter are applicable to leases under this part.

§ 212.49 Restrictions on operations.

The provisions of § 211.49 of this subchapter are applicable to leases under this part.

§ 212.50 [Reserved]

§ 212.51 Surrender of leases.

The provisions of § 211.51 of this subchapter are applicable to leases under this part.

§ 212.52 Fees.

The provisions of § 211.52 of this subchapter are applicable to leases under this part.

§ 212.53 Assignments, overriding royalties, and operating agreements.

The provisions of § 211.53 of this subchapter are applicable to leases under this part.

§ 212.54 Lease or permit cancellation; Bureau of Indian Affairs notice of noncompliance.

The provisions of § 211.54 of this subchapter are applicable to leases under this part.

§ 212.55 Penalties.

The provisions of § 211.55 of this subchapter are applicable to this part.

§ 212.56 Geological and geophysical permits.

(a) Permits to conduct geological and geophysical operations on Indian lands which do not conflict with any mineral lease entered into pursuant to this part may be approved by the Secretary with the consent of the Indian owner under the following conditions:

(1) The permit must describe the area to be explored, the duration and the consideration to be paid the Indian owner;

(2) The permit may not grant the permittee any option or preference rights to a lease or other development contract, authorize the production of, or removal of oil and gas, or geothermal resources, or other minerals except samples for assay and experimental purposes, unless specifically so stated in the permit; and

(3) Copies of all data collected pursuant to operations conducted under the permit shall be forwarded to the Secretary and made available to the Indian mineral owner, unless otherwise provided in the permit. Data collected under a permit shall be held by the Secretary as privileged and proprietary information for the time prescribed in the permit. Where no time period is prescribed in the permit, the Secretary may, in the discretion of the Secretary, release such information after six (6) years.

(b) A permit may be granted by the Secretary without 100 percent consent of the individual mineral owners if:

(1) The minerals are owned by more than one person, and the owners of a majority of the interest therein consent to the permit;

(2) The whereabouts of one or more owners of the minerals or an interest therein is unknown, and all the remaining owners of the interests consent to the permit;

(3) The heirs or devisee of a deceased owner of the land or an interest therein have not been determined, and the Secretary finds that the permit activity will cause no substantial injury to the land or any owner thereof; or

(4) The owners of interests in the land are so numerous that the Secretary finds it would be impractical to obtain their consent, and also finds that the permit activity will cause no

substantial injury to the land or any owner thereof.

(c) A lessee does not need a permit to conduct geological and geophysical operations on Indian lands, if provided for in the lessee's mineral lease, where the Indian mineral owner is also the surface land owner. In instances where the Indian mineral owner is not the surface owner, the lessee must obtain any additional necessary permits or rights of ingress or egress from the surface occupant.

§ 212.57 Forms.

The provisions of § 211.57 of this subchapter are applicable to leases under this part.

§ 212.58 Appeals.

The provisions of § 211.58 of this subchapter are applicable to leases under this part.

PART 213—LEASING OF RESTRICTED LANDS OF MEMBERS OF FIVE CIVILIZED TRIBES, OKLAHOMA, FOR MINING

Sec.

213.1 Definitions.

HOW TO ACQUIRE LEASES

213.2 Applications for leases.
213.3 No Government employee shall acquire leases.
213.4 Sale of oil and gas leases.
213.5 Term of oil and gas leases.
213.6 Leases for minerals other than oil and gas.
213.7 Fees.
213.8 Filing of lease deemed constructive notice.
213.9 Noncontiguous tracts.
213.10 Lessor's signature.
213.11 Minor lessors.
213.12 Leases executed by guardians of minors.
213.13 Inherited lands.
213.14 Corporations and corporate information.
213.15 Bonds.
213.16 Additional information may be requested by Area Director.
213.17 Government reserves right to purchase minerals produced.

RENTS AND ROYALTIES

213.18 Manner of payment of rents and royalties.
213.19 Crediting advance annual payments.
213.20 [Reserved]
213.21 Rate of rents on leases other than oil and gas.
213.22 Expenditures under lease other than oil and gas.
213.23 Royalty rates for minerals other than oil and gas.
213.24 Rate of rents and royalties on oil and gas leases.
213.25 Free use of gas by lessor.
213.26 Rate of royalty on casing-head gas.
213.27 Rate of rental for nonutilized gas wells.
213.28 Royalty payments and production reports.
213.29 Division orders.

OPERATIONS

213.30 Permission to start operations.
213.31 Restrictions on operations.
213.32 Wells.
213.33 Diligence and prevention of waste.
213.34 Inspection of premises; books and accounts.
213.35 Mines to be timbered properly.
213.36 Surrender of leased premises in good condition.
213.37 Penalties.
213.38 Assignments and overriding royalties.
213.39 Stipulations.
213.40 Cancellations.

REMOVAL OF RESTRICTIONS

213.41 Leases executed but not approved before restrictions removed from land.
213.42 Operations after removal of restrictions from leased lands.
213.43 Relinquishment of Government supervision.
213.44 Division of royalty to separate fee owners.
213.45 Restrictions especially continued as to certain lands.
213.46 Field clerks.
213.47 Forms.
213.48 Effective date.
213.49 Scope of regulations.

AUTHORITY: Sec. 2, 35 Stat. 312, sec. 18, 41 Stat. 426, sec. 1, 45 Stat. 495, sec. 1, 47 Stat. 777; 25 U.S.C. 356. Interpret or apply secs. 3, 11, 35 Stat. 313, 316, sec. 8, 47 Stat. 779, unless otherwise noted.

CROSS REFERENCE: For oil and gas operating regulations of the Geological Survey, see 30 CFR part 221.

SOURCE: 22 FR 10599, Dec. 24, 1957, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 213.1 Definitions.

Area Director. The term ''Area Director'' in this part refers to the officer in charge of the Five Civilized Tribes Indian Agency.

§ 217.5 Management decisions.

In arriving at management decisions concerning the assets, the business committee shall be entitled to cast 72.83814 votes and the board of directors shall be entitled to cast 27.16186 votes. Any total number of votes cast exceeding 50 shall be sufficient to determine an issue submitted to the joint managers for resolution. A majority of votes cast will decide an issue.

§ 217.6 Method of casting votes.

Within 30 days after an issue and any analysis provided for in §§ 217.4 and 217.5 have been submitted to the joint managers for resolution, they shall each notify the superintendent in writing of the number of votes cast for and against the proposed or alternative solutions. If either of the joint managers fails or refuses to cast his votes and to notify the superintendent thereof within the time specified, the superintendent may conclude that such joint managers' votes have been cast against the proposed solution or solutions; or, if no solutions have been proposed, for the maintenance of the status quo. At the time they notify the superintendent of the votes cast on an issue, each joint manager shall furnish to the superintendent a certified copy of a resolution of the business committee or the board of directors, as the case may be, authorizing such vote.

§ 217.7 Implementation of decision.

The Secretary shall issue such documents as are necessary or expendient to implement the decisions of the joint managers, insofar as such issuance is authorized by law, and he shall execute and/or approve such documents for and on behalf of the joint managers, or either of them, and on behalf of the United States, as necessary. If it becomes necessary for the Secretary to execute an instrument on behalf of one or both of the joint managers and to approve the same instrument as trustee, two different officials having delegated authority from the Secretary shall serve as executing and approving officers, respectively.

PART 225—OIL AND GAS, GEOTHERMAL, AND SOLID MINERALS AGREEMENTS

Subpart A—General

Sec.

225.1 Purpose and scope.
225.2 Information collection.
225.3 Definitions.
225.4 Authority and responsibility of the Bureau of Land Management (BLM).
225.5 Authority and responsibility of the Office of Surface Mining Reclamation and Enforcement (OSMRE).
225.6 Authority and responsibility of the Minerals Management Service (MMS).

Subpart B—Minerals Agreements

225.20 Authority to contract.
225.21 Negotiation procedures.
225.22 Approval of minerals agreements.
225.23 Economic assessments.
225.24 Environmental studies.
225.25 Resolution of disputes.
225.26 Auditing and accounting.
225.27 Forms and reports.
225.28 Approval of amendments to minerals agreements.
225.29 Corporate qualifications and requests for information.
225.30 Bonds.
225.31 Manner of payments.
225.32 Permission to start operations.
225.33 Assignment of minerals agreements.
225.34 [Reserved]
225.35 Inspection of premises; books and accounts.
225.36 Minerals agreement cancellation; Bureau of Indian Affairs notice of noncompliance.
225.37 Penalties.
225.38 Appeals.
225.39 Fees.
225.40 Government employees cannot acquire minerals agreements.

AUTHORITY: Indian Mineral Development Act of 1982, 25 U.S.C. 2101–2108; and 25 U.S.C. 2 and 9.

SOURCE: 59 FR 14971, Mar. 30, 1994, unless otherwise noted.

Subpart A—General

§ 225.1 Purpose and scope.

(a) The regulations in this part, administered by the Bureau of Indian Affairs under the direction of the Secretary of the Interior, govern minerals agreements for the development of Indian-owned minerals entered into pursuant to the Indian Mineral Development Act of 1982, 25 U.S.C. 2101–2108

(IMDA). These regulations are applicable to the lands or interests in lands of any Indian tribe, individual Indian or Alaska native the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States. These regulations are intended to ensure that Indian mineral owners are permitted to enter into minerals agreements that will allow the Indian mineral owners to have more responsibility in overseeing and greater flexibility in disposing of their mineral resources, and to allow development in the manner which the Indian mineral owners believe will maximize their best economic interest and minimize any adverse environmental or cultural impact resulting from such development. Pursuant to section 4 of the IMDA (25 U.S.C. 2103(e)), as part of this greater flexibility, where the Secretary has approved a minerals agreement in compliance with the provisions of 25 U.S.C. chap. 23 and any other applicable provision of law, the United States shall not be liable for losses sustained by a tribe or individual Indian under such minerals agreement. However, as further stated in the IMDA, the Secretary continues to have a trust obligation to ensure that the rights of a tribe or individual Indian are protected in the event of a violation of the terms of any minerals agreement, and to uphold the duties of the United States as derived from the trust relationship and from any treaties, executive orders, or agreements between the United States and any Indian tribe.

(b) The regulations in this part shall become effective and in full force on April 29, 1994, and shall be subject to amendment at any time by the Secretary; *Provided*, that no such regulation that becomes effective after the date of approval of any minerals agreement shall operate to affect the duration of the minerals agreement, the rate of royalty or financial consideration, rental, or acreage unless agreed to by all parties to the minerals agreement.

(c) The regulations of the Bureau of Land Management, the Office of Surface Mining Reclamation and Enforcement, and the Minerals Management Service that are referenced in §§ 225.4, 225.5, and 225.6 are supplemental to these regulations, and apply to minerals agreements for development of Indian mineral resources unless specifically stated otherwise in this part or in other Federal regulations. To the extent the parties to a minerals agreement are able to provide reasonable provisions satisfactorily addressing the issues of valuation, method of payment, accounting, and auditing, governed by the Minerals Management Service regulations, the Secretary may approve alternate provisions in a minerals agreement.

(d) Nothing in these regulations is intended to prevent Indian tribes from exercising their lawful governmental authority to regulate the conduct of persons, businesses, or minerals operations within their territorial jurisdiction.

§ 225.2 Information collection.

It has been determined by the Office of Management and Budget that the Information Collection Requirements contained in part 225 do not require review under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

§ 225.3 Definitions.

As used in this part, the following terms have the specified meaning except where otherwise indicated.

Area Director means the Bureau of Indian Affairs Official in charge of an Area Office.

Assistant Secretary—Indian Affairs means the Assistant Secretary—Indian Affairs of the Department of the Interior, a designee of the Secretary of the Interior who may be specifically authorized by the Secretary to disapprove minerals agreements (25 U.S.C. 2103(d)) and to issue orders of cessation and/or minerals agreement cancellations as final orders of the Department.

Authorized Officer means any employee of the Bureau of Land Management authorized by law or by lawful delegation of authority to perform the duties described herein and in 43 CFR parts 3160, 3180, 3260, 3280, 3480 and 3590.

Director's Representative means the Office of Surface Mining Reclamation and Enforcement Director's Representative authorized by law or by lawful delegation of authority to perform the

including, but not limited to: opencast work, underground work, in-situ leaching, or other methods directed to severance and treatment of minerals; however, when sand, gravel, pumice, cinders, granite, building stone, limestone, clay or silt is the subject mineral, an enterprise is considered ''mining'' only if the extraction of such a mineral exceeds 5,000 cubic yards in any given year.

Oil means all non-gaseous hydrocarbon substances other than coal, oil shale, or gilsonite (including all vein-type solid hydrocarbons). Oil includes liquefiable hydrocarbon substances such as drip gasoline and other natural condensates recovered or recoverable in a liquid state from produced gas without resorting to a manufacturing process.

Operator means a person, proprietorship, partnership, corporation, or other business entity that has entered into an approved minerals agreement under the authority of the Indian Mineral Development Act of 1982, or who has been assigned an obligation to make royalty or other payments required by the minerals agreement.

Secretary means the Secretary of the Interior or an authorized representative, except that as used in §225.22 (e) and (f) the authorized representative may only be the Assistant Secretary for Indian Affairs (25 U.S.C. 2103(d)).

Solid minerals means all minerals excluding oil, gas, and geothermal resources.

Superintendent means the Bureau of Indian Affairs official in charge of an agency office.

§ 225.4 Authority and responsibility of the Bureau of Land Management (BLM).

The functions of the Bureau of Land Management are found in 43 CFR part 3160—Onshore Oil and Gas Operations, 43 CFR part 3180—Onshore Oil and Gas Unit Agreements: Unproven Areas, 43 CFR part 3260—Geothermal Resources Operations, 43 CFR part 3280—Geothermal Resources Unit Agreements: Unproven Areas, 43 CFR part 3480—Coal Exploration and Mining Operations, and 43 CFR part 3590—Solid Minerals (Other Than Coal) Exploration and Mining Operations. These functions include, but are not limited to, resource evaluation, approval of drilling permits, approval of mining, reclamation, and production plans, mineral appraisals, inspection and enforcement, and production verification. These regulations, as amended, apply to minerals agreements approved under this part.

§ 225.5 Authority and responsibility of the Office of Surface Mining Reclamation and Enforcement (OSMRE).

The OSMRE is the regulatory authority for surface coal mining and reclamation operations on Indian lands pursuant to the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*). The relevant regulations for surface mining and reclamation operations are found in 30 CFR part 750 and 25 CFR part 216. These regulations, as amended, apply to minerals agreements approved under this part.

§ 225.6 Authority and responsibility of the Minerals Management Service (MMS).

The functions of the MMS for reporting, accounting, and auditing are found in 30 CFR chapter II, subchapters A and C. These regulations, unless specifically stated otherwise in this part or in other regulations, apply to all minerals agreements approved under this part. To the extent the parties to a minerals agreement are able to provide reasonable provisions satisfactorily addressing the issues or functions governed by the MMS regulations relating to valuation of mineral product, method of payment, accounting procedures, and auditing procedures, the Secretary may approve alternate provisions in a minerals agreement.

Subpart B—Minerals Agreements

§ 225.20 Authority to contract.

(a) Any Indian tribe, subject to the approval of the Secretary and any limitation or provision contained in its constitution or charter, may enter into a minerals agreement with respect to mineral resources in which the tribe owns a beneficial or restricted interest.

(b) Any individual Indian owning a beneficial or restricted interest in mineral resources may include those resources in a tribal minerals agreement subject to the concurrence of the parties and a finding by the Secretary that inclusion of the resources is in the best interest of the individual Indian mineral owner.

§ 225.21 Negotiation procedures.

(a) An Indian mineral owner that wishes to enter into a minerals agreement may ask the Secretary for advice, assistance, and information during the negotiation process. The Secretary shall provide advice, assistance, and information to the extent allowed by available resources.

(b) No particular form of minerals agreement is prescribed. In preparing the minerals agreement the Indian mineral owner shall, if applicable, address provisions including, but not limited to, the following:

(1) A general statement identifying the parties to the minerals agreement, the legal description of the lands, including, if applicable, rock intervals or thicknesses subject to the minerals agreement, and the purposes of the minerals agreement;

(2) A statement setting forth the duration of the minerals agreement;

(3) A statement providing indemnification to the Indian mineral owner(s) and the United States from all claims, liabilities and causes of action that may be made by persons not a party to the minerals agreement;

(4) Provisions setting forth the obligations of the contracting parties;

(5) Provisions describing the methods of disposition of production;

(6) Provisions outlining the method of payment and amount of compensation to be paid;

(7) Provisions establishing accounting and mineral valuation procedures;

(8) Provisions establishing operating and management procedures;

(9) Provisions establishing any limitations on assignment of interests, including any right of first refusal by the Indian mineral owner in the event of a proposed assignment;

(10) Bond requirements;

(11) Insurance requirements;

(12) Provisions establishing audit procedures;

(13) Provisions for resolving disputes;

(14) A force majeure provision;

(15) Provisions describing the rights of the parties to terminate or suspend the minerals agreement, and the procedures to be followed in the event of termination or suspension;

(16) Provisions describing the nature and schedule of the activities to be conducted by the parties;

(17) Provisions describing the proposed manner and time of performance of future abandonment, reclamation and restoration activities;

(18) Provisions for reporting production and sales;

(19) Provisions for unitizing or communitizing of lands included in a minerals agreement for the purpose of promoting conservation and efficient utilization of natural resources;

(20) Provisions for protection of the minerals agreement lands from drainage and/or unauthorized taking of mineral resources; and

(21) Provisions for record keeping.

(c) In order to avoid delays in obtaining approval, the Indian mineral owner is encouraged to confer with the Secretary prior to formally executing the minerals agreement, and seek advice as to whether the minerals agreement appears to satisfy the requirements of § 225.22, or whether additions or corrections may be required in order to obtain Secretarial approval.

(d) The executed minerals agreement, together with a copy of a tribal resolution authorizing tribal officers to enter into the minerals agreement, shall be forwarded by the tribal representative to the appropriate Superintendent, or in the absence of a Superintendent to the Area Director, for approval.

§ 225.22 Approval of minerals agreements.

(a) A minerals agreement submitted for approval pursuant to § 225.21(d) shall be approved or disapproved within:

(1) One hundred and eighty (180) days after submission, or

(2) Sixty (60) days after compliance, if required, with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any other

requirement of Federal law, whichever is later.

(b) At least thirty (30) days prior to approval or disapproval of any minerals agreement, the affected Indian mineral owners shall be provided with written findings forming the basis of the Secretary's intent to approve or disapprove the minerals agreement.

(1) The written findings shall include an environmental study which meets the requirements of § 225.24 and an economic assessment, as described in § 225.23.

(2) The Secretary shall include in the written findings any recommendations for changes to the minerals agreement needed to qualify it for approval.

(3) The 30-day period shall commence to run as of the date the written findings are received by the Indian mineral owner.

(4) Notwithstanding any other law, such findings and all projections, studies, data or other information (other than the environmental study required by § 225.24) possessed by the Department of the Interior regarding the terms and conditions of the minerals agreement; the financial return to the Indian parties thereto; the extent, nature, value or disposition of the mineral resources; or the production, products or proceeds thereof, shall be held by the Department of the Interior as privileged and proprietary information of the affected Indian mineral owners. The letter containing the written findings should be headed with: PRIVILEGED PROPRIETARY INFORMATION OF THE (names of Indian mineral owners).

(c) A minerals agreement shall be approved if, at the Secretary's discretion, it is determined that the following conditions are met:

(1) The minerals agreement is in the best interest of the Indian mineral owner;

(2) The minerals agreement does not have adverse cultural, social, or environmental impacts sufficient to outweigh its expected benefits to the Indian mineral owners; and,

(3) The minerals agreement complies with the requirements of this part and all other applicable regulations and the provisions of applicable Federal law.

(d) The determinations required by paragraph (c) of this section shall be based on the written findings required by paragraph (b) and paragraphs (b)(1) through (b)(4), inclusive, of this section. The question of ''best interest'' within the meaning of paragraph (c)(1) of this section shall be determined by the Secretary based on information obtained from the parties, and any other information considered relevant by the Secretary, including, but not limited to, a review of comparable contemporary contractual arrangements or offers for the development of similar mineral resources received by Indian mineral owners, by non-Indian mineral owners, or by the Federal Government, insofar as that information is readily available.

(e) If a Superintendent or Area Director believes that a minerals agreement should not be approved, a written statement of the reasons why the minerals agreement should not be approved shall be prepared and forwarded, together with the minerals agreement, the written findings required by paragraph (b) and subparagraphs (b)(1) through (b)(4), inclusive, of this section, and all other pertinent documents, to the Secretary for a decision with a copy to the affected Indian mineral owner.

(f) The Secretary shall review any minerals agreement referred with a recommendation that it be disapproved, and the Secretary's decision to disapprove a minerals agreement shall be deemed a final Federal agency action (25 U.S.C. 2103(d)).

§ 225.23 Economic assessments.

The Secretary shall prepare or cause to be prepared an economic assessment that shall address, among other things:

(a) Whether there are assurances in the minerals agreement that operations shall be conducted with appropriate diligence;

(b) Whether the production royalties or other form of return on mineral resources is adequate; and

(c) Whether the minerals agreement is likely to provide the Indian mineral owner with a return on the production comparable to what the owner might otherwise obtain through competitive

bidding, when such a comparison can reasonably be made.

§ 225.24 Environmental studies.

(a) The Secretary shall ensure that all environmental studies are prepared as required by the National Environmental Policy Act of 1969 (NEPA) and the regulations promulgated by the Council on Environmental Quality (CEQ) found at 40 CFR parts 1500–1508.

(b) The Secretary shall ensure that all necessary surveys are performed and clearances obtained in accordance with 36 CFR parts 60, 63, and 800 and with the requirements of the Archaeological and Historic Preservation Act (16 U.S.C. 469 *et seq.*), the National Historic Preservation Act (16 U.S.C. 470 *et seq.*), the American Indian Religious Freedom Act (42 U.S.C. 1996), and Executive Order 11593 (3 CFR 1971–1975 Comp., p. 559, May 13, 1971). If these surveys indicate that a mineral development will have an adverse effect on a property listed on or eligible for listing on the National Register of Historic Places, the Secretary shall:

(1) Seek the comments of the Advisory Council on Historic Preservation, in accordance with 36 CFR part 800;

(2) Ensure that the property is avoided, that the adverse effect is mitigated, or that appropriate excavations or other related research is conducted; and

(3) Ensure that complete data describing the historic property is preserved.

§ 225.25 Resolution of disputes.

A minerals agreement shall contain provisions for resolving disputes that may arise between the parties. However, no such provision shall limit the Secretary's authority or ability to ensure that the rights of an Indian mineral owner are protected in the event of a violation of the provisions of the minerals agreement by any other party to the minerals agreement.

§ 225.26 Auditing and accounting.

The Secretary may conduct audits relating to the scope, nature and extent of compliance with the minerals agreement and with applicable regulations and orders to lessees, operators, revenue payors, and other persons with rental, royalty, net profit share and other payment requirements arising from the provisions of a minerals agreement. Procedures and standards used for accounting and auditing of minerals agreements will be in accordance with audit standards established by the Comptroller General of the United States, in ''Standards for Auditing of Governmental Organizations, Programs, Activities, and Functions, 1981,'' and standards established by the American Institute of Certified Public Accountants.

§ 225.27 Forms and reports.

Any forms required to be filed pursuant to a minerals agreement may be obtained from the Superintendent or Area Director. Prescribed forms for filing geothermal production reports required by the BLM (43 CFR part 3260, §§ 3264.1, 3264.2–4 and 3264.2–5) may be obtained from the Superintendent, Area Director, or the Authorized Officer. Applicable reports required by the MMS shall be filed using the forms prescribed in 30 CFR part 210, which are available from MMS. Guidance on how to prepare and submit required information, collection reports, and forms to MMS is available from: Minerals Management Service, Attention: Lessee (or Reporter) Contact Branch, P.O. Box 5760, Denver, Colorado 80217. Additional reporting requirements may be required by the Secretary.

§ 225.28 Approval of amendments to minerals agreements.

An amendment, modification or supplement to a minerals agreement entered into pursuant to the regulations in this part, whether the minerals agreement was approved before or after the effective date of these regulations, must be approved in writing by all parties before being submitted to the Secretary for approval. The provisions of § 225.22 apply to approvals of amendments, modifications, or supplements to minerals agreements entered into under the regulations in this part. However, amendments, modifications, or supplements that do not substantially alter or affect the factors listed

in § 225.22(c), may be approved by referencing materials previously submitted for the initial review and approval of the minerals agreement. The Secretary may approve an amendment, modification, or supplement if it is determined that the underlying minerals agreement, as amended, modified, or supplemented meets the criteria for approval set forth in § 225.22(c).

§ 225.29 Corporate qualifications and requests for information.

(a) The signing in a representative capacity of minerals agreements or assignments, bonds, or other instruments required by a minerals agreement or these regulations, constitutes certification that the individual signing (except a surety agent) is authorized to act in such a capacity. An agent for a surety shall furnish a power of attorney.

(b) A prospective corporate operator proposing to acquire an interest in a minerals agreement shall have on file with the Superintendent a statement showing:

(1) The State(s) in which the corporation is incorporated, and a notarized statement that the corporation is authorized to hold such interests in the State where the land described in the minerals agreement is situated; and

(2) A notarized statement that it has power to conduct all business and operations as described in the minerals agreement.

(c) The Secretary may, either before or after the approval of a minerals agreement, assignment, or bond, call for any reasonable additional information necessary to carry out the regulations in this part, or other applicable laws and regulations.

§ 225.30 Bonds.

(a) Bonds required by provisions of a minerals agreement should be in an amount sufficient to ensure compliance with all of the requirements of the minerals agreement and the statutes and regulations applicable to the minerals agreement. Surety bonds shall be issued by a qualified company approved by the Department of the Treasury (see Department of the Treasury Circular No. 570).

(b) An operator may file a $75,000 bond for all geothermal, mining, or oil and gas minerals agreements in any one State, which may also include areas on that part of an Indian reservation extending into any contiguous State. Statewide bonds shall be filed for approval with the Secretary.

(c) An operator may file a $150,000 bond for full nationwide coverage to cover all geothermal or oil and gas minerals agreements without geographic or acreage limitation to which the operator is or may become a party. Nationwide bonds shall be filed for approval with the Secretary.

(d) Personal bonds shall be accompanied by:

(1) Certificate of deposit issued by a financial institution, the deposits of which are Federally insured, explicitly granting the Secretary full authority to demand immediate payment in case of default in the performance of the provisions and conditions of the minerals agreement. The certificate shall explicitly indicate on its face that Secretarial approval is required prior to redemption of the certificate of deposit by any party;

(2) Cashier's check;

(3) Certified check;

(4) Negotiable Treasury securities of the United States of a value equal to the amount specified in the bond. Negotiable Treasury securities shall be accompanied by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the provisions and conditions of a minerals agreement; or

(5) Letter of credit issued by a financial institution authorized to do business in the United States and whose deposits are Federally insured, and identifying the Secretary as sole payee with full authority to demand immediate payment in the case of default in the performance of the provisions and conditions of a minerals agreement.

(i) The letter of credit shall be irrevocable during its term.

(ii) The letter of credit shall be payable to the Bureau of Indian Affairs on demand, in part or in full, upon receipt from the Secretary of a notice of attachment stating the basis thereof (e.g., default in compliance with the minerals agreement provisions and

conditions or failure to file a replacement in accordance with subparagraph (d)(5)(v) of this section).

(iii) The initial expiration date of the letter of credit shall be at least one (1) year following the date it is filed in the proper Bureau of Indian Affairs office.

(iv) The letter of credit shall contain a provision for automatic renewal for periods of not less than one (1) year in the absence of notice to the proper Bureau of Indian Affairs office at least ninety (90) days prior to the originally stated or any extended expiration date.

(v) A letter of credit used as security for any minerals agreement upon which operations have taken place and final approval for abandonment has not been given, or as security for a statewide or nationwide bond, shall be forfeited and shall be collected by the Secretary if not replaced by other suitable bond or letter of credit at least thirty (30) days before its expiration date.

(e) The required amount of a bond may be increased in any particular case at the discretion of the Secretary.

[59 FR 14971, Mar. 30, 1994; 60 FR 10474, Feb. 24, 1995]

§ 225.31 Manner of payments.

Unless specified otherwise in the minerals agreement, after production has been established, all payments due for royalties, bonuses, rentals and other payments under a minerals agreement shall be made to the Secretary or such other party as may be designated, and shall be made at such time as provided in 30 CFR chapter II, subchapters A and C. Prior to production, all bonus and rental payments, shall be made to the Superintendent or Area Director.

§ 225.32 Permission to start operations.

(a) No exploration, drilling, or mining operations are permitted on any Indian lands before the Secretary has granted written approval of the minerals agreement pursuant to the regulations. After a minerals agreement is approved, written permission to start operations must be secured by applying for the permits referred to in paragraph (b) of this section.

(b) Applicable permits in accordance with rules and regulations in 30 CFR part 750, 43 CFR parts 3160, 3260, 3480, 3590, and Orders or Notices to Lessees (NTL) issued thereunder shall be required before actual operations are conducted on the minerals agreement acreage.

§ 225.33 Assignment of minerals agreements.

An assignment of a minerals agreement, or any interest therein, shall not be valid without the approval of the Secretary and, if required in the minerals agreement, the Indian mineral owner. The assignee must be qualified to hold the minerals agreement and shall furnish a satisfactory bond conditioned on the faithful performance of the covenants and conditions thereof as stipulated in the minerals agreement. A fully executed copy of the assignment shall be filed with the Secretary within five (5) working days after execution by all parties. The Secretary may permit the release of any bonds executed by the assignor upon submission of satisfactory bonds to the Bureau of Indian Affairs by the assignee, and a determination that the assignor has satisfied all accrued obligations.

§ 225.34 [Reserved]

§ 225.35 Inspection of premises; books and accounts.

(a) Operators shall allow Indian mineral owners, their authorized representatives, or any authorized representatives of the Secretary to enter all parts of the minerals agreement area for the purpose of inspection. Operators shall keep a full and correct account of all operations and submit all related reports required by the minerals agreement and applicable regulations. Books and records shall be available for inspection during regular business hours.

(b) Operators shall provide records to the Minerals Management Service (MMS) in accordance with MMS regulations and guidelines. All records pertaining to a minerals agreement shall be maintained by an operator in accordance with 30 CFR part 212.

(c) Operators shall provide records to the Authorized Officer in accordance with BLM regulations and guidelines.

(d) Operators shall provide records to the Director's Representative in accordance with OSMRE regulations and guidelines.

§ 225.36 Minerals agreement cancellation; Bureau of Indian Affairs notice of noncompliance.

(a) If the Secretary determines that an operator has failed to comply with the regulations in this part; other applicable laws or regulations; the terms of the minerals agreement; the requirements of an approved exploration, drilling or mining plan; Secretarial orders; or the orders of the Authorized Officer, the Director's Representative, or the MMS Official, the Secretary may:

(1) Serve a notice of noncompliance; or

(2) Serve a notice of proposed cancellation.

(b) The notice of noncompliance shall specify in what respect the operator has failed to comply with the requirements referenced in paragraph (a), and shall specify what actions, if any, must be taken to correct the noncompliance.

(c) The notice of proposed cancellation shall set forth the reasons why cancellation is proposed.

(d) The notice of proposed cancellation or noncompliance shall be served upon the operator by delivery in person or by certified mail to the operator at the operator's last known address. When certified mail is used, the date of service shall be deemed to be when received or five (5) working days after the date it is mailed, whichever is earlier.

(e) The operator shall have thirty (30) days (or such longer time as specified in the notice) from the date that the Bureau of Indian Affairs notice of proposed cancellation or noncompliance is served to respond, in writing, to the Superintendent or Area Director actually issuing the notice.

(f) If an operator fails to take any action that may be prescribed in the notice of proposed cancellation, fails to file a timely written response to the notice, or files a written response that does not, in the discretion of the Secretary, adequately justify the operator's failure to comply, then the Secretary may cancel the minerals agreement, specifying the basis for the cancellation. Cancellation of a minerals agreement shall not relieve the operator of any continuing obligation under the minerals agreement.

(g) If an operator fails to take corrective action or to file a timely written response adequately justifying the operator's actions pursuant to a notice of noncompliance, the Secretary may issue an order of cessation. If the operator fails to comply with the order of cessation, or fails to timely file an appeal of the order of cessation pursuant to paragraph (k) of this section, the Secretary may issue an order of minerals agreement cancellation.

(h) This section does not limit any other remedies of the Indian mineral owner as set forth in the minerals agreement.

(i) Nothing in this section is intended to limit the authority of the Authorized Officer, the Director's Representative, or the MMS Official to take any enforcement action authorized pursuant to statute or regulation.

(j) The Authorized Officer, the Director's Representative, the MMS Official, and the Superintendent or Area Director should consult with one another before taking any enforcement actions.

(k) If orders of cessation or minerals agreement cancellation issued pursuant to this section are issued by a designee of the Secretary other than the Assistant Secretary for Indian Affairs, the orders may be appealed under 25 CFR part 2. If the orders are issued by the Secretary or the Assistant Secretary for Indian Affairs, and not one of their delegates or subordinates, the orders are the final orders of the Department.

§ 225.37 Penalties.

(a) In addition to or in lieu of cancellation under § 225.36, violations of the terms and conditions of any minerals agreement, the regulations in this part, other applicable laws or regulations, or failure to comply with a notice of noncompliance or a cessation order issued by the Secretary may subject an operator to a penalty of not more than $1,000 per day for each day

that such a violation or noncompliance continues beyond the time limits prescribed for corrective action.

(b) A notice of a proposed penalty shall be served on the operator either personally or by certified mail to the operator at the operator's last known address. The date of service by certified mail shall be deemed to be the date received or five (5) working days after the date mailed, whichever is earlier.

(c) The notice shall specify the nature of the violation and the proposed penalty, and shall specifically advise the operator of the operator's right to either request a hearing within thirty (30) days of receipt of the notice or pay the proposed penalty. Hearings shall be held before the Superintendent or Area Director whose findings shall be conclusive, unless an appeal is taken pursuant to 25 CFR part 2. If within thirty (30) days of receipt of the notice of proposed penalty the operator has not requested a hearing or paid the amount of the proposed penalty, a final notice of penalty shall be served.

(d) If the person served with a notice of proposed penalty requests a hearing, penalties shall accrue each day the violations or noncompliance set forth in the notice continue beyond the time limits presented for corrective action. The Secretary may issue a written suspension of the requirement to correct the violations pending completion of the hearings provided by this section only upon a determination, at the discretion of the Secretary, that such a suspension will not be detrimental to the Indian mineral owner and upon submission and acceptance of a bond deemed adequate to indemnify the Indian mineral owner from loss or damage. The amount of the bond must be sufficient to cover the cost of correcting the violations set forth in the notice or any disputed amounts plus accrued penalties and interest.

(e) Payment of penalties in full more than ten (10) days after a final decision imposing a penalty shall subject the operator to late payment charges. Late payment charges shall be calculated on the basis of a percentage assessment rate of the amount unpaid per month for each month or fraction thereof until payment is received by the Secretary. In the absence of a specific minerals agreement provision prescribing a different rate, the interest rate on late payments and underpayments shall be a rate applicable under section 6621(a)(2) of the Internal Revenue Code of 1954. Interest shall be charged only on the amount of payment not received and only for the number of days the payment is late.

(f) None of the provisions of this section shall be interpreted as:

(1) Replacing or superseding the independent authority of the Authorized Officer, the Director's Representative, or the MMS Official to impose penalties under applicable statutory or regulatory authorities;

(2) Replacing, superseding, or replicating any penalty provision in the terms and conditions of a minerals agreement approved by the Secretary pursuant to this part; or

(3) Authorizing the imposition of a penalty for violations of minerals agreement provisions for which the Authorized Officer, Director's Representative, or MMS Official has either statutory or regulatory authority to assess a penalty.

§ 225.38 Appeals.

Appeals from decisions of Officials of the Bureau of Indian Affairs under this part may be taken pursuant to 25 CFR part 2.

§ 225.39 Fees.

(a) Unless otherwise authorized by the Secretary, each minerals agreement or assignment thereof, shall be accompanied by a filing fee of $75.00 at the time of filing.

(b) An Indian mineral owner shall not be required to pay a filing fee if the Indian mineral owner, pursuant to a provision in the existing minerals agreement, acquires an additional interest in that minerals agreement.

§ 225.40 Government employees cannot acquire minerals agreements.

U.S. Government employees are prevented from acquiring any interest(s) in minerals agreements by the provisions of 25 CFR part 140 and 43 CFR part 20 pertaining to conflicts of interest and ownership of an interest in trust land.

Management and Budget and assigned clearance number 0596–0081.

(b) The public reporting burden for this collection of information is estimated to vary from a few minutes to many hours per individual response, with an average of 2 hours per individual response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief (2800), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

[55 FR 51706, Dec. 17, 1990]

Subpart D—Miscellaneous Minerals Provisions

§ 228.80 Operations within Misty Fjords and Admiralty Island National Monuments, Alaska.

(a) Mineral activities on valid mining claims in the Misty Fjords and Admiralty Island National Monuments must be conducted in accordance with regulations in subpart A of this part and with the provisions of this section.

(b) Prior to approving a plan of operations, the authorized officer must consider:

(1) The resources of ecological, cultural, geological, historical, prehistorical, and scientific interest likely to be affected by the proposed operations, including access; and

(2) The potential adverse impacts on the identified resource values resulting from the proposed operations.

(c) A plan of operations will be approved if, in the judgment of the authorized officer, proposed operations are compatible, to the maximum extent feasible, with the protection of the resource values identified pursuant to paragraph (b)(1) of this section.

(1) The authorized officer will deem operations to be compatible if the plan of operations includes all feasible measures which are necessary to prevent or minimize potential adverse impacts on the resource values identified pursuant to paragraph (b)(1) of this section and if the operations are conducted in accordance with the plan.

(2) In evaluating the feasibility of mitigating measures, the authorized officer shall, at a minimum, consider the following:

(i) The effectiveness and practicality of measures utilizing the best available technology for preventing or minimizing adverse impacts on the resource values identified pursuant to paragraph (b)(1) of this section; and

(ii) The long- and short-term costs to the operator of utilizing such measures and the effect of these costs on the long- and short-term economic viability of the operations.

(3) The authorized officer shall not require implementation of mitigating measures which would prevent the evaluation or development of any valid claim for which operations are proposed.

(d) In accordance with the procedures described in subpart A and paragraphs (c)(1) through (c)(3) of this section, the authorized officer may approve modifications of an existing plan of operations:

(1) If, in the judgment of the authorized officer, environmental impacts unforeseen at the time of approval of the existing plan may result in the incompatibility of the operations with the protection of the resource values identified pursuant to paragraph (b)(1) of this section; or

(2) Upon request by the operator to use alternative technology and equipment capable of achieving a level of environmental protection equivalent to that to be achieved under the existing plan of operations.

[51 FR 20827, June 9, 1986]

Subpart E—Oil and Gas Resources

SOURCE: 55 FR 10444, Mar. 21, 1990, unless otherwise noted.

§ 228.100 Scope and applicability.

(a) *Scope.* This subpart sets forth the rules and procedures by which the Forest Service of the United States Department of Agriculture will carry out its statutory responsibilities in the

issuance of Federal oil and gas leases and management of subsequent oil and gas operations on National Forest System lands, for approval and modification of attendant surface use plans of operations, for monitoring of surface disturbing operations on such leases, and for enforcement of surface use requirements and reclamation standards.

(b) *Applicability*. The rules of this subpart apply to leases on National Forest System lands and to operations that are conducted on Federal oil and gas leases on National Forest System lands as of April 20, 1990.

(c) *Applicability of other rules*. Surface uses associated with oil and gas prospecting, development, production, and reclamation activities, that are conducted on National Forest System lands outside a leasehold must receive prior authorization from the Forest Service. Such activities are subject to the regulations set forth elsewhere in 36 CFR chapter II, including but not limited to the regulations set forth in 36 CFR parts 251, subpart B, and 261.

§ 228.101 Definitions.

For the purposes of this subpart, the terms listed in this section have the following meaning:

Authorized Forest officer. The Forest Service employee delegated the authority to perform a duty described in these rules. Generally, a Regional Forester, Forest Supervisor, District Ranger, or Minerals Staff Officer, depending on the scope and level of the duty to be performed.

Compliance Officer. The Deputy Chief, or the Associate Deputy Chiefs, National Forest System or the line officer designated to act in the absence of the Deputy Chief.

Leasehold. The area described in a Federal oil and gas lease, communitized, or unitized area.

Lessee. A person or entity holding record title in a lease issued by the United States.

National Forest System. All National Forest lands reserved or withdrawn from the public domain of the United States, all National Forest lands acquired through purchase, exchange, donation, or other means, the National Grasslands and land utilization projects administered under title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010 *et seq.*), and other lands, waters, or interests therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the system (16 U.S.C. 1609).

Notices To Lessees, Transferees, and Operators. A written notice issued by the authorized Forest officer. Notices To Lessees, Transferees, and Operators implement the regulations in this subpart and serve as instructions on specific item(s) of importance within a Forest Service Region, National Forest, or Ranger District.

Onshore Oil and Gas Order. A formal numbered order issued by or signed by the Chief of the Forest Service that implements and supplements the regulations in this subpart.

Operating right. The interest created out of a lease that authorizes the holder of that interest to enter upon the leased lands to conduct drilling and related operations, including production of oil and gas from such lands in accordance with the terms of the lease.

Operating rights owner. A person holding operating rights in a lease issued by the United States. A leasee also may be an operating rights owner if the operating rights in a lease or portion thereof have not been conveyed to another person.

Operations. Surface disturbing activities that are conducted on a leasehold on National Forest System lands pursuant to a current approved surface use plan of operations, including but not limited to, exploration, development, and production of oil and gas resources and reclamation of surface resources.

Operator. Any person or entity, including, but not limited to, the lessee or operating rights owner, who has stated in writing to the authorized Forest officer that they are responsible under the terms and conditions of the lease for the operations conducted on the leased lands or a portion thereof.

Person. An individual, partnership, corporation, association or other legal entity.

Substantial modification. A change in lease terms or a modification, waiver, or exception of a lease stipulation that

issuance of Federal oil and gas leases and management of subsequent oil and gas operations on National Forest System lands, for approval and modification of attendant surface use plans of operations, for monitoring of surface disturbing operations on such leases, and for enforcement of surface use requirements and reclamation standards.

(b) *Applicability*. The rules of this subpart apply to leases on National Forest System lands and to operations that are conducted on Federal oil and gas leases on National Forest System lands as of April 20, 1990.

(c) *Applicability of other rules*. Surface uses associated with oil and gas prospecting, development, production, and reclamation activities, that are conducted on National Forest System lands outside a leasehold must receive prior authorization from the Forest Service. Such activities are subject to the regulations set forth elsewhere in 36 CFR chapter II, including but not limited to the regulations set forth in 36 CFR parts 251, subpart B, and 261.

§ 228.101 Definitions.

For the purposes of this subpart, the terms listed in this section have the following meaning:

Authorized Forest officer. The Forest Service employee delegated the authority to perform a duty described in these rules. Generally, a Regional Forester, Forest Supervisor, District Ranger, or Minerals Staff Officer, depending on the scope and level of the duty to be performed.

Compliance Officer. The Deputy Chief, or the Associate Deputy Chiefs, National Forest System or the line officer designated to act in the absence of the Deputy Chief.

Leasehold. The area described in a Federal oil and gas lease, communitized, or unitized area.

Lessee. A person or entity holding record title in a lease issued by the United States.

National Forest System. All National Forest lands reserved or withdrawn from the public domain of the United States, all National Forest lands acquired through purchase, exchange, donation, or other means, the National Grasslands and land utilization projects administered under title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010 *et seq.*), and other lands, waters, or interests therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the system (16 U.S.C. 1609).

Notices To Lessees, Transferees, and Operators. A written notice issued by the authorized Forest officer. Notices To Lessees, Transferees, and Operators implement the regulations in this subpart and serve as instructions on specific item(s) of importance within a Forest Service Region, National Forest, or Ranger District.

Onshore Oil and Gas Order. A formal numbered order issued by or signed by the Chief of the Forest Service that implements and supplements the regulations in this subpart.

Operating right. The interest created out of a lease that authorizes the holder of that interest to enter upon the leased lands to conduct drilling and related operations, including production of oil and gas from such lands in accordance with the terms of the lease.

Operating rights owner. A person holding operating rights in a lease issued by the United States. A leasee also may be an operating rights owner if the operating rights in a lease or portion thereof have not been conveyed to another person.

Operations. Surface disturbing activities that are conducted on a leasehold on National Forest System lands pursuant to a current approved surface use plan of operations, including but not limited to, exploration, development, and production of oil and gas resources and reclamation of surface resources.

Operator. Any person or entity, including, but not limited to, the lessee or operating rights owner, who has stated in writing to the authorized Forest officer that they are responsible under the terms and conditions of the lease for the operations conducted on the leased lands or a portion thereof.

Person. An individual, partnership, corporation, association or other legal entity.

Substantial modification. A change in lease terms or a modification, waiver, or exception of a lease stipulation that

would require an environmental assessment or environmental impact statement be prepared pursuant to the National Environmental Policy Act of 1969.

Surface use plan of operations. A plan for surface use, disturbance, and reclamation.

Transfer. Any conveyance of an interest in a lease by assignment, sublease or otherwise. This definition includes the terms: *Assignment* which means a conveyance of all or a portion of the lessee's record title interest in a lease; and *sublease* which means a conveyance of a non-record interest in a lease, i.e., a conveyance of operating rights is normally a sublease and a sublease also is a subsidiary arrangement between the lessee (sublessor) and the sublessee, but a sublease does not include a transfer of a purely financial interest, such as overriding royalty interest or payment out of production, nor does it affect the relationship imposed by a lease between the lessee(s) and the United States.

Transferee. A person to whom an interest in a lease issued by the United States has been transferred.

LEASING

§ 228.102 Leasing analyses and decisions.

(a) *Compliance with the National Environmental Policy Act of 1969.* In analyzing lands for leasing, the authorized Forest officer shall comply with the National Environmental Policy Act of 1969, implementing regulations at 43 CFR parts 1500–1508, and Forest Service implementing policies and procedures set forth in Forest Service Manual chapter 1950 and Forest Service Handbook 1909.15.

(b) *Scheduling analysis of available lands.* Within 6 months of April 20, 1990, Forest Supervisors shall develop, in cooperation with the Bureau of Land Management and with public input, a schedule for analyzing lands under their jurisdiction that have not been already analyzed for leasing. The Forest Supervisors shall revise or make additions to the schedule at least annually. In scheduling lands for analysis, the authorized Forest officer shall identify and exclude from further review the following lands which are legally unavailable for leasing:

(1) Lands withdrawn from mineral leasing by an act of Congress or by an order of the Secretary of the Interior;

(2) Lands recommended for wilderness allocation by the Secretary of Agriculture;

(3) Lands designated by statute as wilderness study areas, unless oil and gas leasing is specifically allowed by the statute designating the study area; and

(4) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document No. 96–119), unless such lands subsequently have been allocated to uses other than wilderness by an approved Forest land and resource management plan or have been released to uses other than wilderness by an act of Congress.

(c) *Leasing analyses.* The leasing analysis shall be conducted by the authorized Forest officer in accordance with the requirements of 36 CFR part 219 (Forest land and resource management planning) and/or, as appropriate, through preparation of NEPA documents. As part of the analysis, the authorized Forest oficer shall:

(1) Identify on maps those areas that will be:

(i) Open to development subject to the terms and conditions of the standard oil and gas lease form (including an explanation of the typical standards and objectives to be enforced under the standard lease terms);

(ii) Open to development but subject to constraints that will require the use of lease stipulations such as those prohibiting surface use on areas larger than 40 acres or such other standards as may be developed in the plan for stipulation use (with discussion as to why the constraints are necessary and justifiable); and

(iii) Closed to leasing, distinguishing between those areas that are being closed through exercise of management direction, and those closed by law, regulation, etc.

(2) Identify alternatives to the areas listed in paragraph (c)(1) of this section, including that of not allowing leasing.

(3) Project the type/amount of post-leasing activity that is reasonably foreseeable as a consequence of conducting a leasing program consistent with that described in the proposal and for each alternative.

(4) Analyze the reasonable foreseeable impacts of post-leasing activity projected under paragraph (c)(3) of this section.

(d) *Area or Forest-wide leasing decisions (lands administratively available for leasing).* Upon completion of the leasing analysis, the Regional Forest shall promptly notify the Bureau of Land Management as to the area or Forest-wide leasing decisions that have been made, that is, identify lands which have been found administratively available for leasing.

(e) *Leasing decisions for specific lands.* At such time as specific lands are being considered for leasing, the Regional Forester shall review the area or Forest-wide leasing decision and shall authorize the Bureau of Land Management to offer specific lands for lease subject to:

(1) Verifying that oil and gas leasing of the specific lands has been adequately addressed in a NEPA document, and is consistent with the Forest land and resource management plan. If NEPA has not been adequately addressed, or if there is significant new information or circumstances as defined by 40 CFR 1502.9 requiring further environmental analysis, additional environment analysis shall be done before a leasing decision for specific lands will be made. If there is inconsistency with the Forest land and resource management plan, no authorization for leasing shall be given unless the plan is amended or revised.

(2) Ensuring that conditions of surface occupancy identified in § 228.102(c)(1) are properly included as stipulations in resulting leases.

(3) Determining that operations and development could be allowed somewhere on each proposed lease, except where stipulations will prohibit all surface occupancy.

[55 FR 10444, Mar. 21, 1990, as amended at 56 FR 56157, Nov. 1, 1991]

§ 228.103 Notice of appeals of decisions.

The authorized Forest officer shall promptly notify the Bureau of Land Management if appeals of either an area or Forest-wide leasing decision or a leasing decision for specific lands are filed during the periods provided for under 36 CFR part 217.

§ 228.104 Consideration of requests to modify, waive, or grant exceptions to lease stipulations.

(a) *General.* An operator submitting a surface use plan of operations may request the authorized Forest officer to authorize the Bureau of Land Management to modify (permanently change), waive (permanently remove), or grant an exception (case-by-case exemption) to a stipulation included in a lease at the direction of the Forest Service. The person making the request is encouraged to submit any information which might assist the authorized Forest officer in making a decision.

(b) *Review.* The authorized Forest officer shall review any information submitted in support of the request and any other pertinent information.

(1) As part of the review, consistent with 30 U.S.C. 226 (f)–(g), the authorized Forest officer shall ensure compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 *et seq.*) and any other applicable laws, and shall ensure preparation of any appropriate environmental documents.

(2) The authorized Forest officer may authorize the Bureau of Land Management to modify, waive, or grant an exception to a stipulation if:

(i) The action would be consistent with applicable Federal laws;

(ii) The action would be consistent with the current forest land and resource management plan;

(iii) The management objectives which led the Forest Service to require the inclusion of the stipulation in the lease can be met without restricting operations in the manner provided for by the stipulation given the change in the present condition of the surface resources involved, or given the nature, location, timing, or design of the proposed operations; and

(iv) The action is acceptable to the authorized Forest officer based upon a

review of the environmental consequences.

(c) *Other agency stipulations.* If a stipulation was included in a lease by the Forest Service at the request of another agency, the authorized Forest officer shall consult with that agency prior to authorizing modification, waiver, or exception.

(d) *Notice of decision.* (1) When the review of a stipulation modification, waiver, or exception request has been completed and the authorized Forest officer has reached a decision, the authorized Forest officer shall promptly notify the operator and the appropriate Bureau of Land Management office, in writing, of the decision to grant, or grant with additional conditions, or deny the request.

(2) Any decision to modify, waive, or grant an exception to a lease stipulation shall be subject to administrative appeal only in conjunction with an appeal of a decision on a surface use plan of operation or supplemental surface use plan of operation.

AUTHORIZATION OF OCCUPANCY WITHIN A LEASEHOLD

§ 228.105 Issuance of onshore orders and notices to lessees.

(a) *Onshore oil and gas orders.* The Chief of the Forest Service may issue, or cosign with the Director, Bureau of Land Management, Onshore Oil and Gas Orders necessary to implement and supplement the regulations of this subpart.

(1) *Adoption of Onshore Oil and Gas Order No. 1.* Until such time as another order is adopted and codified in the CFR, operators shall submit surface use plans of operations in accordance with Section III.G.4(b), Guidelines for preparing surface use program, of the Department of the Interior, Bureau of Land Management, Onshore Oil and Gas Order No. 1, 48 FR 48915–30 (Oct. 21, 1983), published as Appendix A to this subpart.

(2) *Adoption of additional onshore oil and gas orders.* Additional onshore oil and gas orders shall be published in the FEDERAL REGISTER for public comment and codified in the CFR.

(3) *Applicability of onshore oil and gas orders.* Onshore Oil and Gas Orders issued pursuant to this section are binding on all operations conducted on National Forest System lands, unless otherwise provided therein.

(b) *Notices to lessees, transferees, and operators.* The authorized Forest officer may issue, or cosign with the authorized officer of the Bureau of Land Management, Notices to Lessees, Transferees, and Operators necessary to implement the regulations of this subpart. Notices to Lessees, Transferees, and Operators are binding on all operations conducted on the administrative unit of the National Forest System (36 CFR 200.2) supervised by the authorized Forest officer who issued or cosigned such notice.

§ 228.106 Operator's submission of surface use plan of operations.

(a) *General.* No permit to drill on a Federal oil and gas lease for National Forest System lands may be granted without the analysis and approval of a surface use plan of operations covering proposed surface disturbing activities. An operator must obtain an approved surface use plan of operations before conducting operations that will cause surface disturbance. The operator shall submit a proposed surface use plan of operations as part of an Application for a Permit to Drill to the appropriate Bureau of Land Management office for forwarding to the Forest Service, unless otherwise directed by the Onshore Oil and Gas Order in effect when the proposed plan of operations is submitted.

(b) *Preparation of plan.* In preparing a surface use plan of operations, the operator is encouraged to contact the local Forest Service office to make use of such information as is available from the Forest Service concerning surface resources and uses, environmental considerations, and local reclamation procedures.

(c) *Content of plan.* The type, size, and intensity of the proposed operations and the sensitivity of the surface resources that will be affected by the proposed operations determine the level of detail and the amount of information which the operator includes in a proposed plan of operations. However, any surface use plan of operations submitted by an operator shall contain the

information specified by the Onshore Oil and Gas Order in effect when the surface use plan of operations is submitted.

(d) *Supplemental plan.* An operator must obtain an approved supplemental surface use plan of operations before conducting any surface disturbing operations that are not authorized by a current approved surface use plan of operations. The operator shall submit a proposed supplemental surface use plan of operations to the appropriate Bureau of Land Management office for forwarding to the Forest Service, unless otherwise directed by the Onshore Oil and Gas Order in effect when the proposed supplemental plan of operations is submitted. The supplemental plan of operations need only address those operations that differ from the operations authorized by the current approved surface use plan of operations. A supplemental plan is otherwise subject to the same requirements under this subpart as an initial surface use plan of operations.

§ 228.107 Review of surface use plan of operations.

(a) *Review.* The authorized Forest officer shall review a surface use plan of operations as promptly as practicable given the nature and scope of the proposed plan. As part of the review, the authorized Forest officer shall comply with the National Environmental Policy Act of 1969, implementing regulations at 40 CFR parts 1500–1508, and the Forest Service implementing policies and procedures set forth in Forest Service Manual Chapter 1950 and Forest Service Handbook 1909.15 and shall ensure that:

(1) The surface use plan of operations is consistent with the lease, including the lease stipulations, and applicable Federal laws;

(2) To the extent consistent with the rights conveyed by the lease, the surface use plan of operations is consistent with, or is modified to be consistent with, the applicable current approved forest land and resource management plan;

(3) The surface use plan of operations meets or exceeds the surface use requirements of § 228.108 of this subpart; and

(4) The surface use plan of operations is acceptable, or is modified to be acceptable, to the authorized Forest officer based upon a review of the environmental consequences of the operations.

(b) *Decision.* The authorized Forest officer shall make a decision on the approval of a surface use plan of operations as follows:

(1) If the authorized Forest officer will not be able to make a decision on the proposed plan within 3 working days after the conclusion of the 30-day notice period provided for by 30 U.S.C. 226(f), the authorized Forest officer shall advise the appropriate Bureau of Land Managemnt office and the operator as soon as such delay becomes apparent, either in writing or orally with subsequent written confirmation, that additional time will be needed to process the plan. The authorized Forest officer shall explain the reason why additional time is needed and project the date by which a decision on the plan will likely be made.

(2) When the review of a surface use plan of operations has been completed, the authorized Forest officer shall promptly notify the operator and the appropriate Bureau of Land Management office, in writting, that:

(i) The plan is approved as submitted:

(ii) The plan is approved subject to specified conditions; or,

(iii) The plan is disapproved for the reasons stated.

(c) *Notice of decision.* The authorized Forest officer shall give public notice of the decision on a pan and include in the notice that the decision is subject to appeal under the administrative appeal procedures at 36 CFR parts 217 and 251, subpart C.

(d) *Transmittal of decision.* The authorized Forest officer shall immediately forward a decision on a surface use plan of operations to the appropriate Bureau of Land Management office and the operator. This transmittal shall include the estimated cost of reclamation and restoration (§ 228.109(a)) if the authorized Forest officer believes that additional bonding is required.

(e) *Supplemental plans.* A supplemental surface use plan of operations (§ 228.106(d)) shall be reviewed in the same manner as an initial surface use plan of operations.

§ 228.108 Surface use requirements.

(a) *General.* The operator shall conduct operations on a leasehold on National Forest System lands in a manner that minimizes effects on surface resources, prevents unnecessary or unreasonable surface resource disturbance, and that is in compliance with the other requirements of this section.

(b) *Notice of operations.* The operator must notify the authorized Forest officer 48 hours prior to commencing operations or resuming operations following their temporary cessation (§ 228.111).

(c) *Access facilities.* The operator shall construct and maintain access facilities to assure adequate drainage and to minimize or prevent damage to surface resources.

(d) *Cultural and historical resources.* The operator shall report findings of cultural and historical resources to the authorized Forest officer immediately and, except as otherwise authorized in an approved surface use plan of operations, protect such resources.

(e) *Fire prevention and control.* To the extent practicable, the operator shall take measures to prevent uncontrolled fires on the area of operation and to suppress uncontrolled fires resulting from the operations.

(f) *Fisheries, wildlife and plant habitat.* The operator shall comply with the requirements of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR chapter IV), and, except as otherwise provided in an approved surface use plan of operations, conduct operations in such a manner as to maintain and protect fisheries, wildlife, and plant habitat.

(g) *Reclamation.* (1) Unless otherwise provided in an approved surface use plan of operations, the operator shall conduct reclamation concurrently with other operations.

(2) Within 1 year of completion of operations on a portion of the area of operation, the operator must reclaim that portion, unless a different period of time is approved in writing by the authorized Forest officer.

(3) The operator must:

(i) Control soil erosion and landslides;

(ii) Control water runoff;

(iii) Remove, or control, solid wastes, toxic substances, and hazardous substances;

(iv) Reshape and revegetate disturbed areas;

(v) Remove structures, improvements, facilities and equipment, unless otherwise authorized; and

(vi) Take such other reclamation measures as specified in the approved surface use plan of operations.

(h) *Safety measures.* (1) The operator must maintain structures, facilities, improvements, and equipment located on the area of operation in a safe and neat manner and in accordance with an approved surface use plan of operations.

(2) The operator must take appropriate measures in accordance with applicable Federal and State laws and regulations to protect the public from hazardous sites or conditions resulting from the operations. Such measures may include, but are not limited to, posting signs, building fences, or otherwise identifyng the hazardous site or condition.

(i) *Wastes.* The operator must either remove garbage, refuse, and sewage from National Forest System lands or treat and dispose of that material in such a manner as to minimize or prevent adverse impacts on surface resources. The operator shall treat or dispose of produced water, drilling fluid, and other waste generated by the operations in such a manner as to minimize or prevent adverse impacts on surface resources.

(j) *Watershed protection.* (1) Except as otherwise provided in the approved surface use plan of operations, the operator shall not conduct operations in areas subject to mass soil movement, riparian areas and wetlands.

(2) The operator shall take measures to minimize or prevent erosion and sediment production. Such measures include, but are not limited to, siting structures, facilities, and other improvements to avoid steep slopes and excessive clearing of land.

§ 228.109 Bonds.

(a) *General.* As part of the review of a proposed surface use plan of operations, the authorized Forest officer shall consider the estimated cost to the

Forest Service to reclaim those areas that would be disturbed by operations and to restore any lands or surface waters adversely affected by the lease operations after the abandonment or cessation of operations on the lease. If at any time prior to or during the conduct of operations, the authorized Forest officer determines the financial instrument held by the Bureau of Land Management is not adequate to ensure complete and timely reclamation and restoration, the authorized Forest officer shall give the operator the option of either increasing the financial instrument held by the Bureau of Land Management or filing a separate instrument with the Forest Service in the amount deemed adequate by the authorized Forest officer to ensure reclamation and restoration.

(b) *Standards for estimating reclamation costs.* The authorized Forest officer shall consider the costs of the operator's proposed reclamation program and the need for additional measures to be taken when estimating the cost to the Forest Service to reclaim the disturbed area.

(c) *Release of reclamation liability.* An operator may request the authorized Forest officer to notify the Bureau of Land Management of reduced reclamation liability at any time after reclamation has commenced. The authorized Forest officer shall, if appropriate, notify the Bureau of Land Management as to the amount to which the liability has been reduced.

§ 228.110 Indemnification.

The operator and, if the operator does not hold all of the interest in the applicable lease, all lessees and transferees are jointly and severally liable in accordance with Federal and State laws for indemnifying the United States for:

(a) Injury, loss or damage, including fire suppression costs, which the United States incurs as a result of the operations; and

(b) Payments made by the United States in satisfaction of claims, demands or judgments for an injury, loss or damage, including fire suppression costs, which result from the operations.

ADMINISTRATION OF OPERATIONS

§ 228.111 Temporary cessation of operations.

(a) *General.* As soon as it becomes apparent that there will be a temporary cessation of operations for a period of 45 days or more, the operator must verbally notify and subsequently file a statement with the authorized Forest officer verifying the operator's intent to maintain structures, facilities, improvements, and equipment that will remain on the area of operation during the cessation of operations, and specifying the expected date by which operations will be resumed.

(b) *Seasonal shutdowns.* The operator need not file the statement required by paragraph (a) of this section if the cessation of operations results from seasonally adverse weather conditions and the operator will resume operations promptly upon the conclusion of those adverse weather conditions.

(c) *Interim measures.* The authorized Forest officer may require the operator to take reasonable interim reclamation or erosion control measures to protect surface resources during temporary cessations of operations, including during cessations of operations resulting from seasonally adverse weather conditions.

§ 228.112 Compliance and inspection.

(a) *General.* Operations must be conducted in accordance with the lease, including stipulations made part of the lease at the direction of the Forest Service, an approved surface use plan of operations, the applicable Onshore Oil and Gas Order (§ 228.105(a)), an applicable Notice to lessees, transferees, and operators (§ 228.105(b)), and regulations of this subpart.

(b) *Completion of reclamation.* The authorized Forest officer shall give prompt written notice to an operator whenever reclamation of a portion of the area affected by surface operations has been satisfactorily completed in accordance with the approved surface use plan of operations and § 228.108 of this subpart. The notice shall describe the portion of the area on which the reclamation has been satisfactorily completed.

(c) *Compliance with other statutes and regulations.* Nothing in this subpart shall be construed to relieve an operator from complying with applicable Federal and State laws or regulations, including, but not limited to:

(1) Federal and State air quality standards, including the requirements of the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*);

(2) Federal and State water quality standards, including the requirements of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 *et seq.*);

(3) Federal and State standards for the use or generation of solid wastes, toxic substances and hazardous substances, including the requirements of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. 9601 *et seq.*, and its implementing regulations, 40 CFR chapter I, subchapter J, and the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, and its implementing regulations, 40 CFR chapter I, subchaper I;

(4) The Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.*, and its implementing regulations, 50 CFR chapter IV;

(5) The Archeological Resources Protection Act of 1979, as amended (16 U.S.C. 470aa *et seq.*) and its implementing regulations 36 CFR part 296;

(6) The Mineral Leasing Act of 1920, 30 U.S.C. 1981 *et seq.*, the Mineral Leasing Act of Acquired Lands of 1947, 30 U.S.C. 351 *et seq.*, the Federal Oil and Gas Royalty Management Act of 1982, 30 U.S.C. 1701 *et seq.*, and their implementing regulations, 43 CFR chapter II, group 3100; and

(7) Applicable Onshore Oil and Gas Orders and Notices to Lessees and Operators (NTL's) issued by the United States Department of the Interior, Bureau of Land Management pursuant to 43 CFR chapter II, part 3160, subpart 3164.

(d) *Penalties.* If surface disturbing operations are being conducted that are not authorized by an approved surface use plan of operations or that violate a term or operating condition of an approved surface use plan of operations, the person conducting those operations is subject to the prohibitions and attendant penalties of 36 CFR part 261.

(e) *Inspection.* Forest Service officers shall periodically inspect the area of operations to determine and document whether operations are being conducted in compliance with the regulations in this subpart, the stipulations included in the lease at the direction of the Forest Service, the approved surface use plan of operations, the applicable Onshore Oil and Gas Order, and applicable Notices to Lessees, Transferees, and Operators.

§ 228.113 Notice of noncompliance.

(a) *Issuance.* When an authorized Forest officer finds that the operator is not in compliance with a reclamation or other standard, a stipulation included in a lease at the direction of the Forest Service, an approved surface use plan of operation, the regulations in this subpart, the applicable onshore oil and gas order, or an applicable notice to lessees, transferees, and operators, the authorized Forest officer shall issue a notice of noncompliance.

(1) *Content.* The notice of noncompliance shall include the following:

(i) Identification of the reclamation requirements or other standard(s) with which the operator is not in compliance;

(ii) Description of the measures which are required to correct the noncompliance;

(iii) Specification of a reasonable period of time within which the noncompliance must be corrected;

(iv) If the noncompliance appears to be material, identification of the possible consequences of continued noncompliance of the requirement(s) or standard(s) as described in 30 U.S.C. 226(g);

(v) If the noncompliance appears to be in violation of the prohibitions set forth in 36 CFR part 261, identification of the possible consequences of continued noncompliance of the requirement(s) or standard(s) as described in 36 CFR 261.1b; and

(vi) Notification that the authorized Forest officer remains willing and desirous of working cooperatively with the operator to resolve or remedy the noncompliance.

(2) *Extension of deadlines.* The operator may request an extension of a

deadline specified in a notice of noncompliance if the operator is unable to come into compliance with the applicable requirement(s) or standard(s) identified in the notice of noncompliance by the deadline because of conditions beyond the operator's control. The authorized Forest officer shall not extend a deadline specified in a notice of noncompliance unless the operator requested an extension and the authorized Forest officer finds that there was a condition beyond the operator's control, that such condition prevented the operator from complying with the notice of noncompliance by the specified deadline, and that the extension will not adversely affect the interests of the United States. Conditions which may be beyond the operator's control include, but are not limited to, closure of an area in accordance with 36 CFR part 261, subparts B or C, or inaccessibility of an area of operations due to such conditions as fire, flooding, or snowpack.

(3) *Manner of service.* The authorized Forest officer shall serve a notice of noncompliance or a decision on a request for extension of a deadline specified in a notice upon the operator in person, by certified mail or by telephone. However, if notice is initially provided in person or by telephone, the authorized Forest officer shall send the operator written confirmation of the notice or decision by certified mail.

(b) *Failure to come into compliance.* If the operator fails to come into compliance with the applicable requirement(s) or standard(s) identified in a notice of noncompliance by the deadline specified in the notice, or an approved extension, the authorized Forest officer shall decide whether: The noncompliance appears to be material given the reclamation requirements and other standards applicable to the lease established by 30 U.S.C. 226(g), the regulations in this subpart, the stipulations included in a lease at the direction of the Forest Service, an approved surface use plan of operations, the applicable Onshore Oil and Gas Order, or an applicable Notice to lessees, transferees, and operators; the noncompliance is likely to result in danger to public health or safety or irreparable resource damage; and the noncompliance is resulting in an emergency.

(1) *Referral to compliance officer.* When the operations appear to be in material noncompliance, the authorized Forest officer shall promptly refer the matter to the compliance officer. The referral shall be accompanied by a complete statement of the facts supported by appropriate exhibits. Apparent material noncompliance includes, but is not limited to, operating without an approved surface use plan of operations, conducting operations that have been suspended, failure to timely complete reclamation in accordance with an approved surface use plan of operations, failure to maintain an additional bond in the amount required by the authorized Forest officer during the period of operation, failure to timely reimburse the Forest Service for the cost of abating an emergency, and failing to comply with any term included in a lease, stipulation, or approved surface use plan of operations, the applicable onshore oil and gas order, or an applicable Notice to lessees, transferees, and operators, relating to the protection of a threatened or endangered species.

(2) *Suspension of operations.* When the noncompliance is likely to result in danger to public health or safety or in irreparable resource damage, the authorized Forest officer shall suspend the operations, in whole or in part.

(i) A suspension of operations shall remain in effect until the authorized Forest officer determines that the operations are in compliance with the applicable requirement(s) or standard(s) identified in the notice of noncompliance.

(ii) The authorized Forest officer shall serve decisions suspending operations upon the operator in person, by certified mail, or by telephone. If notice is initially provided in person or by telephone, the authorized Forest officer shall send the operator written confirmation of the decision by certified mail.

(iii) The authorized Forest officer shall immediately notify the appropriate Bureau of Land Management office when an operator has been given notice to suspend operations.

(3) *Abatement of emergencies.* When the noncompliance is resulting in an emergency, the authorized Forest officer may take action as necessary to abate the emergency. The total cost to the Forest Service of taking actions to abate an emergency becomes an obligation of the operator.

(i) Emergency situations include, but are not limited to, imminent dangers to public health or safety or irreparable resource damage.

(ii) The authorized Forest officer shall promptly serve a bill for such costs upon the operator by certified mail.

§ 228.114 Material noncompliance proceedings.

(a) *Evaluation of referral.* The compliance officer shall promptly evaluate a referral made by the authorized Forest officer pursuant to § 228.113(b)(1) of this subpart.

(b) *Dismissal of referral.* The compliance officer shall dismiss the referral if the compliance officer determines that there is not adequate evidence to support a reasonable belief that:

(1) The operator was not in compliance with the applicable requirement(s) or standard(s) identified in a notice of noncompliance by the deadline specified in the notice, or an extension approved by the authorized Forest officer; or

(2) The noncompliance with the applicable requirement(s) or standard(s) identified in the notice of noncompliance may be material.

(c) *Initiation of proceedings.* The compliance officer shall initiate a material noncompliance proceeding if the compliance officer agrees that there is adequate evidence to support a reasonable belief that an operator has failed to come into compliance with the applicable requirement(s) or standard(s) identified in a notice of noncompliance by the deadline specified in the notice, or extension approved by the authorized Forest officer, and that the noncompliance may be material.

(1) *Notice of proceedings.* The compliance officer shall inform the lessee and operator of the material noncompliance proceedings by certified mail, return receipt requested.

(2) *Content of notice.* The notice of the material noncompliance proceeding shall include the following:

(i) The specific reclamation requirement(s) or other standard(s) of which the operator may be in material noncompliance;

(ii) A description of the measures that are required to correct the violation;

(iii) A statement that if the compliance officer finds that the operator is in material noncompliance with a reclamation requirement or other standard applicable to the lease, the Secretary of the Interior will not be able to issue new leases or approve new transfers of leases to the operator, any subsidiary or affiliate of the operator, or any person controlled by or under common control with the operator until the compliance officer finds that the operator has come into compliance with such requirement or standard; and

(iv) A recitation of the specific procedures governing the material noncompliance proceeding set forth in paragraphs (d) through (g) of this section.

(d) *Answer.* Within 30 calendar days after receiving the notice of the proceeding, the operator may submit, in person, in writing, or through a representative, an answer containing information and argument in opposition to the proposed material noncompliance finding, including information that raises a genuine dispute over the material facts. In that submission, the operator also may:

(1) Request an informal hearing with the compliance officer; and

(2) Identify pending administrative or judicial appeal(s) which are relevant to the proposed material noncompliance finding and provide information which shows the relevance of such appeal(s).

(e) *Informal hearing.* If the operator requests an informal hearing, it shall be held within 20 calendar days from the date that the compliance officer receives the operator's request.

(1) The compliance officer may postpone the date of the informal hearing if the operator requests a postponement in writing.

(2) At the hearing, the operator, appearing personally or through an attorney or another authorized representative, may informally present and explain evidence and argument in opposition to the proposed material noncompliance finding.

(3) A transcript of the informal hearing shall not be required.

(f) *Additional procedures as to disputed facts.* If the compliance officer finds that the answer raises a genuine dispute over facts essential to the proposed material noncompliance finding, the compliance officer shall so inform the operator by certified mail, return receipt requested. Within 10 days of receiving this notice, the operator may request a fact-finding conference on those disputed facts.

(1) The fact-finding conference shall be scheduled within 20 calendar days from the date the compliance officer receives the operator's request, unless the operator and compliance officer agree otherwise.

(2) At the fact-finding conference, the operator shall have the opportunity to appear with counsel, submit documentary evidence, present witnesses, and confront the person(s) the Forest Service presents.

(3) A transcribed record of the fact-finding conference shall be made, unless the operator and the compliance officer by mutual agreement waive the requirement for a transcript. The transcript will be made available to the operator at cost upon request.

(4) The compliance officer may preside over the fact-finding conference or designate another authorized Forest officer to preside over the fact-finding conference.

(5) Following the fact-finding conference, the authorized Forest officer who presided over the conference shall promptly prepare written findings of fact based upon the preponderance of the evidence. The compliance officer may reject findings of fact prepared by another authorized Forest officer, in whole or in part, if the compliance officer specifically determines that such findings are arbitrary and capricious or clearly erroneous.

(g) *Dismissal of proceedings.* The compliance officer shall dismiss the material noncompliance proceeding if, before the compliance officer renders a decision pursuant to paragraph (h) of this section, the authorized Forest officer who made the referral finds that the operator has come into compliance with the applicable requirements or standards identified in the notice of proceeding.

(h) *Compliance officer's decision.* The compliance officer shall base the decision on the entire record, which shall consist of the authorized Forest officer's referral and its accompanying statement of facts and exhibits, information and argument that the operator provided in an answer, any information and argument that the operator provided in an informal hearing if one was held, and the findings of fact if a fact-finding conference was held.

(1) *Content.* The compliance officer's decision shall state whether the operator has violated the requirement(s) or standard(s) identified in the notice of proceeding and, if so, whether that noncompliance is material given the requirements of 30 U.S.C. 226(g), the stipulations included in the lease at the direction of the Forest Service, the regulations in this subpart or an approved surface use plan of operations, the applicable onshore oil and gas order, or an applicable notice to lessees, transferees, and operators. If the compliance officer finds that the operator is in material noncompliance, the decision also shall:

(i) Describe the measures that are required to correct the violation;

(ii) Apprise the operator that the Secretary of the Interior is being notified that the operator has been found to be in material noncompliance with a reclamation requirement or other standard applicable to the lease; and

(iii) State that the decision is the final administrative determination of the Department of Agriculture.

(2) *Service.* The compliance officer shall serve the decision upon the operator by certified mail, return receipt requested. If the operator is found to be in material noncompliance, the compliance officer also shall immediately send a copy of the decision to the appropriate Bureau of Land Management office and to the Secretary of the Interior.

(i) *Petition for withdrawal of finding.* If an operator who has been found to be in material noncompliance under the provisions of this section believes that the operations have subsequently come into compliance with the applicable requirement(s) or standard(s) identified in the compliance officer's decision, the operator may submit a written petition requesting that the material noncompliance finding be withdrawn. The petition shall be submitted to the authorized Forest officer who issued the operator the notice of noncompliance under §228.113(a) of this subpart and shall include information or exhibits which shows that the operator has come into compliance with the requirement(s) or standard(s) identified in the compliance officer's decision.

(1) *Response to petition.* Within 30 calendar days after receiving the operator's petition for withdrawal, the authorized Forest officer shall submit a written statement to the compliance officer as to whether the authorized Forest officer agrees that the operator has come into compliance with the requirement(s) or standard(s) identified in the compliance officer's decision. If the authorized Forest officer disagrees with the operator, the written statement shall be accompanied by a complete statement of the facts supported by appropriate exhibits.

(2) *Additional procedures as to disputed material facts.* If the compliance officer finds that the authorized Forest officer's response raises a genuine dispute over facts material to the decision as to whether the operator has come into compliance with the requirement(s) or standard(s) identified in the compliance officer's decision, the compliance officer shall so notify the operator and authorized Forest officer by certified mail, return receipt requested. The notice shall also advise the operator that the fact finding procedures specified in paragraph (f) of this section apply to the compliance officer's decision on the petition for withdrawal.

(3) *Compliance officer's decision.* The compliance officer shall base the decision on the petition on the entire record, which shall consist of the operator's petition for withdrawal and its accompanying exhibits, the authorized Forest officer's response to the petition and, if applicable, its accompanying statement of facts and exhibits, and if a fact-finding conference was held, the findings of fact. The compliance officer shall serve the decision on the operator by certified mail.

(i) If the compliance officer finds that the operator remains in violation of requirement(s) or standard(s) identified in the decision finding that the operator was in material noncompliance, the decision on the petition for withdrawal shall identify such requirement(s) or standard(s) and describe the measures that are required to correct the violation(s).

(ii) If the compliance officer finds that the operator has subsequently come into compliance with the requirement(s) or standard(s) identified in the compliance officer's decision finding that the operator was in material noncompliance, the compliance officer also shall immediately send a copy of the decision on the petition for withdrawal to the appropriate Bureau of Land Management office and notify the Secretary of the Interior that the operator has come into compliance.

(j) *List of operators found to be in material noncompliance.* The Deputy Chief, National Forest System, shall compile and maintain a list of operators who have been found to be in material noncompliance with reclamation requirements and other standards as provided in 30 U.S.C. 226(g), the regulations in this subpart, a stipulation included in a lease at the direction of the Forest Service, or an approved surface use plan of operations, the applicable onshore oil and gas order, or an applicable notice to lessees, transferees, and operators, for a lease on National Forest System lands to which such standards apply. This list shall be made available to Regional Foresters, Forest Supervisors, and upon request, members of the public.

§ 228.115 Additional notice of decisions.

(a) The authorized Forest officer shall promptly post notices provided by the Bureau of Land Management of:

(1) Competitive lease sales which the Bureau plans to conduct that include National Forest System lands;

(2) Substantial modifications in the terms of a lease which the Bureau proposes to make for leases on National Forest System lands; and

(3) Applications for permits to drill which the Bureau has received for leaseholds located on National Forest System lands.

(b) The notice shall be posted at the offices of the affected Forest Supervisor and District Ranger in a prominent location readily accessible to the public.

(c) The authorized Forest officer shall keep a record of the date(s) the notice was posted in the offices of the affected Forest Supervisor and District Ranger.

(d) The posting of notices required by this section are in addition to the requirements for public notice of decisions provided in §228.104(d) (Notice of decision) and §228.107(c) (Notice of decision) of this subpart.

§228.116 Information collection requirements.

(a) *Sections containing information requirements.* The following sections of this subpart contain information requirements as defined in 5 CFR part 1320 and have been approved for use by the Office of Management and Budget:

(1) Section 228.104(a) Requests to Modify, Waive, or Grant Exceptions to Leasing Stipulations;

(2) Section 228.106 (a), (c), and (d) Submission of Surface Use Plan of Operations;

(3) Section 228.109(c) Request for Reduction in Reclamation Liability after Reclamation;

(4) Section 228.111(a) Notice of Temporary Cessation of Operations;

(5) Section 228.113(a)(2) Extension of Deadline in Notice of Noncompliance; and

(6) Section 228.114 (c) through (i) Material Noncompliance Proceedings.

(b) *OMB control number.* The information requirements listed in paragraph (a) of this section have been assigned OMB Control No. 0596–0101.

(c) *Average estimated burden hours.* (1) The average burden hours per response are estimated to be:

(i) 5 minutes for the information requirements in §228.104(a) of this subpart;

(ii) No additional burden hours required to meet the information requirements in §228.106 (a), (c), and (d) of this subpart;

(iii) 10 minutes for the information requirements in §228.109(c) of this subpart;

(iv) 10 minutes for the information requirements in §228.111(a) of this subpart;

(v) 5 minutes for the information requirements in §228.113(a)(2) of this subpart; and

(vi) 2 hours for the information requirements in §228.114 (c) through (i) of this subpart.

(2) Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief (2800), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Appendix A to Subpart E of Part 228—Guidelines for Preparing Surface Use Plans of Operation for Drilling

I. Components of a Complete Application for Permit to Drill

(a) Guidelines for Preparing Surface Use Program. In preparing this program, the lessee or operator shall submit maps, plats, and narrative descriptions which adhere closely to the following (maps and plats should be of a scale no smaller than 1:24,000 unless otherwise stated below):

(1) *Existing Roads.* A legible map (USGS topographic, county road, Alaska Borough, or other such map), labeled and showing the access route to the location, shall be used for locating the proposed well site in relation to a town (village) or other locatable point, such as a highway or county road, which handles the majority of the through traffic to the general area. The proposed route to the location, including appropriate distances from the point where the access route exits established roads, shall be shown. All access roads shall be appropriately labeled. Any plans for improvement and/or a statement that existing roads will be maintained in the same or better condition shall be provided. Existing roads and newly constructed roads on surface under the jurisdiction of a Surface Management Agency shall be maintained in accordance with the standards of the Surface Management Agency.

Information required by items (2), (3), (4), (5), (6), and (8) of this subsection also may be shown on this map if appropriately labeled or on a separate plat or map.

(2) *Access Roads to Be Constructed and Reconstructed.* All permanent and temporary access roads that are to be constructed, or reconstructed, in connection with the drilling of the proposed well shall be appropriately identified and submitted on a map or plat. Width, maximum grade, major cuts and fills, turnouts, drainage design, location and size of culverts and/or bridges, fence cuts and/or cattleguards, and type of surfacing material, if any, shall be stated for all construction. In addition, where permafrost exists, the methods for protection from thawing must be indicated. Modification of proposed road design may be required during the onsite inspection.

Information also should be furnished to indicate where existing facilities may be altered or modified. Such facilities include gates, cattleguards, culverts, and bridges which, if installed or replaced, shall be designed to adequately carry anticipated loads.

(3) *Location of Existing Wells.* It is recommended that this information be submitted on a map or plat and include all wells (water, injection or disposal, producing, and drilling) within a 1-mile radius of the proposed location.

(4) *Location of Existing and/or Proposed Facilities if Well is Productive.*

(i) On well pad—A map or plat shall be included showing, to the extent known or anticipated, the location of all production facilities and lines to be installed if the well is successfully completed for production.

(ii) Off well pad—A map or plat shall be included showing to the extent known or anticipated, the existing or new production facilities to be utilized and the lines to be installed if the well is successfully completed for production. If new construction, the dimensions of the facility layout are to be shown.

If the information required under (a) or (b) above is not known and cannot be accurately presented and the well subsequently is completed for production, the operator shall then comply with section IV of this Order.

(5) *Location and Type of Water Supply (Rivers, Creeks, Springs, Lakes, Ponds, and Wells).* This information may be shown by quarter-quarter section on a map or plat, or may be a written description. The source and transportation method for all water to be used in drilling the proposed well shall be noted if the source is located on Federal or Indian lands or if water is to be used from a Federal or Indian project. If the water is obtained from other than Federal or Indian lands, only the location need be identified. Any access roads crossing Federal or Indian lands that are needed to haul the water shall be described in items G.4.b. (1) and (2), as appropriate. If a water supply well is to be drilled on the lease, it shall be so stated under this item, and the authorized officer of the BLM may require the filing of a separate APD.

(6) *Construction Materials.* The lessee or operator shall state the character and intended use of all construction materials such as sand, gravel, stone and soil material. If the materials to be used are Federally-owned, the proposed source shall be shown by either quarter-quarter section on a map or plat, or a written description. The use of materials under BLM jurisdiction is governed by 43 CFR 3610.2–3. The authorized officer shall inform the lessee or operator if the materials may be used free of charge or if an application for sale is required. If the materials to be used are Indian owned or under the jurisdiction of any Surface Management Agency other than BLM, the specific tribe and or Area Superintendent of BIA, or the appropriate Surface Management Agency office shall be contacted to determine the appropriate procedure for use of the materials.

(7) *Methods for Handling Waste Disposal.* A written description shall be given of the methods and locations proposed for safe containment and disposal of each type of waste material (e.g., cuttings, garbage, salts, chemicals, sewage, etc.) that results from the drilling of the proposed well. Likewise, the narrative shall include plans for the eventual disposal of drilling fluids and any produced oil or water recovered during testing operations.

(8) *Ancillary Facilities.* The plans, or subsequent amendments to such plans, shall identify all ancillary facilities such as camps and airstrips as to their location, land area required, and the methods and standards to be employed in their construction. Such facilities shall be shown on a map or plat. The approximate center of proposed camps and the center line of airstrips shall be staked on the ground.

(9) *Well Site Layout.* A plat of suitable scale (not less than 1 inch=50 feet) showing the proposed drill pad and its location with respect to topographic features is required. Cross section diagrams of the drill pad showing any cuts and fills and the relation to topography are also required. The plat shall also include the approximate proposed location of the reserve and burn pits, access roads onto the pad, turnaround areas, parking area, living facilities, soil material stockpiles, and the orientation of the rig with respect to the pad and other facilities. Plans, if any to line the reserve pit should be detailed.

(10) *Plans for Reclamation of the Surface.* The program for surface reclamation upon completion of the operation, such as configuration of the reshaped topography, drainage system, segregation of spoil materials, surface manipulations, waste disposal, revegetation methods, and soil treatments, plus

other practices necessary to reclaim all disturbed areas, including any access roads or portions of well pads when no longer needed, shall be stated. An estimate of the time for commencement and completion of reclamation operations, dependent on weather conditions and other local uses of the area, shall be provided.

(11) *Surface Ownership.* The surface ownership (Federal, Indian, State or private) at the well location, and for all lands crossed by roads which are to be constructed or upgraded, shall be indicated. Where the surface of the well site is privately owned, the operator shall provide the name, address, and telephone number of the surface owner, unless previously provided.

(12) *Other Information.* The lessee or operator is encouraged to submit any additional information that may be helpful in processing the application.

(13) *Lessee's or Operator's Representative and Certification.* The name, address, and telephone number of the lessee's or operator's field representative shall be included. The lessee or operator submitting the APD shall certify as follows:

I hereby certify that I, or persons under my direct supervision, have inspected the proposed drill site and access route; that I am familiar with the conditions which currently exist; that the statements made in this plan are, to the best of my knowledge, true and correct; and that the work associated with operations proposed herein will be performed by _____ and its contractors and subcontractors in conformity with this plan and the terms and conditions under which it is approved. This statement is subject to the provisions of 18 U.S.C. 1001 for the filing of a false statement.

Date _____

Name and Title _____

PART 230—STATE AND PRIVATE FORESTRY ASSISTANCE

Subpart A—Stewardship Incentive Program

Sec.

230.1 Purpose and scope.
230.2 Definitions.
230.3 National program administration.
230.4 State program administration.
230.5 Eligibility requirements.
230.6 Landowner forest stewardship plan.
230.7 Program practices.
230.8 Application and approval.
230.9 Payment to landowners.
230.10 Prohibitions.
230.11 Recapture of payment.
230.12 Reconsideration.
230.13 Information requirements.

Subpart B—Urban and Community Forestry Assistance Program

230.20 Scope and authority.
230.21 Implementation of the program.

AUTHORITY: 16 U.S.C. 2103b, 2105, 2114.

SOURCE: 56 FR 63585, Dec. 4, 1991, unless otherwise noted.

Subpart A—Stewardship Incentive Program

§ 230.1 Purpose and scope.

(a) The regulations in this subpart govern the operation of the Stewardship Incentive Program as provided in section 6 of the Cooperative Forestry Assistance Act, as amended by title XII of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 2101, *et seq.*). This subpart sets forth the rules and procedures by which the Stewardship Incentive Program will be administered by the Forest Service to establish forest stewardship practices on nonindustrial private forest land.

(b) The cost-share assistance provided under the Stewardship Incentive Program shall complement rather than replace or duplicate the existing Agricultural Conservation Program and Forestry Incentives Program. Tree planting and improvement and other State priorities for program activities and practices funded under the Stewardship Incentive Program shall be designed to provide multiple resource benefits not available through other cost-share programs.

§ 230.2 Definitions.

As used in this subpart, the following terms shall mean:

Act means the Cooperative Forestry Assistance Act as amended (16 U.S.C. 2101, *et seq*).

Assignee means any person, corporation, government agency, or other legal entity to whom a landowner transfers legal rights to receive all or part of federal cost-share payments.

Chief means the Chief of the Forest Service.

Committee means the State Forest Stewardship Coordinating Committee established pursuant to section 19(b)(1) of the Act.

SUBCHAPTER C—MINERALS MANAGEMENT (3000)

PART 3000—MINERALS MANAGEMENT: GENERAL

Subpart 3000—General

Sec.
3000.0–5 Definitions.
3000.1 Nondiscrimination.
3000.2 False statements.
3000.3 Unlawful interests.
3000.4 Appeals.
3000.5 Limitations on time to institute suit to contest a decision of the Secretary.
3000.6 Filing of documents.
3000.7 Multiple development.
3000.8 Management of Federal minerals from reserved mineral estates.
3000.9 Enforcement.

AUTHORITY: 30 U.S.C. 189 and 359; and 40 Opinion of the Attorney General 41.

SOURCE: 48 FR 33659, July 22, 1983, unless otherwise noted.

Subpart 3000—General

§ 3000.0–5 Definitions.

As used in Groups 3000 and 3100 of this title, the term:

(a) *Gas* means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at ordinary temperatures and pressure conditions.

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

(c) *Secretary* means the Secretary of the Interior.

(d) *Director* means the Director of the Bureau of Land Management.

(e) *Authorized officer* means any employee of the Bureau of Land Management authorized to perform the duties described in Group 3000 and 3100.

(f) *Proper BLM office* means the Bureau of Land Management office having jurisdiction over the lands subject to the regulations in Groups 3000 and 3100, except that all oil and gas lease offers, and assignments or transfers for lands in Alaska shall be filed in the Alaska State Office, Anchorage, Alaska. (See § 1821–2–1 of this title for office location and area of jurisdiction of Bureau of Land Management offices.)

(g) *Public domain lands* means lands, including mineral estates, which never left the ownership of the United States, lands which were obtained by the United States in exchange for public domain lands, lands which have reverted to the ownership of the United States through the operation of the public land laws and other lands specifically identified by the Congress as part of the public domain.

(h) *Acquired lands* means lands which the United States obtained by deed through purchase or gift, or through condemnation proceedings, including lands previously disposed of under the public land laws including the mining laws.

(i) *Anniversary date* means the same day and month in succeeding years as that on which the lease became effective.

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

(k) *Party in interest* means a party who is or will be vested with any interest under the lease as defined in paragraph (l) of this section. No one is a sole party in interest with respect to an application, offer, competitive bid or lease in which any other party has an interest;

(l) *Interest* means ownership in a lease or prospective lease of all or a portion of the record title, working interest, operating rights, overriding royalty, payments out of production, carried interests, net profit share or similar instrument for participation in the benefit derived from a lease. An *interest* may be created by direct or indirect ownership, including options. *Interest* does not mean stock ownership, stockholding or stock control in an application, offer, competitive bid or lease, except for purposes of acreage limitations in § 3101.2 of this title and qualifications of lessees in subpart 3102 of this title.

(m) *Surface managing agency* means any Federal agency outside of the Department of the Interior with jurisdiction over the surface overlying federally-owned minerals.

(n) *Service* means the Minerals Management Service.

(o) *Bureau* means the Bureau of Land Management.

[48 FR 33659, July 22, 1983, as amended at 49 FR 2113, Jan. 18, 1984; 53 FR 17351, May 16, 1988; 53 FR 22835, June 17, 1988]

§ 3000.1 Nondiscrimination.

Any person acquiring a lease under this chapter shall comply fully with the equal opportunity provisions of Executive Order 11246 of September 24, 1965, as amended, and the rules, regulations and relevant orders of the Secretary of Labor (41 CFR part 60 and 43 CFR part 17).

§ 3000.2 False statements.

Under the provisions of 18 U.S.C. 1001, it is a crime punishable by 5 years imprisonment or a fine of up to $10,000, or both, for any person knowingly and willfully to submit or cause to be submitted to any agency of the United States any false or fraudulent statement(s) as to any matter within the agency's jurisdiction.

§ 3000.3 Unlawful interests.

No member of, or delegate to, Congress, or Resident Commissioner, and no employee of the Department of the Interior, except as provided in 43 CFR part 20, shall be entitled to acquire or hold any Federal lease, or interest therein. (Officer, agent or employee of the Department—see 43 CFR part 20; Member of Congress—see R.S. 3741; 41 U.S.C. 22; 18 U.S.C. 431–433.)

§ 3000.4 Appeals.

Except as provided in §§ 3101.7–3(b), 3120.1–3, 3165.4, and 3427.2 of this title, any party adversely affected by a decision of the authorized officer made pursuant to the provisions of Group 3000 or Group 3100 of this title shall have a right of appeal pursuant to part 4 of this title.

[53 FR 22835, June 17, 1988]

§ 3000.5 Limitations on time to institute suit to contest a decision of the Secretary.

No action contesting a decision of the Secretary involving any oil or gas lease, offer or application shall be maintained unless such action is commenced or taken within 90 days after the final decision of the Secretary relating to such matter.

§ 3000.6 Filing of documents.

All necessary documents shall be filed in the proper BLM office. A document shall be considered filed when it is received in the proper BLM office during regular business hours (see § 1821.2 of this title).

§ 3000.7 Multiple development.

The granting of a permit or lease for the prospecting, development or production of deposits of any one mineral shall not preclude the issuance of other permits or leases for the same lands for deposits of other minerals with suitable stipulations for simultaneous operation, nor the allowance of applicable entries, locations or selections of leased lands with a reservation of the mineral deposits to the United States.

§ 3000.8 Management of Federal minerals from reserved mineral estates.

Where nonmineral public land disposal statutes provide that in conveyances of title all or certain minerals shall be reserved to the United States together with the right to prospect for, mine and remove the minerals under applicable law and regulations as the Secretary may prescribe, the lease or sale, and administration and management of the use of such minerals shall be accomplished under the regulations of Groups 3000 and 3100 of this title. Such mineral estates include, but are not limited to, those that have been or will be reserved under the authorities of the Small Tract Act of June 1, 1938, as amended (43 U.S.C. 682(b)) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*).

[53 FR 17351, May 16, 1988]

§ 3000.9 Enforcement.

Provisions of section 41 of the Act shall be enforced by the United States Department of Justice.

[53 FR 22835, June 17, 1988]

PART 3100—OIL AND GAS LEASING

Subpart 3100—Oil and Gas Leasing: General

Sec.
3100.0–3 Authority.
3100.0–5 Definitions.
3100.0–9 Information collection.
3100.1 Helium.
3100.2 Drainage.
3100.2–1 Compensation for drainage.
3100.2–2 Drilling and production or payment of compensatory royalty.
3100.3 Options.
3100.3–1 Enforceability.
3100.3–2 Effect of option on acreage.
3100.3–3 Option statements.
3100.4 Public availability of information.

Subpart 3101—Issuance of Leases

3101.1 Lease terms and conditions.
3101.1–1 Lease form.
3101.1–2 Surface use rights.
3101.1–3 Stipulations and information notices.
3101.1–4 Modification or waiver of lease terms and stipulations.
3101.2 Acreage limitations.
3101.2–1 Public domain lands.
3101.2–2 Acquired lands.
3101.2–3 Excepted acreage.
3101.2–4 Excess acreage.
3101.2–5 Computation.
3101.2–6 Showing required.
3101.3 Leases within unit areas.
3101.3–1 Joinder evidence required.
3101.3–2 Separate leases to issue.
3101.4 Lands covered by application to close lands to mineral leasing.
3101.5 National Wildlife Refuge System lands.
3101.5–1 Wildlife refuge lands.
3101.5–2 Coordination lands.
3101.5–3 Alaska wildlife areas.
3101.5–4 Stipulations.
3101.6 Recreation and public purposes lands.
3101.7 Federal lands administered by an agency outside of the Department of the Interior.
3101.7–1 General requirements.
3101.7–2 Action by the Bureau of Land Management.
3101.7–3 Appeals.
3101.8 State's or charitable organization's ownership of surface overlying Federally-owned minerals.

Subpart 3102—Qualifications of Lessees

3102.1 Who may hold leases.
3102.2 Aliens.
3102.3 Minors.
3102.4 Signature.
3102.5 Compliance, certification of compliance and evidence.
3102.5–1 Compliance.
3102.5–2 Certification of compliance.
3102.5–3 Evidence of compliance.

Subpart 3103—Fees, Rentals and Royalty

3103.1 Payments.
3103.1–1 Form of remittance.
3103.1–2 Where submitted.
3103.2 Rentals.
3103.2–1 Rental requirements.
3103.2–2 Annual rental payments.
3103.3 Royalties.
3103.3–1 Royalty on production.
3103.3–2 Minimum royalties.
3103.4 Production incentives.
3103.4–1 Royalty reductions.
3103.4–2 Stripper well royalty reductions.
3103.4–3 Heavy oil royalty reductions.
3103.4–4 Suspension of operations and/or production.

Subpart 3104—Bonds

3104.1 Bond obligations.
3104.2 Lease bond.
3104.3 Statewide and nationwide bonds.
3104.4 Unit operator's bond.
3104.5 Increased amount of bonds.
3104.6 Where filed and number of copies.
3104.7 Default.
3104.8 Termination of period of liability.

Subpart 3105—Cooperative Conservation Provisions

3105.1 Cooperative or unit agreement.
3105.2 Communitization or drilling agreements.
3105.2–1 Where filed.
3105.2–2 Purpose.
3105.2–3 Requirements.
3105.3 Operating, drilling or development contracts.
3105.3–1 Where filed.
3105.3–2 Purpose.
3105.3–3 Requirements.
3105.4 Combination for joint operations or for transportation of oil.
3105.4–1 Where filed.
3105.4–2 Purpose.
3105.4–3 Requirements.
3105.4–4 Rights-of-way.
3105.5 Subsurface storage of oil and gas.
3105.5–1 Where filed.
3105.5–2 Purpose.
3105.5–3 Requirements.
3105.5–4 Extension of lease term.
3105.6 Consolidation of leases.

Subpart 3106—Transfers by Assignment, Sublease or Otherwise

3106.1 Transfers, general.
3106.2 Qualifications of transferees.
3106.3 Filing fees.
3106.4 Forms.
3106.4–1 Transfers of record title and of operating rights (subleases).
3106.4–2 Transfers of other interests, including royalty interests and production payments.
3106.4–3 Mass transfers.
3106.5 Description of lands.
3106.6 Bonds.
3106.6–1 Lease bond.
3106.6–2 Statewide/nationwide bond.
3106.7 Approval of transfer.
3106.7–1 Failure to qualify.
3106.7–2 If I transfer my lease, what is my continuing obligation?
3106.7–3 Lease account status.
3106.7–4 Effective date of transfer.
3106.7–5 Effect of transfer.
3106.7–6 If I acquire a lease by an assignment or transfer, what obligations do I agree to assume?
3106.8 Other types of transfers.
3106.8–1 Heirs and devisees.
3106.8–2 Change of name.
3106.8–3 Corporate merger.

Subpart 3107—Continuation, Extension or Renewal

3107.1 Extension by drilling.
3107.2 Production.
3107.2–1 Continuation by production.
3107.2–2 Cessation of production.
3107.2–3 Leases capable of production.
3107.3 Extension for terms of cooperative or unit plan.
3107.3–1 Leases committed to plan.
3107.3–2 Segregation of leases committed in part.
3107.3–3 20-year lease or any renewal thereof.
3107.4 Extension by elimination.
3107.5 Extension of leases segregated by assignment.
3107.5–1 Extension after discovery on other segregated portions.
3107.5–2 Undeveloped parts of leases in their extended term.
3107.5–3 Undeveloped parts of producing leases.
3107.6 Extension of reinstated leases.
3107.7 Exchange leases: 20-year term.
3107.8 Renewal leases.
3107.8–1 Requirements.
3107.8–2 Application.
3107.8–3 Approval.
3107.9 Other types.
3107.9–1 Payment of compensatory royalty.
3107.9–2 Subsurface storage of oil and gas.

Subpart 3108—Relinquishment, Termination, Cancellation

3108.1 As a lessee, may I relinquish my lease?
3108.2 Termination by operation of law and reinstatement.
3108.2–1 Automatic termination.
3108.2–2 Reinstatement at existing rental and royalty rates: Class I reinstatements.
3108.2–3 Reinstatement at higher rental and royalty rates: Class II reinstatements.
3108.2–4 Conversion of unpatented oil placer mining claims: Class III reinstatements.
3108.3 Cancellation.
3108.4 Bona fide purchasers.
3108.5 Waiver or suspension of lease rights.

Subpart 3109—Leasing Under Special Acts

3109.1 Rights-of-way.
3109.1–1 Generally.
3109.1–2 Application.
3109.1–3 Notice.
3109.1–4 Award of lease or compensatory royalty agreement.
3109.1–5 Compensatory royalty agreement or lease.
3109.2 Units of the National Park System.
3109.2–1 Authority to lease. [Reserved]
3109.2–2 Area subject to lease. [Reserved]
3109.3 Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area.

AUTHORITY: 30 U.S.C. 189 and 359; 43 U.S.C. 1732(b), 1733, and 1740; and 40 Opinion of the Attorney General 41.

SOURCE: 48 FR 33662, July 22, 1983, unless otherwise noted.

Subpart 3100—Onshore Oil and Gas Leasing: General

§ 3100.0–3 Authority.

(a) *Public domain.* (1) Oil and gas in public domain lands and lands returned to the public domain under section 2370 of this title are subject to lease under the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), by acts, including, but not limited to, section 1009 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3148).

(2) *Exceptions.* (i) Units of the National Park System, including lands withdrawn by section 206 of the Alaska National Interest Lands Conservation Act, except as provided in paragraph (g)(4) of this section;

(ii) Indian reservations;

(iii) Incorporated cities, towns and villages;

(iv) Naval petroleum and oil shale reserves and the National Petroleum Reserve—Alaska.

(v) Lands north of 68 degrees north latitude and east of the western boundary of the National Petroleum Reserve—Alaska;

(vi) Arctic National Wildlife Refuge in Alaska.

(vii) Lands recommended for wilderness allocation by the surface managing agency:

(viii) Lands within Bureau of Land Management wilderness study areas;

(ix) 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;

(x) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96–119), unless such 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; and

(xi) 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, unless otherwise provided by law.

(b) *Acquired lands.* (1) Oil and gas in acquired lands are subject to lease under the Mineral Leasing Act for Acquired Lands of August 7, 1947, as amended (30 U.S.C. 351–359).

(2) *Exceptions.* (i) Units of the National Park System, except as provided in paragraph (g)(4) of this section;

(ii) Incorporated cities, towns and villages;

(iii) Naval petroleum and oil shale reserves and the National Petroleum Reserve—Alaska;

(iv) Tidelands or submerged coastal lands within the continental shelf adjacent or littoral to lands within the jurisdiction of the United States;

(v) 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;

(vi) Lands reported as excess under the Federal Property and Administrative Services Act of 1949;

(vii) Lands acquired by the United States by foreclosure or otherwise for resale.

(viii) Lands recommended for wilderness allocation by the surface managing agency;

(ix) Lands within Bureau of Land Management wilderness study areas;

(x) 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;

(xi) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96–119), unless such 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; and

(xii) 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, unless otherwise provided by law.

(c) National Petroleum Reserve—Alaska is subject to lease under the Department of the Interior Appropriations Act, Fiscal Year 1981 (42 U.S.C. 6508).

(d) Where oil or gas is being drained from lands otherwise unavailable for leasing, there is implied authority in the agency having jurisdiction of those lands to grant authority to the Bureau of Land Management to lease such lands (see 43 U.S.C. 1457; also Attorney General's Opinion of April 2, 1941 (Vol. 40 Op. Atty. Gen. 41)).

(e) Where lands previously withdrawn or reserved from the public domain are no longer needed by the agency for which the lands were withdrawn or reserved and such lands are retained by the General Services Administration, or where acquired lands are declared as excess to or surplus by the General Services Administration, authority to lease such lands may be transferred to the Department in accordance with the

Federal Property and Administrative Services Act of 1949 and the Mineral Leasing Act for Acquired Lands, as amended.

(f) The Act of May 21, 1930 (30 U.S.C. 301–306), authorizes the leasing of oil and gas deposits under certain rights-of-way to the owner of the right-of-way or any assignee.

(g)(1)The Act of May 9, 1942 (56 Stat. 273), as amended by the Act of October 25, 1949 (63 Stat. 886), authorizes leasing on certain lands in Nevada.

(2) The Act of March 3, 1933 (47 Stat. 1487), as amended by the Act of June 5, 1936 (49 Stat. 1482) and the Act of June 29, 1936 (49 Stat. 2026), authorizes leasing on certain lands patented to the State of California.

(3) The Act of June 30, 1950 (16 U.S.C. 508(b)) authorizes leasing on certain National Forest Service Lands in Minnesota.

(4) *Units of the National Park System.* The Secretary is authorized to permit mineral leasing in the following units of the National Park System if he/she finds that such disposition 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, pursuant to the following authorities:

(i) *Lake Mead National Recreation Area*—The Act of October 8, 1964 (16 U.S.C. 460n *et seq.*).

(ii) *Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area*—The Act of November 8, 1965 (79 Stat. 1295; 16 U.S.C. 460q *et seq.*).

(iii) *Ross Lake and Lake Chelan National Recreation Areas*—The Act of October 2, 1968 (82 Stat. 926; 16 U.S.C. 90 *et seq.*).

(iv) *Glen Canyon National Recreation Area*—The Act of October 27, 1972 (86 Stat. 1311; 16 U.S.C. 460dd *et seq.*).

(5) *Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area.* Section 6 of the Act of November 8, 1965 (Pub. L. 89–336; 79 Stat. 1295), authorizes the Secretary of the Interior to permit the removal of leasable minerals from lands (or interest in lands) within the recreation area under the jurisdiction of the Secretary of Agriculture in accordance with the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 *et seq.*), or the Acquired Lands Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351–359), if he finds that such disposition would not have significant adverse effects on the purpose of the Central Valley project or the administration of the recreation area.

[48 FR 33662, July 22, 1983, as amended at 49 FR 2113, Jan. 18, 1984; 53 FR 17351, 17352, May 16, 1988; 53 FR 22835, June 17, 1988; 53 FR 31958, Aug. 22, 1988]

§ 3100.0–5 Definitions.

As used in this part, the term:

(a) *Operator* means any person or entity, including, but not limited to, the lessee or operating rights owner, who has stated in writing to the authorized officer that it is responsible under the terms and conditions of the lease for the operations conducted on the leased lands or a portion thereof.

(b) *Unit operator* means the person authorized under the agreement approved by the Department of the Interior to conduct operations within the unit.

(c) *Record title* means a lessee's interest in a lease which includes the obligation to pay rent, and the rights to assign and relinquish the lease. Overriding royalty and operating rights are severable from record title interests.

(d) *Operating right* (working interest) means the interest created out of a lease authorizing the holder of that right to enter upon the leased lands to conduct drilling and related operations, including production of oil or gas from such lands in accordance with the terms of the lease.

(e) *Transfer* means any conveyance of an interest in a lease by assignment, sublease or otherwise. This definition includes the terms: *Assignment* which means a transfer of all or a portion of the lessee's record title interest in a lease; and *sublease* which means a transfer of a non-record title interest in a lease, i.e., a transfer of operating rights is normally a sublease and a sublease also is a subsidiary arrangement between the lessee (sublessor) and the sublessee, but a sublease does not include a transfer of a purely financial interest, such as overriding royalty interest or payment out of production,

nor does it affect the relationship imposed by a lease between the lessee(s) and the United States.

(f) *National Wildlife Refuge System Lands* means lands and water, or interests therein, administered by the Secretary as wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife management areas or waterfowl production areas.

(g) *Actual drilling operations* includes not only the physical drilling of a well, but the testing, completing or equipping of such well for production.

(h)(1) *Primary term* of lease subject to section 4(d) of the Act prior to the revision of 1960 (30 U.S.C. 226–1(d)) means all periods of the life of the lease prior to its extension by reason of production of oil and gas in paying quantities; and

(2) *Primary term* of all other leases means the initial term of the lease. For competitive leases, except those within the National Petroleum Reserve—Alaska, this means 5 years and for noncompetitive leases this means 10 years.

(i) *Lessee* means a person or entity holding record title in a lease issued by the United States.

(j) *Operating rights owner* means a person or entity holding operating rights in a lease issued by the United States. A lessee also may be an operating rights owner if the operating rights in a lease or portion thereof have not been severed from record title.

(k) *Bid* means an amount of remittance offered as partial compensation for a lease equal to or in excess of the national minimum acceptable bonus bid set by statute or by the Secretary, submitted by a person or entity for a lease parcel in a competitive lease sale.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17352, May 16, 1988; 53 FR 22836, June 17, 1988]

§ 3100.0–9 Information collection.

(a)(1) The collections of information contained in § 3103.4–1(b) have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and are among the collections assigned clearance number 1004–0145. The information will be used to determine whether an oil and gas operator or owner may obtain a reduction in the royalty rate. Response is required to obtain a benefit in accordance with 30 U.S.C. 181, *et seq.*, and 30 U.S.C. 351–359.

(2) Public reporting burden for the information collections assigned clearance number 1004–0145 is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer (783), Bureau of Land Management, Washington, DC 20240, and the Office of Management and Budget, Paperwork Reduction Project, 1004–0145, Washington, DC 20503.

(b)(1) The collections of information contained in § 3103.4–1(c) and (d) have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1010–0090. The information will be used to determine whether an oil and gas lessee may obtain a reduction in the royalty rate. Response is required to obtain a benefit in accordance with 30 U.S.C. 181, *et seq.*, and 30 U.S.C. 351–359.

(2) Public reporting burden for this information is estimated to average ½ hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer, Minerals Management Service (Mail Stop 2300), 381 Elden Street, Herndon, VA 22070–4817, and the Office of Management and Budget, Paperwork Reduction Project, 1010–0090, Washington, DC 20503.

[57 FR 35973, Aug. 11, 1992]

§ 3100.1 Helium.

The ownership of and the right to extract helium from all gas produced from lands leased or otherwise disposed

of under the Act have been reserved to the United States.

§ 3100.2 Drainage.

§ 3100.2–1 Compensation for drainage.

Upon a determination by the authorized officer that lands owned by the United States are being drained of oil or gas by wells drilled on adjacent lands, the authorized officer may execute agreements with the owners of adjacent lands whereby the United States and its lessees shall be compensated for such drainage. Such agreements shall be made with the consent of any lessee affected by an agreement. Such lands may also be offered for lease in accordance with part 3120 of this title.

§ 3100.2–2 Drilling and production or payment of compensatory royalty.

Where lands in any leases are being drained of their oil or gas content by wells either on a Federal lease issued at a lower rate of royalty or on non-Federal lands, the lessee shall both drill and produce all wells necessary to protect the leased lands from drainage. In lieu of drilling necessary wells, the lessee may, with the consent of the authorized officer, pay compensatory royalty in the amount determined in accordance with § 3162.2(a) of this title.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17352, May 16, 1988]

§ 3100.3 Options.

§ 3100.3–1 Enforceability.

(a) No option to acquire any interest in a lease shall be enforceable if entered into for a period of more than 3 years (including any renewal period that may be provided for in the option) without the approval of the Secretary.

(b) No option or renewal thereof shall be enforceable until a signed copy or notice of option has been filed in the proper BLM office. Each such signed copy or notice shall include:

(1) The names and addresses of the parties thereto;

(2) The serial number of the lease to which the option is applicable;

(3) A statement of the number of acres covered by the option and of the interests and obligations of the parties to the option, including the date and expiration date of the option; and

(4) The interest to be conveyed and retained in exercise of the option. Such notice shall be signed by all parties to the option or their duly authorized agents. The signed copy or notice of option required by this paragraph shall contain or be accompanied by a signed statement by the holder of the option that he/she is the sole party in interest in the option; if not, he/she shall set forth the names and provide a description of the interest therein of the other interested parties, and provide a description of the agreement between them, if oral, and a copy of such agreement, if written.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17352, May 16, 1988. Redesignated at 53 FR 22836, June 17, 1988]

§ 3100.3–2 Effect of option on acreage.

The acreage to which the option is applicable shall be charged both to the grantor of the option and the option holder. The acreage covered by an unexercised option remains charged during its term until notice of its relinquishment or surrender has been filed in the proper BLM office.

[48 FR 33662, July 22, 1983. Redesignated at 53 FR 22836, June 17, 1988]

§ 3100.3–3 Option statements.

Each option holder shall file in the proper BLM office within 90 days after June 30 and December 31 of each year a statement showing as of the prior June 30 and December 31, respectively:

(a) Any changes to the statements submitted under § 3100.3–1(b) of this title, and

(b) The number of acres covered by each option and the total acreage of all options held in each State.

[53 FR 17352, May 16, 1988. Redesignated and amended at 53 FR 22836, June 17, 1988]

§ 3100.4 Public availability of information.

(a) All data and information concerning Federal and Indian minerals submitted under this part 3100 and parts 3110 through 3190 of this chapter are subject to part 2 of this title, except as provided in paragraph (c) of

this section. Part 2 of this title includes the regulations of the Department of the Interior covering the public disclosure of data and information contained in Department of the Interior records. Certain mineral information not protected from public disclosure under part 2 of this title may be made available for inspection without a Freedom of Information Act (FOIA) (5 U.S.C. 552) request.

(b) When you submit data and information under this part 3100 and parts 3110 through 3190 of this chapter that you believe to be exempt from disclosure to the public, you must clearly mark each page that you believe includes confidential information. BLM will keep all such data and information confidential to the extent allowed by §2.13(c) of this title.

(c) Under the Indian Mineral Development Act of 1982 (IMDA) (25 U.S.C. 2101 *et seq.*), the Department of the Interior will hold as privileged proprietary information of the affected Indian or Indian tribe—

(1) All findings forming the basis of the Secretary's intent to approve or disapprove any Minerals Agreement under IMDA; and

(2) All projections, studies, data, or other information concerning a Minerals Agreement under IMDA, regardless of the date received, related to—

(i) The terms, conditions, or financial return to the Indian parties;

(ii) The extent, nature, value, or disposition of the Indian mineral resources; or

(iii) The production, products, or proceeds thereof.

(d) For information concerning Indian minerals not covered by paragraph (c) of this section—

(1) BLM will withhold such records as may be withheld under an exemption to FOIA when it receives a request for information related to tribal or Indian minerals held in trust or subject to restrictions on alienation;

(2) BLM will notify the Indian mineral owner(s) identified in the records of the Bureau of Indian Affairs (BIA), and BIA, and give them a reasonable period of time to state objections to disclosure, using the standards and procedures of §2.15(d) of this title, before making a decision about the applicability of FOIA exemption 4 to:

(i) Information obtained from a person outside the United States Government; when

(ii) Following consultation with a submitter under §2.15(d) of this title, BLM determines that the submitter does not have an interest in withholding the records that can be protected under FOIA; but

(iii) BLM has reason to believe that disclosure of the information may result in commercial or financial injury to the Indian mineral owner(s), but is uncertain that such is the case.

[63 FR 52952, Oct. 1, 1998]

Subpart 3101—Issuance of Leases

§ 3101.1 Lease terms and conditions.

§ 3101.1–1 Lease form.

A lease shall be issued only on the standard form approved by the Director.

[53 FR 17352, May 16, 1988]

§ 3101.1–2 Surface use rights.

A lessee shall have the right to use so much of the leased lands as is necessary to explore for, drill for, mine, extract, remove and dispose of all the leased resource in a leasehold subject to: Stipulations attached to the lease; restrictions deriving from specific, nondiscretionary statutes; and such reasonable measures as may be required by the authorized officer to minimize adverse impacts to other resource values, land uses or users not addressed in the lease stipulations at the time operations are proposed. To the extent consistent with lease rights granted, such reasonable measures may include, but are not limited to, modification to siting or design of facilities, timing of operations, and specification of interim and final reclamation measures. At a minimum, measures shall be deemed consistent with lease rights granted provided that they do not: require relocation of proposed operations by more than 200 meters; require that operations be sited off the leasehold; or

prohibit new surface disturbing operations for a period in excess of 60 days in any lease year.

[53 FR 17352, May 16, 1988]

§ 3101.1–3 Stipulations and information notices.

The authorized officer may require stipulations as conditions of lease issuance. Stipulations shall become part of the lease and shall supersede inconsistent provisions of the standard lease form. Any party submitting a bid under subpart 3120 of this title, or an offer under § 3110.1(b) of this title during the period when use of the parcel number is required pursuant to § 3110.5–1 of this title, shall be deemed to have agreed to stipulations applicable to the specific parcel as indicated in the List of Lands Available for Competitive Nominations or the Notice of Competitive Lease Sale available from the proper BLM office. A party filing a noncompetitive offer in accordance with § 3110.1(a) of this title shall be deemed to have agreed to stipulations applicable to the specific parcel as indicated in the List of Lands Available for Competitive Nominations or the Notice of Competitive Lease Sale, unless the offer is withdrawn in accordance with § 3110.6 of this title. An information notice has no legal consequences, except to give notice of existing requirements, and may be attached to a lease by the authorized officer at the time of lease issuance to convey certain operational, procedural or administrative requirements relative to lease management within the terms and conditions of the standard lease form. Information notices shall not be a basis for denial of lease operations.

[53 FR 17352, May 16, 1988, as amended at 53 FR 22836, June 17, 1988]

§ 3101.1–4 Modification or waiver of lease terms and stipulations.

A stipulation included in an oil and gas lease shall be subject to modification or waiver only if the authorized officer determines that the factors leading to its inclusion in the lease have changed sufficiently to make the protection provided by the stipulation no longer justified or if proposed operations would not cause unacceptable impacts. If the authorized officer has determined, prior to lease issuance, that a stipulation involves an issue of major concern to the public, modification or waiver of the stipulation shall be subject to public review for at least a 30-day period. In such cases, the stipulation shall indicate that public review is required before modification or waiver. If subsequent to lease issuance the authorized officer determines that a modification or waiver of a lease term or stipulation is substantial, the modification or waiver shall be subject to public review for at least a 30-day period.

[53 FR 22836, June 17, 1988; 53 FR 31958, Aug. 22, 1988]

§ 3101.2 Acreage limitations.

§ 3101.2–1 Public domain lands.

(a) No person or entity shall take, hold, own or control more than 246,080 acres of Federal oil and gas leases in any one State at any one time. No more than 200,000 acres of such acres may be held under option.

(b) In Alaska, the acreage that can be taken, held, owned or controlled is limited to 300,000 acres in the northern leasing district and 300,000 acres in the southern leasing district, of which no more than 200,000 acres may be held under option in each of the 2 leasing districts. The boundary between the 2 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.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17352, May 16, 1988]

§ 3101.2–2 Acquired lands.

An acreage limitation separate from, but equal to the acreage limitation for public domain lands described in

§ 3101.2–1 of this title, applies to acquired lands. Where the United States owns only a fractional interest in the mineral resources of the lands involved in a lease, only that part owned by the United States shall be charged as acreage holdings. The acreage embraced in a future interest lease shall not be charged as acreage holdings until the lease for the future interest becomes effective.

§ 3101.2–3 Excepted acreage.

Leases committed to any unit or cooperative plan approved or prescribed by the Secretary and leases subject to an operating, drilling or development contract approved by the Secretary, other than communitization agreements, shall not be included in computing accountable acreage. Acreage subject to offers to lease, overriding royalties and payments out of production shall not be included in computing accountable acreage.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17352, May 16, 1988]

§ 3101.2–4 Excess acreage.

(a) Where, as the result of the termination or contraction of a unit or cooperative plan, the elimination of a lease from an operating, drilling or development contract a party holds or controls excess accountable acreage, said party shall have 90 days from that date to reduce the holdings to the prescribed limitation and to file proof of the reduction in the proper BLM office. Where as a result of a merger or the purchase of the controlling interest in a corporation, acreage in excess of the amount permitted is acquired, the party holding the excess acreage shall have 180 days from the date of the merger or purchase to divest the excess acreage. If additional time is required to complete the divestiture of the excess acreage, a petition requesting additional time, along with a full justification for the additional time, may be filed with the authorized officer prior to the termination of the 180-day period provided herein.

(b) If any person or entity is found to hold accountable acreage in violation of the provisions of these regulations, lease(s) or interests therein shall be subject to cancellation or forfeiture in their entirety, until sufficient acreage has been eliminated to comply with the acreage limitation. Excess acreage or interest shall be cancelled in the inverse order of acquisition.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17353, May 16, 1988]

§ 3101.2–5 Computation.

The accountable acreage of a party owning an undivided interest in a lease shall be the party's proportionate part of the total lease acreage. The accountable acreage of a party who is the beneficial owner of more than 10 percent of the stock of a corporation which holds Federal oil and gas leases shall be the party's proportionate part of the corporation's accountable acreage. Parties to a contract for development of leased lands and co-parties, except those operating, drilling or development contracts subject to § 3101.2–3 of this title, shall be charged with their proportionate interests in the lease. No holding of acreage in common by the same persons in excess of the maximum acreage specified in the laws for any one party shall be permitted.

[48 FR 33662, July 22, 1983, as amended at 49 FR 2113, Jan. 18, 1984; 53 FR 17353, May 16, 1988]

§ 3101.2–6 Showing required.

At any time the authorized officer may require any lessee or operator to file with the Bureau of Land Management a statement showing as of specified date the serial number and the date of each lease in which he/she has any interest, in the particular State, setting forth the acreage covered thereby.

§ 3101.3 Leases within unit areas.

§ 3101.3–1 Joinder evidence required.

Before issuance of a lease for lands within an approved unit, the lease offeror shall file evidence with the proper BLM office of having joined in the unit agreement and unit operating agreement or a statement giving satisfactory reasons for the failure to enter into such agreement. If such statement is acceptable to the authorized officer the operator shall be permitted to operate independently but shall be required to conform to the terms and

provisions of the unit agreement with respect to such operations.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17353, May 16, 1988]

§ 3101.3–2 Separate leases to issue.

A lease offer for lands partly within and partly outside the boundary of a unit shall result in separate leases, one for the lands within the unit, and one for the lands outside the unit.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17353, May 16, 1988]

§ 3101.4 Lands covered by application to close lands to mineral leasing.

Offers filed on lands within a pending application to close lands to mineral leasing shall be suspended until the segregative effect of the application is final.

§ 3101.5 National Wildlife Refuge System lands.

§ 3101.5–1 Wildlife refuge lands.

(a) Wildlife refuge lands are those lands embraced in a withdrawal of public domain and acquired lands of the United States for the protection of all species of wildlife within a particular area. Sole and complete jurisdiction over such lands for wildlife conservation purposes is vested in the Fish and Wildlife Service even though such lands may be subject to prior rights for other public purposes or, by the terms of the withdrawal order, may be subject to mineral leasing.

(b) No offers for oil and gas leases covering wildlife refuge lands shall be accepted and no leases covering such lands shall be issued except as provided in §3100.2 of this title. There shall be no drilling or prospecting under any lease heretofore or hereafter issued on lands within a wildlife refuge except with the consent and approval of the Secretary with the concurrence of the Fish and Wildlife Service as to the time, place and nature of such operations in order to give complete protection to wildlife populations and wildlife habitat on the areas leased, and all such operations shall be conducted in accordance with the stipulations of the Bureau on a form approved by the Director.

§ 3101.5–2 Coordination lands.

(a) Coordination lands are those lands withdrawn or acquired by the United States and made available to the States by 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 by 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.

(b) Representatives of the Bureau and the Fish and Wildlife Service shall, in cooperation with the authorized members of the various State game commissions, confer for the purpose of determining by agreement those coordination lands which shall not be subject to oil and gas leasing. Coordination lands not closed to oil and gas leasing shall be subject to leasing on the imposition of such stipulations as are agreed upon by the State Game Commission, the Fish and Wildlife Service and the Bureau.

§ 3101.5–3 Alaska wildlife areas.

No lands within a refuge in Alaska open to leasing shall be available until the Fish and Wildlife Service has first completed compatability determinations.

§ 3101.5–4 Stipulations.

Leases shall be issued subject to stipulations prescribed by the Fish and Wildlife Service as to the time, place, nature and condition of such operations in order to minimize impacts to fish and wildlife populations and habitat and other refuge resources on the areas leased. The specific conduct of lease activities on any refuge lands shall be subject to site-specific stipulations prescribed by the Fish and Wildlife Service.

§ 3101.6 Recreation and public purposes lands.

Under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*), all lands within Recreation and Public Purposes leases and patents are subject to lease under the provisions of this part, subject to such conditions as the Secretary deems appropriate.

§ 3101.7 Federal lands administered by an agency outside of the Department of the Interior.

§ 3101.7–1 General requirements.

(a) Acquired lands shall be leased only with the consent of the surface managing agency, which upon receipt of a description of the lands from the authorized officer, shall report to the authorized officer that it consents to leasing with stipulations, if any, or withholds consent or objects to leasing.

(b) Public domain lands shall be leased only after the Bureau has consulted with the surface managing agency and has provided it with a description of the lands, and the surface managing agency has reported its recommendation to lease with stipulations, if any, or not to lease to the authorized officer. If consent or lack of objection of the surface managing agency is required by statute to lease public domain lands, the procedure in paragraph (a) of this section shall apply.

(c) National Forest System lands whether acquired or reserved from the public domain shall not be leased over the objection of the Forest Service. The provisions of paragraph (a) of this section shall apply to such National Forest System lands.

[53 FR 22836, June 17, 1988]

§ 3101.7–2 Action by the Bureau of Land Management.

(a) Where the surface managing agency has consented to leasing with required stipulations, and the Secretary decides to issue a lease, the authorized officer shall incorporate the stipulations into any lease which it may issue. The authorized officer may add additional stipulations.

(b) The authorized officer shall not issue a lease and shall reject any lease offer on lands to which the surface managing agency objects or withholds consent required by statute. In all other instances, the Secretary has the final authority and discretion to decide to issue a lease.

(c) The authorized officer shall review all recommendations and shall accept all reasonable recommendations of the surface managing agency.

[48 FR 33662, July 22, 1983. Redesignated and amended at 53 FR 22836, June 17, 1988]

§ 3101.7–3 Appeals.

(a) The decision of the authorized officer to reject an offer to lease or to issue a lease with stipulations recommended by the surface managing agency may be appealed to the Interior Board of Land Appeals under part 4 of this title.

(b) Where, as provided by statute, the surface managing agency has required that certain stipulations be included in a lease or has consented, or objected or refused to consent to leasing, any appeal by an affected lease offeror shall be pursuant to the administrative remedies provided by the particular surface managing agency.

[53 FR 22837, June 17, 1988]

§ 3101.8 State's or charitable organization's ownership of surface overlying Federally-owned minerals.

Where the United States has conveyed title to, or otherwise transferred the control of the surface of lands to any State or political subdivision, agency, or instrumentality thereof, or a college or any other educational corporation or association, or a charitable or religious corporation or association, with reservation of the oil and gas rights to the United States, such party shall be given an opportunity to suggest any lease stipulations deemed necessary for the protection of existing surface improvements or uses, to set forth the facts supporting the necessity of the stipulations and also to file any objections it may have to the issuance of a lease. Where a party controlling the surface opposes the issuance of a lease or wishes to place such restrictive stipulations upon the lease that it could not be operated upon or become part of a drilling unit and hence is

without mineral value, the facts submitted in support of the opposition or request for restrictive stipulations shall be given consideration and each case decided on its merits. The opposition to lease or necessity for restrictive stipulations expressed by the party controlling the surface affords no legal basis or authority to refuse to issue the lease or to issue the lease with the requested restrictive stipulations for the reserved minerals in the lands; in such case, the final determination whether to issue and with what stipulations, or not to issue the lease depends upon whether or not the interests of the United States would best be served by the issuance of the lease.

[48 FR 33662, July 22, 1983, as amended at 49 FR 2113, Jan. 18, 1984; 53 FR 22837, June 17, 1988]

Subpart 3102—Qualifications of Lessees

§ 3102.1 Who may hold leases.

Leases or interests therein may be acquired and held only by citizens of the United States; associations (including partnerships and trusts) of such citizens; corporations organized under the laws of the United States or of any State or Territory thereof; and municipalities.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17353, May 16, 1988]

§ 3102.2 Aliens.

Leases or interests therein may be acquired and held by aliens only through stock ownership, holding or control in a present or potential lessee that is incorporated under the laws of the United States or of any State or territory thereof, and only if the laws, customs or regulations of their country do not deny similar or like privileges to citizens or corporations of the United States. If it is determined that a country has denied similar or like privileges to citizens or corporations of the United States, it would be placed on a list available from any Bureau of Land Management State office.

[53 FR 17353, May 16, 1988]

§ 3102.3 Minors.

Leases shall not be acquired or held by one considered a minor under the laws of the State in which the lands are located, but leases may be acquired and held by legal guardians or trustees of minors in their behalf. Such legal guardians or trustees shall be citizens of the United States or otherwise meet the provisions of § 3102.1 of this title.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17353, May 16, 1988]

§ 3102.4 Signature.

(a) The original of an offer or bid shall be signed in ink and dated by the present or potential lessee or by anyone authorized to sign on behalf of the present or potential lessee.

(b) Three copies of a transfer of record title or of operating rights (sublease), as required by section 30a of the act, shall be originally signed and dated by the transferor or anyone authorized to sign on behalf of the transferor. However, a transferee, or anyone authorized to sign on his or her behalf, shall be required to sign and date only 1 original request for approval of a transfer.

(c) Documents signed by any party other than the present or potential lessee shall be rendered in a manner to reveal the name of the present or potential lessee, the name of the signatory and their relationship. A signatory who is a member of the organization that constitutes the present or potential lessee (e.g., officer of a corporation, partner of a partnership, etc.) may be requested by the authorized officer to clarify his/her relationship, when the relationship is not shown on the documents filed.

(d) Submission of a qualification number does not meet the requirements of paragraph (c) of this section.

[53 FR 17353, May 16, 1988]

§ 3102.5 Compliance, certification of compliance and evidence.

§ 3102.5–1 Compliance.

In order to actually or potentially own, hold, or control an interest in a lease or prospective lease, all parties,

including corporations, and all members of associations, including partnerships of all types, shall, without exception, be qualified and in compliance with the act. Compliance means that the lessee, potential lessee, and all such parties (as defined in § 3000.0–5(k)) are:

(a) Citizens of the United States (see § 3102.1) or alien stockholders in a corporation organized under State or Federal law (see § 3102.2);

(b) In compliance with the Federal acreage limitations (see § 3101.2);

(c) Not minors (see § 3102.3);

(d) Except for an assignment or transfer under subpart 3106 of this title, in compliance with section 2(a)(2)(A) of the Act, in which case the signature on an offer or lease constitutes evidence of compliance. A lease issued to any entity in violation of this paragraph (d) shall be subject to the cancellation provisions of § 3108.3 of this title. The term *entity* is defined at § 3400.0–5(rr) of this title.

(e) Not in violation of the provisions of section 41 of the Act; and

(f) In compliance with section 17(g) of the Act, in which case the signature on an offer, lease, assignment, transfer, constitutes evidence of compliance that the signatory and any subsidiary, affiliate, or person, association, or corporation controlled by or under common control with the signatory, as defined in §3400.0–5(rr) of this title, has not failed or refused to comply with reclamation requirements with respect to all leases and operations thereon in which such person or entity has an interest. Noncompliance with section 17(g) of the Act begins on the effective date of the imposition of a civil penalty by the authorized officer under § 3163.2 of this title, or when the bond is attached by the authorized officer for reclamation purposes, whichever comes first. A lease issued, or an assignment or transfer approved, to any such person or entity in violation of this paragraph (f) shall be subject to the cancellation provisions of § 3108.3 of this title, notwithstanding any administrative or judicial appeals that may be pending with respect to violations or penalties assessed for failure to comply with the prescribed reclamation standards on any lease holdings. Noncompliance shall end upon a determination by the authorized officer that all required reclamation has been completed and that the United States has been fully reimbursed for any costs incurred due to the required reclamation.

(g) In compliance with § 3106.1(b) of this title and section 30A of the Act. The authorized officer may accept the signature on a request for approval of an assignment of less than 640 acres outside of Alaska (2,560 acres within Alaska) as acceptable certification that the assignment would further the development of oil and gas, or the authorized officer may apply the provisions of § 3102.5–3 of this title.

[53 FR 22837, June 17, 1988]

§ 3102.5–2 Certification of compliance.

Any party(s) seeking to obtain an interest in a lease shall certify it is in compliance with the act as set forth in § 3102.5–1 of this title. A party(s) that is a corporation or publicly traded association, including a publicly traded partnership, shall certify that constituent members of the corporation, association or partnership holding or controlling more than 10 percent of the instruments of ownership of the corporation, association or partnership are in compliance with the act. Execution and submission of an offer, competitive bid form, or request for approval of a transfer of record title or of operating rights (sublease), constitutes certification of compliance.

[53 FR 17353, May 16, 1988; 53 FR 22837, June 17, 1988]

§ 3102.5–3 Evidence of compliance.

The authorized officer may request at any time further evidence of compliance and qualification from any party holding or seeking to hold an interest in a lease. Failure to comply with the request of the authorized officer shall result in adjudication of the action based on the incomplete submission.

[53 FR 17353, May 16, 1988]

Subpart 3103—Fees, Rentals and Royalty

§ 3103.1 Payments.

§ 3103.1–1 Form of remittance.

All remittances shall be by personal check, cashier's check, certified check, or money order, and shall be made payable to the Department of the Interior—Bureau of Land Management or the Department of the Interior—Minerals Management Service, as appropriate. Payments made to the Bureau may be made by other arrangements such as by electronic funds transfer or credit card when specifically authorized by the Bureau. In the case of payments made to the Service, such payments may also be made by electronic funds transfer.

[53 FR 22837, June 17, 1988]

§ 3103.1–2 Where submitted.

(a)(1) All filing fees for lease applications or offers or for requests for approval of a transfer and all first-year rentals and bonuses for leases issued under Group 3100 of this title shall be paid to the proper BLM office.

(2) All second-year and subsequent rentals, except for leases specified in paragraph (b) of this section, shall be paid to the Service at the following address: Minerals Management Service, Royalty Management Program/BRASS, Box 5640 T.A., Denver, CO 80217.

(b) All rentals and royalties on producing leases, communitized leases in producing well units, unitized leases in producing unit areas, leases on which compensatory royalty is payable and all payments under subsurface storage agreements and easements for directional drilling shall be paid to the Service.

[48 FR 33662, July 22, 1983, as amended at 49 FR 11637, Mar. 27, 1984; 49 FR 39330, Oct. 5, 1984; 53 FR 17353, May 16, 1988]

§ 3103.2 Rentals.

§ 3103.2–1 Rental requirements.

(a) Each competitive bid or competitive nomination submitted in response to a List of Lands Available for Competitive Nominations or Notice of Competitive Lease Sale, and each noncompetitive lease offer shall be accompanied by full payment of the first year's rental based on the total acreage, if known, and, if not known, shall be based on 40 acres for each smallest legal subdivision. An offer deficient in the first year's rental by not more than 10 percent or $200, whichever is less, shall be accepted by the authorized officer provided all other requirements are met. Rental submitted shall be determined based on the total amount remitted less all required fees. The additional rental shall be paid within 30 days from notice of the deficiency under penalty of cancellation of the lease.

(b) If the acreage is incorrectly indicated in a List of Lands Available for Competitive Nominations or a Notice of Competitive Lease Sale, payment of the rental based on the error is curable within 15 calendar days of receipt of notice from the authorized officer of the error.

(c) Rental shall not be prorated for any lands in which the United States owns an undivided fractional interest but shall be payable for the full acreage in such lands.

[48 FR 33662, July 22, 1983, as amended at 49 FR 26920, June 29, 1984, 53 FR 22837, June 17, 1988; 53 FR 31958, Aug. 22, 1988]

§ 3103.2–2 Annual rental payments.

Rentals shall be paid on or before the lease anniversary date. A full year's rental shall be submitted even when less than a full year remains in the lease term, except as provided in § 3103.4–4(d) of this title. Failure to make timely payment shall cause a lease to terminate automatically by operation of law. If the designated Service office is not open on the anniversary date, payment received on the next day the designated Service office is open to the public shall be deemed to be timely made. Payments made to an improper BLM or Service office shall be returned and shall not be forwarded to the designated Service office. Rental shall be payable at the following rates:

(a) The annual rental for all leases issued subsequent to December 22, 1987, shall be $1.50 per acre or fraction thereof for the first 5 years of the lease term

and $2 per acre or fraction for any subsequent year, except as provided in paragraph (b) of this section;

(b) The annual rental for all leases issued on or before December 22, 1987, or issued pursuant to an application or offer to lease filed prior to that date shall be as stated in the lease or in regulations in effect on December 22, 1987, except:

(1) Leases issued under former subpart 3112 of this title on or after February 19, 1982, shall be subject after February 1, 1989, to annual rental in the sixth and subsequent lease years of $2 per acre or fraction thereof;

(2) The rental rate of any lease determined after December 22, 1987, to be in a known geological structure outside of Alaska or in a favorable petroleum geological province within Alaska shall not be increased because of such determination;

(3) Exchange and renewal leases shall be subject to rental of $2 per acre or fraction thereof upon exchange or renewal;

(c) Rental shall not be due on acreage for which royalty or minimum royalty is being paid, except on nonproducing leases when compensatory royalty has been assessed in which case annual rental as established in the lease shall be due in addition to compensatory royalty;

(d) On terminated leases that were originally issued noncompetitively and are reinstated under §3108.2–3 of this title, and on noncompetitive leases that were originally issued under §3108.2–4 of this title, the annual rental shall be $5 per acre or fraction thereof beginning with the termination date upon the filing, on or after the effective date of this regulation, of a petition to reinstate a lease or convert an abandoned, unpatented oil placer mining claim;

(e) On terminated leases that were originally issued competitively, the annual rental shall be $10 per acre or fraction thereof beginning with the termination date upon the filing, on or after the effective date of this regulation, of a petition to reinstate a lease under §3108.2–3 of this title; and

(f) Each succeeding time a specific lease is reinstated under §3108.2–3 of this title, the annual rental on that lease shall increase by an additional $5 per acre or fraction thereof for leases that were originally issued noncompetitively and by an additional $10 per acre or fraction thereof for leases that were originally issued competitively.

[53 FR 17353, May 16, 1988 and 53 FR 22837, June 17, 1988, as amended at 61 FR 4750, Feb. 8, 1996]

§ 3103.3 Royalties.

§ 3103.3–1 Royalty on production.

(a) Royalty on production shall be payable only on the mineral interest owned by the United States. Royalty shall be paid in amount or value of the production removed or sold as follows:

(1) 12½ percent on all leases, including exchange and renewal leases and leases issued in lieu of unpatented oil placer mining claims under §3108.2–4 of this title, issued after December 22, 1987, except:

(i) Leases issued after December 22, 1987, resulting from offers to lease or bids filed on or before December 22, 1987, which are subject to the rates in effect on December 22, 1987; and

(ii) Leases issued on or before December 22, 1987, which are subject to the rates contained in the lease or in regulations at the time of issuance;

(2) 16⅔ percent on noncompetitive leases reinstated under §3108.2–3 of this title plus an additional 2 percentage-point increase added for each succeeding reinstatement;

(3) Not less than 4 percentage points above the rate used for royalty determination contained in the lease that is reinstated or in force at the time of issuance of the lease that is reinstated for competitive leases, plus an additional 2 percentage-point increase added for each succeeding reinstatement.

(b) Leases that qualify under specific provisions of the Act of August 8, 1946 (30 U.S.C. 226c) may apply for a limitation of a 12½ percent royalty rate.

(c) The average production per well per day for oil and gas shall be determined pursuant to 43 CFR 3162.7–4.

(d) Payment of a royalty on the helium component of gas shall not convey the right to extract the helium. Applications for the right to extract

helium shall be made under part 16 of this title.

[53 FR 22838, June 17, 1988]

§ 3103.3–2 Minimum royalties.

(a) A minimum royalty shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased, except that on unitized leases the minimum royalty shall be payable only on the participating acreage, at the following rates:

(1) On leases issued on or after August 8, 1946, and on those issued prior thereto if the lessee files an election under section 15 of the Act of August 8, 1946, a minimum royalty of $1 per acre or fraction thereof in lieu of rental, except as provided in paragraph (a)(2) of this section; and

(2) On leases issued from offers filed after December 22, 1987, and on competitive leases issued from successful bids placed at oral auctions conducted after December 22, 1987, a minimum royalty in lieu of rental of not less than the amount of rental which otherwise would be required for that lease year.

(b) Minimum royalties shall not be prorated for any lands in which the United States owns a fractional interest but shall be payable on the full acreage of the lease.

(c) Minimum royalties and rentals on non-participating acreage shall be payable to the Service.

(d) The minimum royalty provisions of this section shall be applicable to leases reinstated under § 3108.2–3 of this title and leases issued under § 3108.2–4 of this title.

[48 FR 33662, July 22, 1983, as amended at 49 FR 11637, Mar. 27, 1984; 49 FR 30448, July 30, 1984; 53 FR 22838, June 17, 1988]

§ 3103.4 Production incentives.

§ 3103.4–1 Royalty reductions.

(a) In order to encourage the greatest ultimate recovery of oil or gas and in the interest of conservation, the Secretary, upon a determination that it is necessary to promote development or that the leases cannot be successfully operated under the terms provided therein, may waive, suspend or reduce the rental or minimum royalty or reduce the royalty on an entire leasehold, or any portion thereof.

(b)(1) An application for the benefits under paragraph (a) of this section on other than stripper oil well leases or heavy oil properties must be filed by the operator/payor in the proper BLM office. (Royalty reductions specifically for stripper oil well leases or heavy oil properties are discussed in § 3103.4–2 and § 3103.4–3 respectively.) The application must contain the serial number of the leases, the names of the record title holders, operating rights owners (sublessees), and operators for each lease, the description of lands by legal subdivision and a description of the relief requested.

(2) Each application shall show the number, location and status of each well drilled, a tabulated statement for each month covering a period of not less than 6 months prior to the date of filing the application of the aggregate amount of oil or gas subject to royalty, the number of wells counted as producing each month and the average production per well per day.

(3) Every application shall contain a detailed statement of expenses and costs of operating the entire lease, the income from the sale of any production and all facts tending to show whether the wells can be successfully operated upon the fixed royalty or rental. Where the application is for a reduction in royalty, full information shall be furnished as to whether overriding royalties, payments out of production, or similar interests are paid to others than the United States, the amounts so paid and efforts made to reduce them. The applicant shall also file agreements of the holders to a reduction of all other royalties or similar payments from the leasehold to an aggregate not in excess of one-half the royalties due the United States.

(c) Petition may be made for reduction of royalty under § 3108.2–3(f) for leases reinstated under § 3108.2–3 of this title and under § 3108.2–4(i) for noncompetitive leases issued under § 3108.2–4 of this title. Petitions to waive, suspend or reduce rental or minimum royalty for leases reinstated under § 3108.2–3 of this title or for leases issued under

§ 3108.2–4 of this title may be made under this section.

[48 FR 33662, July 22, 1983; 48 FR 39225, Aug. 30, 1983, as amended at 49 FR 30448, July 30, 1984; 53 FR 17354, May 16, 1988; 57 FR 35973, Aug. 11, 1992; 61 FR 4750, Feb. 8, 1996]

§ 3103.4–2 Stripper well royalty reductions.

(a)(1) A stripper well property is any Federal lease or portion thereof segregated for royalty purposes, a communitization agreement, or a participating area of a unit agreement, operated by the same operator, that produces an average of less than 15 barrels of oil per eligible well per well-day for the qualifying period.

(2) An eligible well is an oil well that produces or an injection well that injects and is integral to production for any period of time during the qualifying or subsequent 12-month period.

(3) An oil completion is a completion from which the energy equivalent of the oil produced exceeds the energy equivalent of the gas produced (including the entrained liquid hydrocarbons) or any completion producing oil and less than 60 MCF of gas per day.

(4) An injection well is a well that injects a fluid for secondary or enhanced oil recovery, including reservoir pressure maintenance operations.

(b) Stripper oil well property royalty rate reduction shall be administered according to the following requirements and procedures.

(1) An application for the benefits under paragraph (a) of this section for stripper oil well properties is not required.

(2) Total oil production (regardless of disposition) for the subject period from the eligible wells on the property is totaled and then divided by the total number of well days or portions of days, both producing and injection days, as reported on Form MMS–3160 or MMS–4054 for the eligible wells to determine the property average daily production rate. For those properties in communitization agreements and participating areas of unit agreements that have allocated (not actual) production, the production rate for all eligible well(s) in that specific communitization agreement or participating area is determined and shall be assigned to that allocated property in that communitization agreement or participating area.

(3) Procedures to be used by operator:

(i) Qualifying determination.

(A) Calculate an average daily production rate for the property in order to verify that the property qualifies as a stripper property.

(B) The initial qualifying period for producing properties is the period August 1, 1990, through July 31, 1991. For the properties that were shut-in for 12 consecutive months or longer, the qualifying period is the 12-month production period immediately prior to the shut-in. If the property does not qualify during the initial qualifying period, it may later qualify due to production decline. In those cases, the 12-month qualifying period will be the first consecutive 12-month period beginning after August 31, 1990, during which the property qualifies.

(ii) Qualifying royalty rate calculation. If the property qualifies, use the production rate rounded down to the next whole number (e.g., 6.7 becomes 6) for the qualifying period, and apply the following formula to determine the maximum royalty rate for oil production from the Federal leases for the life of the program.

$$\text{Royalty Rate (\%)} = 0.5 + (0.8 \times \text{the average daily production rate})$$

The formula-calculated royalty rate shall apply to all oil production (except condensate) from the property for the first 12 months. The rate shall be effective the first day of the production month after the Minerals Management Service (MMS) receives notification. If the production rate is 15 barrels or greater, the royalty rate will be the rate in the lease terms.

(iii) Outyears royalty rate calculations.

(A) At the end of each 12-month period, the property average daily production rate shall be determined for that period. A royalty rate shall then be calculated using the formula in paragraph (b)(3)(ii) of this section.

(B) The new calculated royalty rate shall be compared to the qualifying period royalty rate. The lower of the two rates shall be used for the current period provided that the operator notifies

the MMS of the new royalty rate. The new royalty rate shall not become effective until the first day of the month after the MMS receives notification. Notification shall be received on Form MMS–4377 and mailed to Minerals Management Service, P.O. Box 17110, Denver, CO 80217. If the operator does not notify the MMS of the new royalty rate within 60 days after the end of the subject 12-month period, the royalty rate for the property shall revert back to the royalty rate established as the qualifying period royalty rate, effective at the beginning of the current 12-month period.

(C) The royalty rate shall never exceed the calculated qualifying royalty rate for the life of this program.

(iv) Prohibition. For the qualifying period and any subsequent 12-month period, the production rate shall be the result of routine operational and economic factors for that period and for that property and not the result of production manipulation for the purpose of obtaining a lower royalty rate. A production rate that is determined to have resulted from production manipulation will not receive the benefit of a royalty rate reduction.

(v) Certification. The applicable royalty rate shall be used by the operator/payor when submitting the required royalty reports/payments to MSS. By submitting royalty reports/payments using the royalty rate reduction benefits of this program, the operator certifies that the production rate for the qualifying and subsequent 12-month period was not subject to manipulation for the purpose of obtaining the benefit of a royalty rate reduction, and the royalty rate was calculated in accordance with the instructions and procedures in these regulations.

(vi) Agency action. If a royalty rate is improperly calculated, the MMS will calculate the correct rate and inform the operator/payors. Any additional royalties due are payable immediately upon notification. Late payment or underpayment charges will be assessed in accordance with 30 CFR 218.102. The BLM may terminate a royalty rate reduction if it is determined that the production rate was manipulated by the operator for the purpose of receiving a royalty rate reduction. Terminations of royalty rate reductions will be effective on the effective date of the royalty rate reduction resulting from the manipulated production rate (i.e., the termination will be retroactive to the effective date of the improper reduction). The operator/payor shall pay the difference in royalty resulting from the retroactive application of the unmanipulated rate. Late payment or underpayment charges will be assessed in accordance with 30 CFR 218.102.

(4) The royalty rate reduction provision for stripper well properties shall be effective as of October 1, 1992. If the oil price, adjusted for inflation by BLM and MMS, using the implicit price deflator for gross national product with 1991 as the base year, remains on average above $28 per barrel, based on West Texas Intermediate crude average posted price for a period of 6 consecutive months, the benefits of the royalty rate reduction under this section may be terminated upon 6 months' notice, published in the FEDERAL REGISTER.

(5) The Secretary will evaluate the effectiveness of the stripper well royalty reduction program and may at any time after September 10, 1997, terminate any or all royalty reductions granted under this section upon 6 months notice.

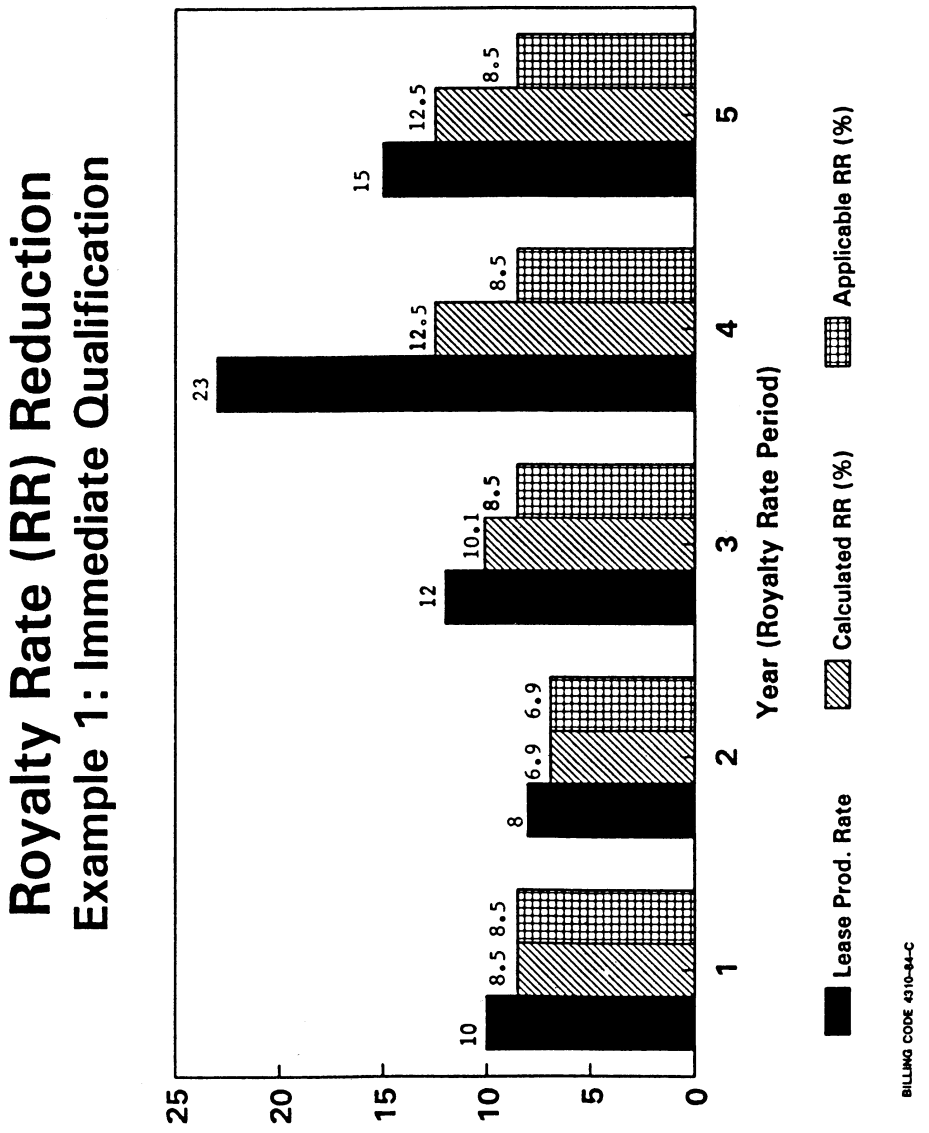
(6) The stripper well property royalty rate reduction benefits shall apply to all oil produced from the property.

(7) The royalty for gas production (including liquids produced in association with gas) for oil completions shall be calculated separately using the lease royalty rate.

(8) If the lease royalty rate is lower than the benefits provided in this stripper oil property royalty rate reduction program, the lease rate prevails.

(9) The minimum royalty provisions of § 3103.3–2 apply.

(10) Examples.



Explanation, Example 1

1. Property production rate per well for qualifying period (August 1, 1990–July 31, 1991) is 10 barrels of oil per day (BOPD).

2. Using the formula, the royalty rate for the first year is calculated to be 8.5 percent. This rate is also the maximum royalty rate for the life of the program.

8.5%=0.5+(0.8×10)

3. Production rate for the first year is 8 BOPD.

4. Using the formula, the royalty rate is calculated at 6.9 percent. Since 6.9 percent is less than the first year rate of 8.5 percent, 6.9 percent is the applicable royalty rate for the second year.

6.9%=0.5+(0.8×8)

5. Production rate for the second year is 12 BOPD.

6. Using the formula, the royalty rate is calculated at 10.1 percent. Since the 8.5 percent first year royalty rate is less than 10.1 percent, the applicable royalty rate for third year is 8.5 percent.

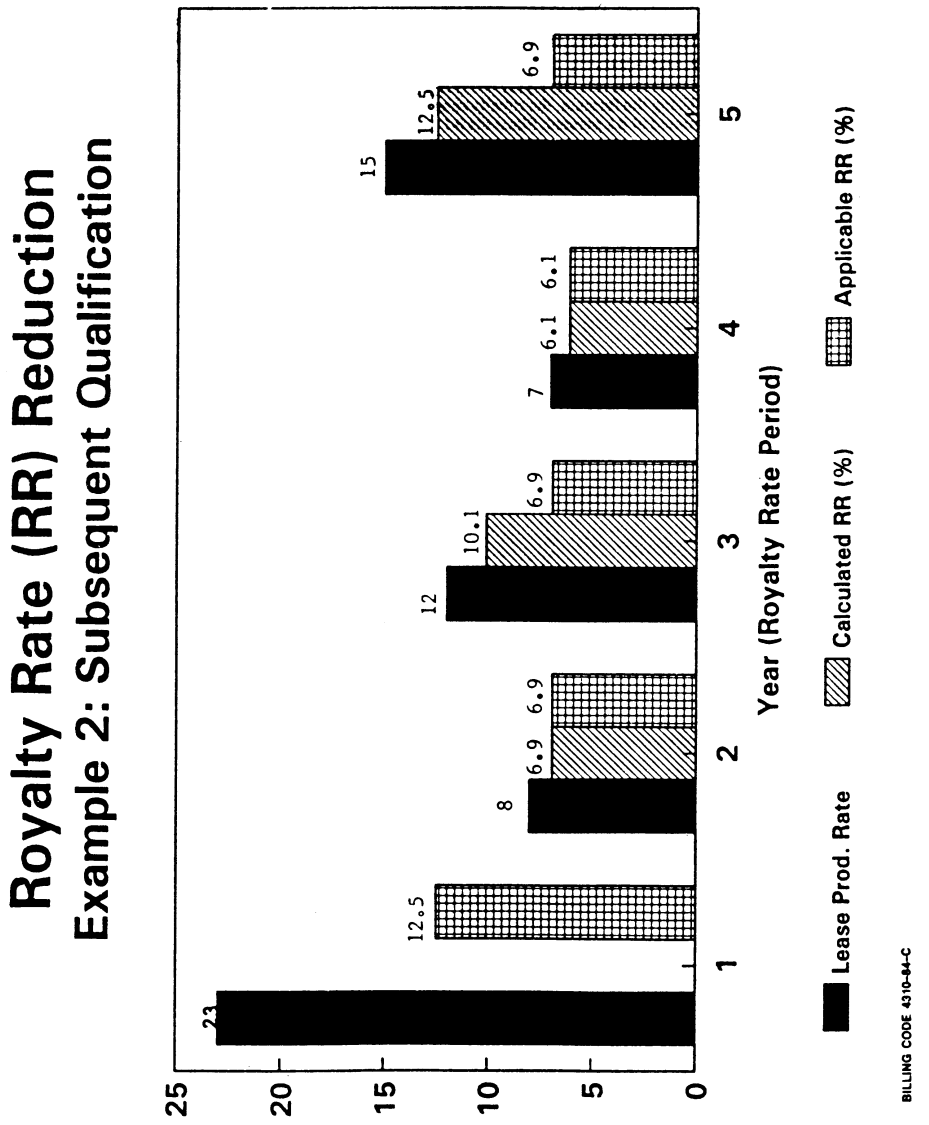
$$10.1\% = 0.5 + (0.8 \times 12)$$

7. Production rate for the third year is 23 BOPD.

8. Since the production rate of 23 BOPD is greater than the 15 BOPD threshold for the program, the calculated royalty rate would be the property royalty rate. However, since the 8.5 percent first year royalty rate is less than the property rate, the royalty rate for the fourth year is 8.5 percent.

9. Production rate for the fourth year is 15 BOPD.

10. Since the production is at the 15 BOPD threshold, the royalty rate would be the property royalty rate. However, since the 8.5 percent first year royalty rate is less than the lease rate, the royalty rate for the fifth year is 8.5 percent.



Explanation, Example 2

1. Property production rate of 23 BOPD per well (for the August 1, 1990–July 31, 1991, qualifying period prior to the effective date of the program) is greater than the 15 BOPD which qualifies a property for a royalty rate reduction. Therefore, the property is not entitled to a royalty rate reduction for the first year of the program.

2. Property royalty rate for the first year is the rate as stated in the lease.

3. Production rate for the first year is 8 BOPD.

4. Using the formula, the royalty rate is calculated to be 6.9 percent for the second year. This rate is also the maximum royalty rate for the life of the program.

$6.9\%=0.5+(0.8\times8)$

5. Production rate for the second year is 12 BOPD.

6. Using the formula, the royalty rate is calculated at 10.1 percent. Since the 6.9 percent second year royalty rate is less than 10.1 percent, the applicable royalty rate for third year is 6.9 percent.

$$10.1\% = 0.5 + (0.8 \times 12)$$

7. Production rate third year is 7 BOPD.

8. Using the formula, the royalty rate is calculated at 6.1 percent. Since the 6.1 percent third year royalty rate is less than the qualifying (maximum) rate of 6.9 percent, the royalty rate for the fourth year is 6.1 percent.

$$6.1\% = 0.5 + (0.8 \times 7)$$

9. Production rate for the fourth year is 15 BOPD.

10. Since the production is at the 15 BOPD threshold, the royalty rate would be the lease royalty rate. However, since the 6.9 percent second year royalty rate is less than the lease rate, the royalty rate for the fifth year is 6.9 percent.

APPENDIX

U.S. DEPARTMENT OF THE INTERIOR

STRIPPER ROYALTY RATE REDUCTION NOTIFICATION

NOTE: Reduced Royalty Rate is not effective until the month after this notification is received by the Minerals Management Service. See 43 CFR Part 3100 for complete instructions.

OPERATOR NAME: _____ DATE SUBMITTED _____

OPERATOR NUMBER: _____

PERSON TO CONTACT _____ _____ _____ _____

AREA CODE | TELEPHONE NUMBER | EXTEN.

LEASE NUMBER(S)	AGREEMENT NUMBER \1	QUALIFYING OR CURRENT PERIOD \2	QUALIFYING ROYALTY RATE	CURRENT ROYALTY RATE \3	EFFECTIVE DATES

NOTE: THIS NOTIFICATION MUST BE SUBMITTED TO MMS AND ALL PAYORS ON THE LEASES.

\1 Include agreement number for any lease located in an agreement. All leases in the agreement must be listed separately.

\2 Initial qualifying period August 1, 1990, through July 31, 1991, or current period. If the property does not initially qualify, subsequent qualifying period would be the latest 12-month period before the property qualifies (i.e., a 12-month rolling average).

\3 Current period royalty rate must be compared to qualifying period royalty rate and the lower of the two rates will be the royalty rate for the subsequent year, when notification is received by MMS.

FORM MMS-4377 (5/92)

[48 FR 33662, July 22, 1983; 48 FR 39225, Aug. 30, 1983, as amended at 49 FR 30448, July 30, 1984; 53 FR 17354, May 16, 1988; 57 FR 35973, Aug. 11, 1992. Redesignated at 61 FR 4750, Feb. 8, 1996]

§ 3103.4–3 Heavy oil royalty reductions.

(a)(1) A heavy oil well property is any Federal lease or portion thereof segregated for royalty purposes, a communitization area, or a unit participating area, operated by the same operator, that produces crude oil with a weighted average gravity of less than 20 degrees as measured on the American Petroleum Institute (API) scale.

(2) An oil completion is a completion from which the energy equivalent of the oil produced exceeds the energy equivalent of the gas produced (including the entrained liquefiable hydrocarbons) or any completion producing oil and less than 60 MCF of gas per day.

(b) Heavy oil well property royalty rate reductions will be administered according to the following requirements and procedures:

(1) The Bureau of Land Management requires no specific application form for the benefits under paragraph (a) of this section for heavy oil well properties. However, the operator/payor must notify, in writing, the proper BLM office that it is seeking a heavy oil royalty rate reduction. The letter must contain the serial number of the affected leases (or, as appropriate, the communitization agreement number or the unit agreement name); the names of the operators for each lease; the calculated new royalty rate as determined under paragraph (b)(2) of this section; and copies of the Purchaser's Statements (sales receipts) to document the weighted average API gravity for a property.

(2) The operator must determine the weighted average API gravity for a property by averaging (adjusted to rate of production) the API gravities reported on the operator's Purchaser's Statement for the last 3 calendar months preceding the operator's written notice of intent to seek a royalty rate reduction, during each of which at least one sale was held. This is shown in the following 3 illustrations:

(i) If a property has oil sales every month prior to requesting the royalty rate reduction in October of 1996, the operator must submit Purchaser's Statements for July, August, and September of 1996;

(ii) If a property has sales only every 6 months, during the months of March and September, prior to requesting the rate reduction in October of 1996, the operator must submit Purchaser's Statements for the months of September 1995, and March and September 1996; and

(iii) If a property has multiple sales each month, the operator must submit Purchaser's Statements for every sale for the 3 entire calendar months immediately preceding the request for a rate reduction.

(3) The following equation must be used by the operator/payor for calculating the weighted average API gravity for a heavy oil well 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 3 calendar months of sales

V_2=Average Production (bbls) of Well #2 over the last 3 calendar months of sales

V_n=Average Production (bbls) of each additional well (V_3, V_4, etc.) over the last 3 calendar months of sales

G_1=Average Gravity (degrees) of oil produced from Well #1 over the last 3 calendar months of sales

G_2=Average Gravity (degrees) of oil produced from Well #2 over the last 3 calendar months of sales

G_n=Average Gravity (degrees) of each additional well (G_3, G_4, etc.) over the last 3 calendar months of sales

Example: Lease ''A'' has 3 wells producing at the following average rates over 3 sales months with the following associated average gravities: Well #1, 4,000 bbls, 13° API; Well #2, 6000 bbls, 21° API; Well #3, 2,000 bbls, 14° API. Using the equation above—

$$\frac{(4{,}000 \times 13) + (6{,}000 \times 21) + (2{,}000 \times 14)}{(4{,}000 + 6{,}000 + 2{,}000)} = 17.2 \text{ Weighted Average API gravity for property}$$

(4) For those properties subject to a communitization agreement or a unit participating area, the weighted average API oil gravity for the lands dedicated to that specific communitization agreement or unit participating area must be determined in the manner prescribed in paragraph (b)(3) of this section and assigned to all property subject to Federal royalties in the communitization agreement or unit participating area.

(5) The operator/payor must use the following procedures in order to obtain a royalty rate reduction under this section:

(i) *Qualifying royalty rate determination.*

(A) The operator/payor must calculate the weighted average API gravity for the property proposed for the royalty rate reduction in order to verify that the property qualifies as a heavy oil well property.

(B) Properties that have removed or sold oil less than 3 times in their productive life may still qualify for this royalty rate reduction. However, no additional royalty reductions will be granted until the property has a sales history of at least 3 production months (see paragraph (b)(2) of this section).

(ii) *Calculating the qualifying royalty rate.* If the Federal leases or portions thereof (e.g., communitization or unit agreements) qualify as heavy oil property, the operator/payor must use the weighted average API gravity rounded down to the next whole degree (e.g., 11.7 degrees API becomes 11 degrees), and determine the appropriate royalty rate from the following table:

ROYALTY RATE REDUCTION FOR HEAVY OIL

Weighted average API gravity (degrees)	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

(iii) *New royalty rate effective date.* The new royalty rate will be effective on the first day of production 2 months after BLM receives notification by the operator/payor. The rate will apply to all oil production from the property for the next 12 months (plus the 2 calendar month grace period during which the next 12 months' royalty rate is determined in the next year). If the API oil gravity is 20 degrees or greater, the royalty rate will be the rate in the lease terms.

Example: BLM receives notification from an operator on June 8, 1996. There is a two month period before new royalty rate is effective—July and August. New royalty rate is effective September 1, 1996.

(iv) *Royalty rate determinations in subsequent years.*

(A) At the end of each 12-month period, beginning on the first day of the calendar month the royalty rate reduction went into effect, the operator/payor must determine the weighted average API oil gravity for the property for that period. The operator/payor must then determine the royalty rate for the following year using the table in paragraph (b)(5)(ii) of this section.

(B) The operator/payor must notify BLM of its determinations under this paragraph and paragraph (b)(5)(iv)(A) of this section. The new royalty rate (effective for the next 12 month period) will become effective the first day of the third month after the prior 12 month period comes to a close, and will remain effective for 12 calendar months (plus the 2 calendar month grace period during which the next 12 months' royalty rate is determined in the next year). Notification must include copies

of the Purchaser's Statements (sales receipts) and be mailed to the proper BLM office. If the operator does not notify the BLM of the new royalty rate within 60 days after the end of the subject 12-month period, the royalty rate for the heavy oil well property will return to the rate in the lease terms.

Example: On September 30, 1997, at the end of a 12-month royalty reduction period, the operator/payor determines what the weighted average API oil gravity for the property for that period has been. The operator/payor then determines the new royalty rate for the next 12 month using the table in paragraph (b)(5)(ii) of this section. Given that there is a 2-month delay period for the operator/payor to calculate the new royalty rate, the new royalty rate would be effective December 1, 1997 through November 30, 1998 (plus the 2 calendar month grace period during which the next 12 months' royalty rate is determined—December 1, 1998 through January 31, 1999).

(v) *Prohibition.* Any heavy oil property reporting an API average oil gravity determined by BLM to have resulted from any manipulation of normal production or adulteration of oil sold from the property will not receive the benefit of a royalty rate reduction under this paragraph (b).

(vi) *Certification.* The operator/payor must use the applicable royalty rate when submitting the required royalty reports/payments to the Minerals Management Service (MMS). In submitting royalty reports/payments using a royalty rate reduction authorized by this paragraph (b), the operator/payor must certify that the API oil gravity for the initial and subsequent 12-month periods was not subject to manipulation or adulteration and the royalty rate was determined in accordance with the requirements and procedures of this paragraph (b).

(vii) *Agency action.* If an operator/payor incorrectly calculates the royalty rate, the BLM will determine the correct rate and notify the operator/payor in writing. Any additional royalties due are payable to MMS immediately upon receipt of this notice. Late payment or underpayment charges will be assessed in accordance with 30 CFR 218.102. The BLM will terminate a royalty rate reduction for a property if BLM determines that the API oil gravity was manipulated or adulterated by the operator/payor. Terminations of royalty rate reductions for individual properties will be effective on the effective date of the royalty rate reduction resulting from a manipulated or adulterated API oil gravity so that the termination will be retroactive to the effective date of the improper reduction. The operator/payor must pay the difference in royalty resulting from the retroactive application of the non-manipulated rate. The late payment or underpayment charges will assessed in accordance with 30 CFR 218.102.

(6) The BLM may suspend or terminate all royalty reductions granted under this paragraph (b) and terminate the availability of further heavy oil royalty relief under this section—

(i) Upon 6 month's notice in the FEDERAL REGISTER when BLM determines that the average oil price has remained above $24 per barrel over a period of 6 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

(ii) After September 10, 1999, if the Secretary determines the royalty rate reductions authorized by this paragraph (b) have not been effective in reducing the loss of otherwise recoverable reserves. This will be determined by evaluating the expected versus the actual abandonment rate, the number of enhanced recovery projects, and the amount of operator reinvestment in heavy oil production that can be attributed to this rule.

(7) The heavy oil well property royalty rate reduction applies to all Federal oil produced from a heavy oil property.

(8) If the lease royalty rate is lower than the benefits provided in this heavy oil well property royalty rate reduction program, the lease rate prevails.

(9) If the property qualifies for a stripper well property royalty rate reduction, as well as a heavy oil well property reduction, the lower of the two rates applies.

(10) The operator/payor must separately calculate the royalty for gas production (including condensate produced in association with gas) from oil

completions using the lease royalty rate.

(11) The minimum royalty provisions of § 3103.3–2 will continue to apply.

[61 FR 4750, Feb. 8, 1996]

§ 3103.4–4 Suspension of operations and/or production.

(a) A suspension of all operations and production may be directed or consented to by the authorized officer only in the interest of conservation of natural resources. A suspension of operations only or a suspension of production only may be directed or consented to by the authorized officer in cases where the lessee is prevented from operating on the lease or producing from the lease, despite the exercise of due care and diligence, by reason of *force majeure*, that is, by matters beyond the reasonable control of the lessee. Applications for any suspension shall be filed in the proper BLM office. Complete information showing the necessity of such relief shall be furnished.

(b) The term of any lease shall be extended by adding thereto the period of the suspension, and no lease shall be deemed to expire during any suspension.

(c) A suspension shall take effect as of the time specified in the direction or assent of the authorized officer, in accordance with the provisions of § 3165.1 of this title.

(d) Rental and minimum royalty payments shall be suspended during any period of suspension of all operations and production directed or assented to by the authorized officer beginning with the first day of the lease month in which the suspension of all operations and production becomes effective, or if the suspension of all operations and production becomes effective on any date other than the first day of a lease month, beginning with the first day of the lease month following such effective date. Rental and minimum royalty payments shall resume on the first day of the lease month in which the suspension of all operations and production is terminated. Where rentals are creditable against royalties and have been paid in advance, proper credit shall be allowed on the next rental or royalty due under the terms of the lease. Rental and minimum royalty payments shall not be suspended during any period of suspension of operations only or suspension of production only.

(e) Where all operations and production are suspended on a lease on which there is a well capable of producing in paying quantities and the authorized officer approves resumption of operations and production, such resumption shall be regarded as terminating the suspension, including the suspension of rental and minimum royalty payments, as provided in paragraph (d) of this section.

(f) The relief authorized under this section also may be obtained for any Federal lease included within an approved unit or cooperative plan of development and operation. Unit or cooperative plan obligations shall not be suspended by relief obtained under this section but shall be suspended only in accordance with the terms and conditions of the specific unit or cooperative plan.

[53 FR 17354, May 16, 1988. Redesignated at 61 FR 4750, Feb. 8, 1996]

Subpart 3104—Bonds

§ 3104.1 Bond obligations.

(a) Prior to the commencement of surface disturbing activities related to drilling operations, the lessee, operating rights owner (sublessee), or operator shall submit a surety or a personal bond, conditioned upon compliance with all of the terms and conditions of the entire leasehold(s) covered by the bond, as described in this subpart. The bond amounts shall be not less than the minimum amounts described in this subpart in order to ensure compliance with the act, including complete and timely plugging of the well(s), reclamation of the lease area(s), and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease(s) in accordance with, but not limited to, the standards and requirements set forth in §§ 3162.3 and 3162.5 of this title and orders issued by the authorized officer.

(b) Surety bonds shall be issued by qualified surety companies approved by the Department of the Treasury (see

Department of the Treasury Circular No. 570).

(c) Personal bonds shall be accompanied by:

(1) Certificate of deposit issued by a financial institution, the deposits of which are Federally insured, explicitly granting the Secretary full authority to demand immediate payment in case of default in the performance of the terms and conditions of the lease. The certificate shall explicitly indicate on its face that Secretarial approval is required prior to redemption of the certificate of deposit by any party;

(2) Cashier's check;

(3) Certified check;

(4) Negotiable Treasury securities of the United States of a value equal to the amount specified in the bond. Negotiable Treasury securities shall be accompanied by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the terms and conditions of a lease; or

(5) Irrevocable letter of credit issued by a financial institution, the deposits of which are Federally insured, for a specific term, identifying the Secretary as sole payee with full authority to demand immediate payment in the case of default in the performance of the terms and conditions of a lease.

Letters of credit shall be subject to the following conditions:

(i) The letter of credit shall be issued only by a financial institution organized or authorized to do business in the United States;

(ii) The letter of credit shall be irrevocable during its term. A letter of credit used as security for any lease upon which drilling has taken place and final approval of all abandonment has not been given, or as security for a statewide or nationwide lease bond, shall be forfeited and shall be collected by the authorized officer if not replaced by other suitable bond or letter of credit at least 30 days before its expiration date;

(iii) The letter of credit shall be payable to the Bureau of Land Management upon demand, in part or in full, upon receipt from the authorized officer of a notice of attachment stating the basis therefor, e.g., default in compliance with the lease terms and conditions or failure to file a replacement in accordance with paragraph (c)(5)(ii) of this section;

(iv) The initial expiration date of the letter of credit shall be at least 1 year following the date it is filed in the proper BLM office; and

(v) The letter of credit shall contain a provision for automatic renewal for periods of not less than 1 year in the absence of notice to the proper BLM office at least 90 days prior to the originally stated or any extended expiration date.

[53 FR 22838, June 17, 1988]

§ 3104.2 Lease bond.

A lease bond may be posted by a lessee, owner of operating rights (sublessee), or operator in an amount of not less than $10,000 for each lease conditioned upon compliance with all of the terms of the lease. Where 2 or more principals have interests in different formations or portions of the lease, separate bonds may be posted. The operator on the ground shall be covered by a bond in his/her own name as principal, or a bond in the name of the lessee or sublessee, provided that a consent of the surety, or the obligor in the case of a personal bond, to include the operator under the coverage of the bond is furnished to the Bureau office maintaining the bond.

[53 FR 22839, June 17, 1988]

§ 3104.3 Statewide and nationwide bonds.

(a) In lieu of lease bonds, lessees, owners of operating rights (sublessees), or operators may furnish a bond in an amount of not less than $25,000 covering all leases and operations in any one State.

(b) In lieu of lease bonds or statewide bonds, lessees, owners of operating rights (sublessees), or operators may furnish a bond in an amount of not less than $150,000 covering all leases and operations nationwide.

[53 FR 22839, June 17, 1988; 53 FR 31958, Aug. 22, 1988]

§ 3104.4 Unit operator's bond.

In lieu of individual lease, statewide, or nationwide bonds for operations conducted on leases committed to an approved unit agreement, the unit operator may furnish a unit operator bond in the manner set forth in § 3104.1 of this title. The amount of such a bond shall be determined by the authorized officer. The format for such a surety bond is set forth in § 3186.2 of this title. Where a unit operator is covered by a nationwide or statewide bond, coverage for such a unit may be provided by a rider to such bond specifically covering the unit and increasing the bond in such amount as may be determined appropriate by the authorized officer.

[53 FR 22839, June 17, 1988]

§ 3104.5 Increased amount of bonds.

(a) When an operator desiring approval of an Application for Permit to Drill has caused the Bureau to make a demand for payment under a bond or other financial guarantee within the 5-year period prior to submission of the Application for Permit to Drill, due to failure to plug a well or reclaim lands completely in a timely manner, the authorized officer shall require, prior to approval of the Application for Permit to Drill, a bond in an amount equal to the costs as estimated by the authorized officer of plugging the well and reclaiming the disturbed area involved in the proposed operation, or in the minimum amount as prescribed in this subpart, whichever is greater.

(b) The authorized officer may require an increase in the amount of any bond whenever it is determined that the operator poses a risk due to factors, including, but not limited to, a history of previous violations, a notice from the Service that there are uncollected royalties due, or the total cost of plugging existing wells and reclaiming lands exceeds the present bond amount based on the estimates determined by the authorized officer. The increase in bond amount may be to any level specified by the authorized officer, but in no circumstances shall it exceed the total of the estimated costs of plugging and reclamation, the amount of uncollected royalties due to the Service, plus the amount of monies owed to the lessor due to previous violations remaining outstanding.

[53 FR 22839, June 17, 1988]

§ 3104.6 Where filed and number of copies.

All bonds shall be filed in the proper BLM office on a current form approved by the Director. A single copy executed by the principal or, in the case of surety bonds, by both the principal and an acceptable surety is sufficient. A bond filed on a form not currently in use shall be acceptable, unless such form has been declared obsolete by the Director prior to the filing of such bond. For purposes of §§ 3104.2 and 3104.3(a) of this title, bonds or bond riders shall be filed in the Bureau State office having jurisdiction of the lease or operations covered by the bond or rider. Nationwide bonds may be filed in any Bureau State office (See § 1821.2–1).

[53 FR 17354, May 16, 1988]

§ 3104.7 Default.

(a) Where, upon a default, the surety makes a payment to the United States of an obligation incurred under a lease, the face amount of the surety bond or personal bonds and the surety's liability thereunder shall be reduced by the amount of such payment.

(b) After default, where the obligation in default equals or is less than the face amount of the bond(s), the principal shall either post a new bond or restore the existing bond(s) to the amount previously held or a larger amount as determined by the authorized officer. In lieu thereof, the principal may file separate or substitute bonds for each lease covered by the deficient bond(s). Where the obligation incurred exceeds the face amount of the bond(s), the principal shall make full payment to the United States for all obligations incurred that are in excess of the face amount of the bond(s) and shall post a new bond in the amount previously held or such larger amount as determined by the authorized officer. The restoration of a bond or posting of a new bond shall be made within 6 months or less after receipt of notice from the authorized officer. Failure to comply with these requirements may subject all leases covered

by such bond(s) to cancellation under the provisions of § 3108.3 of this title.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17354, May 16, 1988]

§ 3104.8 Termination of period of liability.

The authorized officer shall not give consent to termination of the period of liability of any bond unless an acceptable replacement bond has been filed or until all the terms and conditions of the lease have been met.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17355, May 16, 1988; 53 FR 31867, Aug. 22, 1988]

Subpart 3105—Cooperative Conservation Provisions

§ 3105.1 Cooperative or unit agreement.

The suggested contents of such an agreement and the procedures for obtaining approval are contained in 43 CFR part 3180.

§ 3105.2 Communitization or drilling agreements.

§ 3105.2–1 Where filed.

(a) Requests to communitize separate tracts shall be filed, in triplicate, with the proper BLM office.

(b) Where a duly executed agreement is submitted for final Departmental approval, a minimum of 3 signed counterparts shall be submitted. If State lands are involved, 1 additional counterpart shall be submitted.

§ 3105.2–2 Purpose.

When a lease or a portion thereof cannot be independently developed and operated in conformity with an established well-spacing or well-development program, the authorized officer may approve communitization or drilling agreements for such lands with other lands, whether or not owned by the United States, upon a determination that it is in the public interest. Operations or production under such an agreement shall be deemed to be operations or production as to each lease committed thereto.

§ 3105.2–3 Requirements.

(a) The communitization or drilling agreement shall describe the separate tracts comprising the drilling or spacing unit, shall show the apportionment of the production or royalties to the several parties and the name of the operator, and shall contain adequate provisions for the protection of the interests of the United States. The agreement shall be signed by or on behalf of all necessary parties and shall be filed prior to the expiration of the Federal lease(s) involved in order to confer the benefits of the agreement upon such lease(s).

(b) The agreement shall be effective as to the Federal lease(s) involved only if approved by the authorized officer. Approved communitization agreements are considered effective from the date of the agreement or from the date of the onset of production from the communitized formation, whichever is earlier, except when the spacing unit is subject to a State pooling order after the date of first sale, then the effective date of the agreement may be the effective date of the order.

(c) The public interest requirement for an approved communitization agreement shall be satisfied only if the well dedicated thereto has been completed for production in the communitized formation at the time the agreement is approved or, if not, that the operator thereafter commences and/or diligently continues drilling operations to a depth sufficient to test the communitized formation or establish to the satisfaction of the authorized officer that further drilling of the well would be unwarranted or impracticable. If an application is received for voluntary termination of a communitization agreement during its fixed term or such an agreement automatically expires at the end of its fixed term without the public interest requirement having been satisfied, the approval of that agreement by the authorized officer shall be invalid and no Federal lease shall be eligible for extension under § 3107.4 of this title.

[53 FR 17355, May 16, 1988]

§ 3105.3 Operating, drilling or development contracts.

§ 3105.3–1 Where filed.

A contract submitted for approval under this section shall be filed with the proper BLM office, together with enough copies to permit retention of 5 copies by the Department after approval.

§ 3105.3–2 Purpose.

Approval of operating, drilling or development contracts ordinarily shall be granted only to permit operators or pipeline companies to enter into contracts with a number of lessees sufficient to justify operations on a scale large enough to justify the discovery, development, production or transportation of oil or gas and to finance the same.

§ 3105.3–3 Requirements.

The contract shall be accompanied by a statement showing all the interests held by the contractor in the area or field and the proposed or agreed plan for development and operation of the field. All the contracts held by the same contractor in the area or field shall be submitted for approval at the same time and full disclosure of the projects made.

§ 3105.4 Combination for joint operations or for transportation of oil.

§ 3105.4–1 Where filed.

An application under this section together with sufficient copies to permit retention of 5 copies by the Department after approval shall be filed with the proper BLM office.

[48 FR 33662, July 22, 1983, as amended at 49 FR 2113, Jan. 18, 1984]

§ 3105.4–2 Purpose.

Upon obtaining approval of the authorized officer, lessees may combine their interests in leases for the purpose of constructing and carrying on the business of a refinery or of establishing and constructing as a common carrier a pipeline or lines or railroads to be operated and used by them jointly in the transportation of oil or gas from their wells or from the wells of other lessees.

§ 3105.4–3 Requirements.

The application shall show a reasonable need for the combination and that it will not result in any concentration of control over the production or sale of oil and gas which would be inconsistent with the anti-monopoly provisions of law.

§ 3105.4–4 Rights-of-way.

Rights-of-way for pipelines may be granted as provided in part 2880 of this title.

§ 3105.5 Subsurface storage of oil and gas.

§ 3105.5–1 Where filed.

(a) Applications for subsurface storage shall be filed in the proper BLM office.

(b) Enough copies of the final agreement signed by all the parties in interest shall be submitted to permit the retention of 5 copies by the Department after approval.

§ 3105.5–2 Purpose.

In order to avoid waste and to promote conservation of natural resources, the Secretary, upon application by the interested parties, may authorize the subsurface storage of oil and gas, whether or not produced from lands owned by the United States. Such authorization shall provide for the payment of such storage fee or rental on the stored oil or gas as may be determined adequate in each case, or, in lieu thereof, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced.

§ 3105.5–3 Requirements.

The agreement shall disclose the ownership of the lands involved, the parties in interest, the storage fee, rental or royalty offered to be paid for such storage and all essential information showing the necessity for such project.

§ 3105.5–4 Extension of lease term.

Any lease used for the storage of oil or gas shall be extended for the period of storage under an approved agreement. The obligation to pay annual

lease rent continues during the extended period.

§ 3105.6 Consolidation of leases.

Consolidation of leases may be approved by the authorized officer if it is determined that there is sufficient justification and it is in the public interest. Each application for consolidation of leases shall be considered on its own merits. Leases to different lessees for different terms, rental and royalty rates, and those containing provisions required by law that cannot be reconciled, shall not be consolidated. The effective date of a consolidated lease shall be that of the oldest lease involved in the consolidation.

[53 FR 17355, May 16, 1988]

Subpart 3106—Transfers by Assignment, Sublease or Otherwise

SOURCE: 53 FR 17355, May 16, 1988, unless otherwise noted.

§ 3106.1 Transfers, general.

(a) Leases may be transferred by assignment or sublease as to all or part of the acreage in the lease or as to either a divided or undivided interest therein. An assignment of a separate zone or deposit, or of part of a legal subdivision, shall be disapproved.

(b) An assignment of less than 640 acres outside Alaska or of less than 2,560 acres within Alaska shall be disapproved unless the assignment constitutes the entire lease or is demonstrated to further the development of oil and gas to the satisfaction of the authorized officer. Execution and submission of a request for approval of such an assignment shall certify that the assignment would further the development of oil and gas, subject to the provisions of § 3102.5–3 of this title. The rights of the transferee to a lease or an interest therein shall not be recognized by the Department until the transfer has been approved by the authorized officer. A transfer may be withdrawn in writing, signed by the transferor and the transferee, if the transfer has not been approved by the authorized officer. A request for approval of a transfer of a lease or interest in a lease shall be filed within 90 days from the date of its execution. The 90-day filing period shall begin on the date the transferor signs and dates the transfer. If the transfer is filed after the 90th day, the authorized officer may require verification that the transfer is still in force and effect. A transfer of production payments or overriding royalty or other similar payments, arrangements, or interests shall be filed in the proper BLM office but shall not require approval.

(c) No transfer of an offer to lease or interest in a lease shall be approved prior to the issuance of the lease.

[53 FR 22839, June 17, 1988]

§ 3106.2 Qualifications of transferees.

Transferees shall comply with the provisions of subpart 3102 of this title and post any bond that may be required.

§ 3106.3 Filing fees.

Each transfer of record title or of operating rights (sublease) or each transfer of royalty interest, payment out of production or similar interest for each lease, when filed, shall be accompanied by a nonrefundable filing fee of $25. A transfer not accompanied by the required filing fee shall not be accepted and shall be returned.

§ 3106.4 Forms.

§ 3106.4–1 Transfers of record title and of operating rights (subleases).

Each transfer of record title or of an operating right (sublease) shall be filed with the proper BLM office on a current form approved by the Director or exact reproductions of the front and back of such form. A transfer filed on a form not currently in use shall be acceptable, unless such form has been declared obsolete by the Director prior to the filing of the transfer. A separate form for each transfer, in triplicate, originally executed shall be filed for each lease out of which a transfer is made. Only 1 originally executed copy of a transferee's request for approval for each transfer shall be required, including in those instances where several transfers to a transferee have been submitted at the same time (See also § 3106.4–3). Copies of documents other

than the current form approved by the Director shall not be submitted. However, reference(s) to other documents containing information affecting the terms of the transfer may be made on the submitted form.

§ 3106.4–2 Transfers of other interests, including royalty interests and production payments.

(a) Each transfer of overriding royalty interest, payment out of production or similar interests created or reserved in a lease in conjunction with a transfer of record title or of operating rights (sublease) shall be described for each lease on the current form when filed.

(b) Each transfer of overriding royalty interest, payment out of production or similar interests created or reserved in a lease independently of a transfer of record title or of operating rights (sublease), if not filed on the current form, shall be described and shall include the transferee's executed statement as to his/her qualifications under subpart 3102 of this title. A single executed copy of each such transfer of other interests for each lease shall be filed with the proper BLM office.

§ 3106.4–3 Mass transfers.

(a) A mass transfer may be utilized in lieu of the provisions of §§ 3106.4–1 and 3106.4–2 of this title when a transferor transfers interests of any type in a large number of Federal leases to the same transferee.

(b) Three originally executed copies of the mass transfer shall be filed with each proper BLM office administering any lease affected by the mass transfer. The transfer shall be on a current form approved by the Director or an exact reproduction of both sides thereof, with an exhibit attached to each copy listing the following for each lease:

(1) The serial number;

(2) The type and percent of interest being conveyed; and

(3) A description of the lands affected by the transfer in accordance with § 3106.5 of this title.

(c) One reproduced copy of the form required by paragraph (b) of this section shall be filed with the proper BLM office for each lease involved in the mass transfer. A copy of the exhibit for each lease may be limited to line items pertaining to individual leases as long as that line item includes the information required by paragraph (b) of this section.

(d) A nonrefundable filing fee of $25 for each such interest transferred for each lease, in accordance with the provisions of § 3106.3 of this title, shall accompany a mass transfer.

§ 3106.5 Description of lands.

Each transfer of record title shall describe the lands involved in the same manner as the lands are described in the lease or in the manner required by § 3110.5 of this title, except no land description is required when 100 percent of the entire area encompassed within a lease is conveyed.

[48 FR 33662, July 22, 1983, as amended at 55 FR 12350, Apr. 3, 1990]

§ 3106.6 Bonds.

§ 3106.6–1 Lease bond.

Where a lease bond is maintained by the lessee or operating rights owner (sublessee) in connection with a particular lease, the transferee of record title interest or operating rights in such lease shall furnish, if bond coverage continues to be required, either a proper bond or consent of the surety under the existing bond to become co-principal on such bond if the transferor's bond does not expressly contain such consent. Where bond coverage is provided by an operator, the new operator shall furnish an appropriate replacement bond or provide evidence of consent of the surety under the existing bond to become co-principal on such bond.

§ 3106.6–2 Statewide/nationwide bond.

If the transferee is maintaining a statewide or nationwide bond, a lease bond shall not be required, but the amount of the bond may be increased to an amount determined by the authorized officer in accordance with the provisions of § 3104.5 of this title.

§ 3106.7 Approval of transfer.

§ 3106.7–1 Failure to qualify.

No transfer of record title or of operating rights (sublease) shall be approved if the transferee or any other parties in interest are not qualified to hold the transferred interest(s), or if the bond, should one be required, is insufficient. Transfers are approved for administrative purposes only. Approval does not warrant or certify that either party to a transfer holds legal or equitable title to a lease.

§ 3106.7–2 If I transfer my lease, what is my continuing obligation?

(a) You are responsible for performing all obligations under the lease until the date BLM approves an assignment of your record title interest or transfer of your operating rights.

(b) After BLM approves the assignment or transfer, you will continue to be responsible for lease obligations that accrued before the approval date, whether or not they were identified at the time of the assignment or transfer. This includes paying compensatory royalties for drainage. It also includes responsibility for plugging wells and abandoning facilities you drilled, installed, or used before the effective date of the assignment or transfer.

[66 FR 1892, Jan. 10, 2001]

§ 3106.7–3 Lease account status.

A transfer of record title or of operating rights (sublease) in a producing lease shall not be approved unless the lease account is in good standing.

§ 3106.7–4 Effective date of transfer.

The signature of the authorized officer on the official form shall constitute approval of the transfer of record title or of operating rights (sublease) which shall take effect as of the first day of the lease month following the date of filing in the proper BLM office of all documents and statements required by this subpart and an appropriate bond, if one is required.

§ 3106.7–5 Effect of transfer.

A transfer of record title to 100 percent of a portion of the lease segregates the transferred portion and the retained portion into separate leases. Each resulting lease retains the anniversary date and the terms and conditions of the original lease. A transfer of an undivided record title interest or a transfer of operating rights (sublease) shall not segregate the transferred and retained portions into separate leases.

§ 3106.7–6 If I acquire a lease by an assignment or transfer, what obligations do I agree to assume?

(a) If you acquire record title interest in a Federal lease, you agree to comply with the terms of the original lease during your lease tenure. You assume the responsibility to plug and abandon all wells which are no longer capable of producing, reclaim the lease site, and remedy all environmental problems in existence and that a purchaser exercising reasonable diligence should have known at the time. You must also maintain an adequate bond to ensure performance of these responsibilities.

(b) If you acquire operating rights in a Federal lease, you agree to comply with the terms of the original lease as it applies to the area or horizons in which you acquired rights. You must plug and abandon all unplugged wells, reclaim the lease site, and remedy all environmental problems in existence and that a purchaser exercising reasonable diligence should have known at the time you receive the transfer. You must also maintain an adequate bond to ensure performance of these responsibilities.

[66 FR 1892, Jan. 10, 2001]

§ 3106.8 Other types of transfers.

§ 3106.8–1 Heirs and devisees.

(a) If an offeror, applicant, lessee or transferee dies, his/her rights shall be transferred to the heirs, devisees, executor or administrator of the estate, as appropriate, upon the filing of a statement that all parties are qualified to hold a lease in accordance with subpart 3102 of this title. No filing fee is required. A bond rider or replacement bond may be required for any bond(s) previously furnished by the decedent.

(b) Any ownership or interest otherwise forbidden by the regulations in this group which may be acquired by descent, will, judgement or decree may

be held for a period not to exceed 2 years after its acquisition. Any such forbidden ownership or interest held for a period of more than 2 years after acquisition shall be subject to cancellation.

§ 3106.8–2 Change of name.

A change of name of a lessee shall be reported to the proper BLM office. No filing fee is required. The notice of name change shall be submitted in writing and be accompanied by a list of the serial numbers of the leases affected by the name change. If a bond(s) has been furnished, change of name may be made by surety consent or a rider to the original bond or by a replacement bond.

§ 3106.8–3 Corporate merger.

Where a corporate merger affects leases situated in a State where the transfer of property of the dissolving corporation to the surviving corporation is accomplished by operation of law, no transfer of any affected lease interest is required. A notification of the merger shall be furnished with a list, by serial number, of all lease interests affected. No filing fee is required. A bond rider or replacement bond conditioned to cover the obligations of all affected corporations may be required by the authorized officer as a prerequisite to recognition of the merger.

Subpart 3107—Continuation, Extension or Renewal

§ 3107.1 Extension by drilling.

Any lease on which actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at the end of the primary term or any lease which is part of an approved communitization agreement or cooperative or unit plan of development or operation upon which such drilling takes place, shall be extended for 2 years subject to the rental being timely paid as required by § 3103.2 of this title, and subject to the provisions of § 3105.2–3 and § 3186.1 of this title, if applicable. Actual drilling operations shall be conducted in a manner that anyone seriously looking for oil or gas could be expected to make in that particular area, given the existing knowledge of geologic and other pertinent facts. In drilling a new well on a lease or for the benefit of a lease under the terms of an approved agreement or plan, it shall be taken to a depth sufficient to penetrate at least 1 formation recognized in the area as potentially productive of oil or gas, or where an existing well is reentered, it shall be taken to a depth sufficient to penetrate at least 1 new and deeper formation recognized in the area as potentially productive of oil or gas. The authorized officer may determine that further drilling is unwarranted or impracticable.

[48 FR 33662, July 22, 1983, as amended at 49 FR 2113, Jan. 18, 1984; 53 FR 17357, May 16, 1988; 53 FR 22839, June 17, 1988]

§ 3107.2 Production.

§ 3107.2–1 Continuation by production.

A lease shall be extended so long as oil or gas is being produced in paying quantities.

§ 3107.2–2 Cessation of production.

A lease which is in its extended term because of production in paying quantities shall not terminate upon cessation of production if, within 60 days thereafter, reworking or drilling operations on the leasehold are commenced and are thereafter conducted with reasonable diligence during the period of nonproduction. The 60-day period commences upon receipt of notification from the authorized officer that the lease is not capable of production in paying quantities.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17357, May 16, 1988; 53 FR 22840, June 17, 1988]

§ 3107.2–3 Leases capable of production.

No lease for lands on which there is a well capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same, unless the lessee fails to place the lease in production within a period of not less than 60 days as specified by the authorized officer after receipt of notice by certified mail from the authorized officer to do so. Such production shall

be continued unless and until suspension of production is granted by the authorized officer.

[48 FR 33662, July 22, 1983, as amended at 53 FR 22840, June 17, 1988; 53 FR 31958, Aug. 22, 1988]

§ 3107.3 Extension for terms of cooperative or unit plan.

§ 3107.3–1 Leases committed to plan.

Any lease or portion of a lease, except as described in § 3107.3–3 of this title, committed to a cooperative or unit plan that contains a general provision for allocation of oil or gas shall continue in effect so long as the lease or portion thereof remains subject to the plan; *Provided*, That there is production of oil or gas in paying quantities under the plan prior to the expiration date of such lease.

§ 3107.3–2 Segregation of leases committed in part.

Any lease committed after July 29, 1954, to any cooperative or unit plan, which covers lands within and lands outside the area covered by the plan, shall be segregated, as of the effective date of unitization, into separate leases; one covering the lands committed to the plan, the other lands not committed to the plan. The segregated lease covering the nonunitized portion of the lands shall continue in force and effect for the term of the lease or for 2 years from the date of segregation, whichever is longer. However, for any lease segregated from a unit, if the public interest requirement for the unit is not satisfied, such segregation shall be declared invalid by the authorized officer. Further, the segregation shall be conditioned to state that no operations shall be approved on the segregated portion of the lease past the expiration date of the original lease until the public interest requirement of the unit has been satisfied.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17357, May 16, 1988]

§ 3107.3–3 20-year lease or any renewal thereof.

Any lease issued for a term of 20 years, or any renewal thereof, committed to a cooperative or unit plan approved by the Secretary, or any portion of such lease so committed, shall continue in force so long as committed to the plan, beyond the expiration date of its primary term. This provision does not apply to that portion of any such lease which is not included in the cooperative or unit plan unless the lease was so committed prior to August 8, 1946.

§ 3107.4 Extension by elimination.

Any lease eliminated from any approved or prescribed cooperative or unit plan or from any communitization or drilling agreement authorized by the Act and any lease in effect at the termination of such plan or agreement, unless relinquished, shall continue in effect for the original term of the lease or for 2 years after its elimination from the plan or agreement or after the termination of the plan or agreement, whichever is longer, and for so long thereafter as oil or gas is produced in paying quantities. No lease shall be extended if the public interest requirement for an approved cooperative or unit plan or a communitization agreement has not been satisifed as determined by the authorized officer.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17357, May 16, 1988]

§ 3107.5 Extension of leases segregated by assignment.

§ 3107.5–1 Extension after discovery on other segregated portions.

Any lease segregated by assignment, including the retained portion, shall continue in effect for the primary term of the original lease, or for 2 years after the date of first discovery of oil or gas in paying quantities upon any other segregated portion of the original lease, whichever is the longer period.

§ 3107.5–2 Undeveloped parts of leases in their extended term.

Undeveloped parts of leases retained or assigned out of leases which are in their extended term shall continue in effect for 2 years after the effective date of assignment, provided the parent lease was issued prior to September 2, 1960.

§ 3107.5–3 Undeveloped parts of producing leases.

Undeveloped parts of leases retained or assigned out of leases which are extended by production, actual or suspended, or the payment of compensatory royalty shall continue in effect for 2 years after the effective date of assignment and for so long thereafter as oil or gas is produced in paying quantities.

§ 3107.6 Extension of reinstated leases.

Where a reinstatement of a terminated lease is granted under § 3108.2 of this title and the authorized officer finds that the reinstatement will not afford the lessee a reasonable opportunity to continue operations under the lease, the authorized officer may extend the term of such lease for a period sufficient to give the lessee such an opportunity. Any extension shall be subject to the following conditions:

(a) No extension shall exceed a period equal to the unexpired portion of the lease or any extension thereof remaining at the date of termination.

(b) When the reinstatement occurs after the expiration of the term or extension thereof, the lease may be extended from the date the authorized officer grants the petition, but in no event for more than 2 years from the date the reinstatement is authorized and so long thereafter as oil or gas is produced in paying quantities.

[48 FR 33662, July 22, 1983, as amended at 49 FR 30448, July 30, 1984; 53 FR 17357, May 16, 1988]

§ 3107.7 Exchange leases: 20-year term.

Any lease which issued for a term of 20 years, or any renewal thereof, or which issued in exchange for a 20-year lease prior to August 8, 1946, may be exchanged for a new lease. Such new lease shall be issued for a primary term of 5 years. An application to exchange a lease for a new lease shall be filed, in triplicate, by the lessee at the proper BLM office, shall show full compliance by the applicant with the terms of the lease and applicable regulations, and shall be accompanied by a nonrefundable application fee of $75. Execution of the exchange lease by the applicant is certification of compliance with § 3102.5 of this title.

[48 FR 33662, July 22, 1983, as amended at 53 FR 22840, June 17, 1988]

§ 3107.8 Renewal leases.

§ 3107.8–1 Requirements.

(a) Twenty year leases and renewals thereof may be renewed for successive terms of 10 years. Any application for renewal of a lease shall be made by the lessee, and may be joined in or consented to by the operator. The application shall show whether all monies due the United States have been paid and whether operations under the lease have been conducted in compliance with the applicable regulations.

(b) The applicant or his/her operator shall furnish, in triplicate, with the application for renewal, copies of all agreements not theretofore filed providing for overriding royalties or other payments out of production from the lease which will be in existence as of the date of its expiration.

[48 FR 33662, July 22, 1983, as amended at 53 FR 22840, June 17, 1988]

§ 3107.8–2 Application.

An application to renew shall be filed, in triplicate, in the proper BLM office at least 90 days, but not more than 6 months, prior to the expiration of its term and shall be accompanied by a nonrefundable filing fee of $75.

§ 3107.8–3 Approval.

(a) Copies of the renewal lease, in triplicate, dated the first day of the month following the month in which the original lease terminated, shall be forwarded to the lessee for execution. Upon receipt of the executed lease forms, which constitutes certification of compliance with § 3102.5 of this title, and any required bond, the authorized officer shall execute the lease and deliver 1 copy to the lessee.

(b) If overriding royalties and payments out of production or similar interests in excess of 5 percent of gross production constitute a burden to lease operations that will retard, or impair, or cause premature abandonment, the lease application shall be suspended

until overriding royalties and payments out of production or similar interests are reduced to not more then 5 percent of the value of the production. If the holders of outstanding overriding royalty or other interests payable out of production, the operator and the lessee are unable to enter into a mutually fair and equitable agreement, any of the parties may apply for a hearing at which all interested parties may be heard and written statements presented. Thereupon, a final decision will be rendered by the Department, outlining the conditions acceptable to it as a basis for a fair and reasonable adjustment of the excessive overriding royalties and other payments out of production and an opportunity shall be afforded within a fixed period of time to submit proof that such adjustment has been effected. Upon failure to submit such proof within the time so fixed, the application for renewal shall be denied.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17357, May 16, 1988; 53 FR 22840, June 17, 1988]

§ 3107.9 Other types.

§ 3107.9–1 Payment of compensatory royalty.

The payment of compensatory royalty shall extend the term of any lease for the period during which such compensatory royalty is paid and for a period of 1 year from the discontinuance of such payments.

§ 3107.9–2 Subsurface storage of oil and gas.

See § 3105.5–4 of this title.

Subpart 3108—Relinquishment, Termination, Cancellation

§ 3108.1 As a lessee, may I relinquish my lease?

You may relinquish your lease or any legal subdivision of your lease at any time. You must file a written relinquishment with the BLM State Office with jurisdiction over your lease. All lessees holding record title interests in the lease must sign the relinquishment. A relinquishment takes effect on the date you file it with BLM. However, you and the party that issued the bond will continue to be obligated to:

(a) Make payments of all accrued rentals and royalties, including payments of compensatory royalty due for all drainage that occurred before the relinquishments;

(b) Place all wells to be relinquished in condition for suspension or abandonment as BLM requires; and

(c) Complete reclamation of the leased sites after stopping or abandoning oil and gas operations on the lease, under a plan approved by the appropriate surface management agency.

[66 FR 1892, Jan. 10, 2001]

§ 3108.2 Termination by operation of law and reinstatement.

§ 3108.2–1 Automatic termination.

(a) Except as provided in paragraph (b) of this section, any lease on which there is no well capable of producing oil or gas in paying quantities shall automatically terminate by operation of law (30 U.S.C. 188) if the lessee fails to pay the rental at the designated Service office on or before the anniversary date of such lease. However, if the designated Service office is closed on the anniversary date, a rental payment received on the next day the Service office is open to the public shall be considered as timely made.

(b) If the rental payment due under a lease is paid on or before its anniversary date but the amount of the payment is deficient and the deficiency is nominal as defined in this section, or the amount of payment made was determined in accordance with the rental or acreage figure stated in a bill rendered by the designated Service office, or decision rendered by the authorized officer, and such figure is found to be in error resulting in a deficiency, such lease shall not have automatically terminated unless the lessee fails to pay the deficiency within the period prescribed in the Notice of Deficiency provided for in this section. A deficiency shall be considered nominal if it is not more than $100 or more than 5 percent of the total payment due, whichever is less. The designated Service office shall send a Notice of Deficiency to the lessee. The Notice shall be sent by certified mail, return receipt requested,

and shall allow the lessee 15 days from the date of receipt or until the due date, whichever is later, to submit the full balance due to the designated Service office. If the payment required by the Notice is not paid within the time allowed, the lease shall have terminated by operation of law as of its anniversary date.

[48 FR 33662, July 22, 1983, as amended at 49 FR 11637, Mar. 27, 1984; 49 FR 30448, July 30, 1984; 53 FR 17357, May 16, 1988]

§ 3108.2–2 Reinstatement at existing rental and royalty rates: Class I reinstatements.

(a) Except as hereinafter provided, the authorized officer may reinstate a lease which has terminated for failure to pay on or before the anniversary date the full amount of rental due, provided that:

(1) Such rental was paid or tendered within 20 days after the anniversary date; and

(2) It is shown to the satisfaction of the authorized officer that the failure to timely submit the full amount of the rental due was either justified or not due to a lack of reasonable diligence on the part of the lessee (reasonable diligence shall include a rental payment which is postmarked by the U.S. Postal Service, common carrier, or their equivalent (not including private postal meters) on or before the lease anniversary date or, if the designated Service office is closed on the anniversary date, postmarked on the next day the Service office is open to the public); and

(3) A petition for reinstatement, together with a nonrefundable filing fee of $25 and the required rental, including any back rental which has accrued from the date of the termination of the lease, is filed with the proper BLM office within 60 days after receipt of Notice of Termination of Lease due to late payment of rental. If a terminated lease becomes productive prior to the time the lease is reinstated, all required royalty that has accrued shall be paid to the Service.

(b) The burden of showing that the failure to pay on or before the anniversary date was justified or not due to lack of reasonable diligence shall be on the lessee.

(c) Under no circumstances shall a terminated lease be reinstated if:

(1) A valid oil and gas lease has been issued prior to the filing of a petition for reinstatement affecting any of the lands covered by that terminated lease; or

(2) The oil and gas interests of the United States in the lands have been disposed of or otherwise have become unavailable for leasing.

(d) The authorized officer shall not issue a lease for lands which have been covered by a lease which terminated automatically until 90 days after the date of termination.

[49 FR 30448, July 30, 1984, as amended at 53 FR 17357, May 16, 1988]

§ 3108.2–3 Reinstatement at higher rental and royalty rates: Class II reinstatements.

(a) The authorized officer may, if the requirements of this section are met, reinstate an oil and gas lease which was terminated by operation of law for failure to pay rental timely when the rental was not paid or tendered within 20 days of the termination date and it is shown to the satisfaction of the authorized officer that such failure was justified or not due to a lack of reasonable diligence, or no matter when the rental was paid, it is shown to the satisfaction of the authorized officer that such failure was inadvertent.

(b)(1) For leases that terminate on or after January 12, 1983, consideration may be given to reinstatement if the required back rental and royalty at the increased rates accruing from the date of termination, together with a petition for reinstatement, are filed on or before the earlier of:

(i) Sixty days after the receipt of the Notice of Termination sent to the lessee of record; or

(ii) Fifteen months after termination of the lease.

(2) After determining that the requirements for filing of the petition for reinstatement have been timely met, the authorized officer may reinstate the lease if:

(i) No valid lease has been issued prior to the filing of the petition for reinstatement affecting any of the lands covered by the terminated lease,

whether such lease is still in effect or not;

(ii) The oil and gas interests of the United States in the lands have not been disposed of or have not otherwise become unavailable for leasing;

(iii) Payment of all back rentals and royalties at the rates established for the reinstated lease, including the release to the United States of funds being held in escrow, as appropriate;

(iv) An agreement has been signed by the lessee and attached to and made a part of the lease specifying future rentals at the applicable rates specified for reinstated leases in § 3103.2–2 of this title and future royalties at the rates set in § 3103.3–1 of this title for all production removed or sold from such lease or shared by such lease from production allocated to the lease by virtue of its participation in a unit or communitization agreement or other form of approved joint development agreement or plan;

(v) A notice of the proposed reinstatement of the terminated lease and the terms and conditions of reinstatement has been published in the FEDERAL REGISTER at least 30 days prior to the date of reinstatement for which the lessee shall reimburse the Bureau for the full costs incurred in the publishing of said notice; and

(vi) The lessee has paid the Bureau a nonrefundable administrative fee of $500.

(c) The authorized officer shall not, after the receipt of a petition for reinstatement, issue a new lease affecting any of the lands covered by the terminated lease until all action on the petition is final.

(d) The authorized officer shall furnish to the Chairpersons of the Committee on Interior and Insular Affairs of the House of Representatives and of the Committee on Energy and Natural Resources of the Senate, at least 30 days prior to the date of reinstatement, a copy of the notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the authorized officer considers significant in making the determination to reinstate.

(e) If the authorized officer reinstates the lease, the reinstatement shall be as of the date of termination, for the unexpired portion of the original lease or any extension thereof remaining on the date of termination, and so long thereafter as oil or gas is produced in paying quantities. Where a lease is reinstated under this section and the authorized officer finds that the reinstatement of such lease either (1) occurs after the expiration of the primary term or any extension thereof, or (2) will not afford the lessee a reasonable opportunity to continue operations under the lease, the authorized officer may extend the term of the reinstated lease for such period as determined reasonable, but in no event for more than 2 years from the date of the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

(f) The authorized officer may, either in acting on a petition for reinstatement or in response to a request filed after reinstatement, or both, reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes, if he/she determines there are either economic or other circumstances which could cause undue economic hardship or premature termination of production; or because of any written action of the United States, its agents or employees, which preceded, and was a major consideration in, the lessee's expenditure of funds to develop the lands covered by the lease after the rental had become due and had not been paid; or if the authorized officer determines it is equitable to do so for any other reason.

[49 FR 30449, July 30, 1984]

§ 3108.2–4 Conversion of unpatented oil placer mining claims: Class III reinstatements.

(a) For any unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, and has been or is deemed after January 12, 1983, conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act (43 U.S.C. 1744), and it is shown to the satisfaction of the authorized officer that such failure was inadvertent, justifiable or not due to

lack of reasonable diligence on the part of the owner, the authorized officer may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease consistent with the provisions of section 17(e) of the Act (30 U.S.C. 226(e)). The effective date of any lease issued under this section shall be from the statutory date that the claim was deemed conclusively abandoned.

(b) The authorized officer may issue a noncompetitive oil and gas lease if a petition has been filed in the proper BLM office for the issuance of a noncompetitive oil and gas lease accompanied by the required rental and royalty, including back rental and royalty accruing, at the rates specified in §§ 3103.2–2 and 3103.3–1 of this title, for any claim deemed conclusively abandoned after January 12, 1983. The petition shall have been filed on or before the 120th day after the final notification by the Secretary or a court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim.

(c) The authorized officer shall not issue a noncompetitive oil and gas lease under this section if a valid oil and gas lease has been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of the petition for issuance of a noncompetitive oil and gas lease.

(d) After the filing of a petition for issuance of a noncompetitive oil and gas lease covering an abandoned oil placer claim, the authorized officer shall not issue any new lease affecting any lands covered by such petition until all action on the petition is final.

(e) Any noncompetitive lease issued under this section shall include:

(1) Terms and conditions for the payment of rental in accordance with § 3103.2–2(j) of this title. Payment of back rentals accruing from the date of abandonment of the oil placer mining claim, at the rental set by the authorized officer, shall be made prior to the lease issuance.

(2) Royalty rates set in accordance with § 3103.3–1 of this title. Royalty shall be paid at the rate established by the authorized officer on all production removed or sold from the oil placer mining claim, including all royalty on production made subsequent to the date the claim was deemed conclusively abandoned prior to the lease issuance.

(f) Noncompetitive oil and gas leases issued under this section shall be subject to all regulations in part 3100 of this title except for those terms and conditions mandated by Title IV of the Federal Oil and Gas Royalty Management Act.

(g) A notice of the proposed conversion of the oil placer mining claim into a noncompetitive oil and gas lease, including the terms and conditions of conversion, shall be published in the FEDERAL REGISTER at least 30 days prior to the issuance of a noncompetitive oil and gas lease. The mining claim owner shall reimburse the Bureau for the full costs incurred in the publishing of said notice.

(h) The mining claim owner shall pay the Bureau a nonrefundable administrative fee of $500 prior to the issuance of the noncompetitive lease.

(i) The authorized officer may, either in acting on a petition to issue a noncompetitive oil and gas lease or in response to a request filed after issuance, or both, reduce the royalty in such lease, if he/she determines there are either economic or other circumstances which could cause undue economic hardship or premature termination of production.

[49 FR 30449, July 30, 1984, as amended at 53 FR 17357, May 16, 1988; 53 FR 22840, June 17, 1988]

§ 3108.3 Cancellation.

(a) Whenever the lessee fails to comply with any of the provisions of the law, the regulations issued thereunder, or the lease, the lease may be canceled by the Secretary, if the leasehold does not contain a well capable of production of oil or gas in paying quantities, or if the lease is not committed to an approved cooperative or unit plan or communitization agreement that contains a well capable of production of unitized substances in paying quantities. The lease may be canceled only after notice to the lessee in accordance with section 31(b) of the Act and only if default continues for the period prescribed in that section after service of 30 days notice of failure to comply.

(b) Whenever the lessee fails to comply with any of the provisions of the law, the regulations issued thereunder, or the lease, and if the leasehold contains a well capable of production of oil or gas in paying quantities, or if the lease is committed to an approved cooperative or unit plan or communitization agreement that contains a well capable of production of unitized substances in paying quantities, the lease may be canceled only by judicial proceedings in the manner provided by section 31(a) of the Act.

(c) If any interest in any lease is owned or controlled, directly or indirectly, by means of stock or otherwise, in violation of any of the provisions of the act, the lease may be canceled, or the interest so owned may be forfeited, or the person so owning or controlling the interest may be compelled to dispose of the interest, only by judicial proceedings in the manner provided by section 27(h)(1) of the Act.

(d) Leases shall be subject to cancellation if improperly issued.

[48 FR 33662, July 22, 1983, as amended at 53 FR 22840, June 17, 1988; 53 FR 31868, Aug. 22, 1988]

§ 3108.4 Bona fide purchasers.

A lease or interest therein shall not be cancelled to the extent that such action adversely affects the title or interest of a bona fide purchaser even though such lease or interest, when held by a predecessor in title, may have been subject to cancellation. All purchasers shall be charged with constructive notice as to all pertinent regulations and all Bureau records pertaining to the lease and the lands covered by the lease. Prompt action shall be taken to dismiss as a party to any proceedings with respect to a violation by a predecessor of any provisions of the act, any person who shows the holding of an interest as a bona fide purchaser without having violated any provisions of the Act. No hearing shall be necessary upon such showing unless prima facie evidence is presented that the purchaser is not a bona fide purchaser.

[48 FR 33662, July 22, 1983; 48 FR 39225, Aug. 30, 1983, as amended at 53 FR 17357, May 16, 1988]

§ 3108.5 Waiver or suspension of lease rights.

If, during any proceeding with respect to a violation of any provisions of the regulations in Groups 3000 and 3100 of this title or the act, a party thereto files a waiver of his/her rights under the lease to drill or to assign his/her lease interests, or if such rights are suspended by order of the Secretary pending a decision, payments of rentals and the running of time against the term of the lease involved shall be suspended as of the first day of the month following the filing of the waiver or the Secretary's suspension until the first day of the month following the final decision in the proceeding or the revocation of the waiver or suspension.

[53 FR 17357, May 16, 1988; 53 FR 22840, June 17, 1988]

Subpart 3109—Leasing Under Special Acts

§ 3109.1 Rights-of-way.

§ 3109.1–1 Generally.

The Act of May 21, 1930 (30 U.S.C. 301–306), authorizes either the leasing of oil and gas deposits under railroad and other rights-of-way to the owner of the right-of-way or the entering of a compensatory royalty agreement with adjoining landowners. This authority shall be exercised only with respect to railroad rights-of-way and easements issued pursuant either to the Act of March 3, 1875 (43 U.S.C. 934 *et seq.*), or pursuant to earlier railroad right-of-way statutes, and with respect to rights-of-way and easements issued pursuant to the Act of March 3, 1891 (43 U.S.C. 946 *et seq.*). The oil and gas underlying any other right-of-way or easement is included within any oil and gas lease issued pursuant to the Act which covers the lands within the right-of-way, subject to the limitations on use of the surface, if any, set out in the statute under which, or permit by which, the right-of-way or easement was issued, and such oil and gas shall not be leased under the Act of May 21, 1930.

§ 3109.1–2 Application.

No approved form is required for an application to lease lands in a right-of-way. Applications shall be filed in the proper BLM office. Such applications shall be filed by the owner of the right-of-way or by his/her transferee and be accompanied by a nonrefundable filing fee of $75, and if filed by a transferee, by a duly executed transfer of the right to lease. The application shall detail the facts as to the ownership of the right-of-way, and of the transfer if the application is filed by a transferee; the development of oil or gas in adjacent or nearby lands, the location and depth of the wells, the production and the probability of drainage of the deposits in the right-of-way. A description by metes and bounds of the right-of-way is not required but each legal subdivision through which a portion of the right-of-way desired to be leased extends shall be described.

[53 FR 17357, May 16, 1988; 53 FR 22840, June 17, 1988]

§ 3109.1–3 Notice.

After the Bureau of Land Management has determined that a lease of a right-of-way or any portion thereof is consistent with the public interest, either upon consideration of an application for lease or on its own motion, the authorized officer shall serve notice on the owner or lessee of the oil and gas rights of the adjoining lands. The adjoining land owner or lessee shall be allowed a reasonable time, as provided in the notice, within which to submit a bid for the amount or percent of compensatory royalty, the owner or lessee shall pay for the extraction of the oil and gas underlying the right-of-way through wells on such adjoining lands. The owner of the right-of-way shall be given the same time period to submit a bid for the lease.

§ 3109.1–4 Award of lease or compensatory royalty agreement.

Award of lease to the owner of the right-of-way, or a contract for the payment of compensatory royalty by the owner or lessee of the adjoining lands shall be made to the bidder whose offer is determined by the authorized officer to be to the best advantage of the United States, considering the amount of royalty to be received and the better development under the respective means of production and operation.

§ 3109.1–5 Compensatory royalty agreement or lease.

(a) The lease or compensatory royalty agreement shall be on a form approved by the Director.

(b) The royalty to be charged shall be fixed by the Bureau of Land Mangement in accordance with the provisions of § 3103.3 of this title, but shall not be less than 12½ percent.

(c) The term of the lease shall be for a period of not more than 20 years.

§ 3109.2 Units of the National Park System.

(a) Oil and gas leasing in units of the National Park System shall be governed by 43 CFR Group 3100 and all operations conducted on a lease or permit in such units shall be governed by 43 CFR parts 3160 and 3180.

(b) Any lease or permit respecting minerals in units of the National Park System shall be issued or renewed only with the consent of the Regional Director, National Park Service. Such consent shall only be granted upon a determination by the Regional Director that the activity permitted under the lease or permit will not have significant adverse effect upon the resources or administration of the unit pursuant to the authorizing legislation of the unit. Any lease or permit issued shall be subject to such conditions as may be prescribed by the Regional Director to protect the surface and significant resources of the unit, to preserve their use for public recreation, and to the condition that site specific approval of any activity on the lease will only be given upon concurrence by the Regional Director. All lease applications received for reclamation withdrawn lands shall also be submitted to the Bureau of Reclamation for review.

(c) The units subject to the regulations in this part are those units of land and water which are shown on the following maps on file and available for public inspection in the office of the Director of the National Park Service and in the Superintendent's Office of each unit. The boundaries of these

units may be revised by the Secretary as authorized in the Acts.

(1) Lake Mead National Recreation Area—The map identified as ''boundary map, 8360–80013B, revised February 1986.

(2) Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area—The map identified as ''Proposed Whiskeytown-Shasta-Trinity National Recreation Area,'' numbered BOR–WST 1004, dated July 1963.

(3) Ross Lake and Lake Chelan National Recreation Areas—The map identified as ''Proposed Management Units, North Cascades, Washington,'' numbered NP–CAS–7002, dated October 1967.

(4) Glen Canyon National Recreation Area—the map identified as ''boundary map, Glen Canyon National Recreation Area,'' numbered GLC–91,006, dated August 1972.

(d) The following excepted units shall not be open to mineral leasing:

(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;

(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 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;

(iii) All lands within section 34 of Township 33 north, Range 7 west, Mt. Diablo Meridian.

(3) *Ross Lake and Lake Chelan National Recreation Areas.* (i) All of Lake Chelan National Recreation Area;

(ii) All lands within ½ mile of Gorge, Diablo and Ross Lakes measured from the shoreline at maximum surface elevation;

(iii) All lands proposed for or designated as wilderness;

(iv) All lands within ½ mile of State Highway 20;

(v) Pyramid Lake Research Natural Area and all lands within ½ mile of its boundaries.

(4) *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 office of the State Directors, Bureau of Land Management, Arizona and Utah.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17358, May 16, 1988; 53 FR 22840, June 17, 1988]

§ 3109.2–1 Authority to lease. [Reserved]

§ 3109.2–2 Area subject to lease. [Reserved]

§ 3109.3 Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area.

Section 6 of the Act of November 8, 1965 (Pub. L. 89–336), authorizes the Secretary to permit the removal of oil and gas from lands within the Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area in accordance with the act or the Mineral Leasing Act for Acquired Lands. Subject to the determination by the Secretary of Agriculture that removal will not have significant adverse effects on the purposes of the Central

Valley project or the administration of the recreation area.

[48 FR 33662, July 22, 1983. Redesignated at 53 FR 22840, June 17, 1988]

PART 3110—NONCOMPETITIVE LEASES

Subpart 3110—Noncompetitive Leases

Sec.

3110.1 Lands available for noncompetitive offer and lease.
3110.2 Priority.
3110.3 Lease terms.
3110.3–1 Duration of lease.
3110.3–2 Dating of leases.
3110.3–3 Lease offer size.
3110.4 Requirements for offer.
3110.5 Description of lands in offer.
3110.5–1 Parcel number description.
3110.5–2 Public domain.
3110.5–3 Acquired lands.
3110.5–4 Accreted lands.
3110.5–5 Conflicting descriptions.
3110.6 Withdrawal of offer.
3110.7 Action on offer.
3110.8 Amendment to lease.
3110.9 Future interest offers.
3110.9–1 Availability.
3110.9–2 Form of offer.
3110.9–3 Fractional present and future interest.
3110.9–4 Future interest terms and conditions.

AUTHORITY: Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act, as amended (16 U.S.C. 3101 *et seq.*), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), and the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a).

SOURCE: 53 FR 22840, June 17, 1988, unless otherwise noted.

Subpart 3110—Noncompetitive Leases

§ 3110.1 Lands available for noncompetitive offer and lease.

(a) *Offer*. (1) Effective June 12, 1988, through January 2, 1989, noncompetitive lease offers may be filed only for lands available under § 3110.1(b) of this title. Noncompetitive lease offers filed after December 22, 1987, and prior to June 12, 1988, for lands available for filing under § 3110.1(a) of this title shall receive priority. Such offers shall be exposed to competitive bidding under subpart 3120 of this title and if no bid is received, a noncompetitive lease shall be issued all else being regular. After January 2, 1989, noncompetitive lease offers may be filed on unleased lands, except for:

(i) Those lands which are in the one-year period commencing upon the expiration, termination, relinquishment, or cancellation of the leases containing the lands; and

(ii) Those lands included in a Notice of Competitive Lease Sale or a List of Lands Available for Competitive Nominations. Neither exception is applicable to lands available under § 3110.1(b) of this title.

(2) Noncompetitive lease offers may be made pursuant to an opening order or other notice and shall be subject to all provisions and procedures stated in such order or notice.

(3) No noncompetitive lease may issue for any lands unless and until they have satisfied the requirements of § 3110.1(b) of this title.

(b) *Lease*. Only lands that have been offered competitively under subpart 3120 of this title, and for which no bid has been received, shall be available for noncompetitive lease. Such lands shall become available for a period of 2 years beginning on the first business day following the last day of the competitive oral auction, or when formal nominations have been requested as specified in § 3120.3–1 of this title, or the first business day following the posting of the Notice of Competitive Lease Sale, and ending on that same day 2 years later. A lease may be issued from an offer properly filed any time within the 2-year noncompetitive leasing period.

[53 FR 22840, June 17, 1988; 53 FR 31958, Aug. 22, 1988]

§ 3110.2 Priority.

(a) Offers filed for lands available for noncompetitive offer or lease, as specified in §§ 3110.1(a)(1) and 3110.1(b) of this title, shall receive priority as of the date and time of filing as specified in § 1821.2–3(a) of this title, except that all noncompetitive offers shall be considered simultaneously filed if received in the proper BLM office any time during the first business day following the last

day of the competitive oral auction, or when formal nominations have been requested as specified in § 3120.3–1 of this title, on the first business day following the posting of the Notice of Competitive Lease Sale. An offer shall not be available for public inspection the day it is filed.

(b) If more than 1 application was filed for the same parcel in accordance with the regulations contained in former subpart 3112 of this title, and if no lease has been issued by the authorized officer prior to the effective date of these regulations, only a single priority application shall be selected from the filings. If the selected application fails to mature into a lease, the lands shall be available for offer under § 3110.1(a) of this title.

§ 3110.3 Lease terms.

§ 3110.3–1 Duration of lease.

All noncompetitive leases shall be for a primary term of 10 years.

[53 FR 22840, June 17, 1988; 53 FR 31958, Aug. 22, 1988]

§ 3110.3–2 Dating of leases.

All noncompetitive leases shall be considered issued when signed by the authorized officer. Noncompetitive leases, except future interest leases issued under § 3110.9 of this title, shall be effective as of the first day of the month following the date the leases are issued. A lease may be made effective on the first day of the month within which it is issued if a written request is made prior to the date of signature of the authorized officer. Future interest leases issued under § 3110.9 of this title shall be effective as of the date the mineral interests vest in the United States.

§ 3110.3–3 Lease offer size.

(a) Lease offers for public domain minerals shall not be made for less than 640 acres or 1 full section, whichever is larger, where the lands have been surveyed under the rectangular survey system or are within an approved protracted survey, except where the offer includes all available lands within a section and there are no contiguous lands available for lease. Such public domain lease offers in Alaska shall not be made for less than 2,560 acres or 4 full contiguous sections, whichever is larger, where the lands have been surveyed under the rectangular survey system or are within an approved protracted survey, except where the offer includes all available lands within the subject section and there are no contiguous lands available for lease. Where an offer exceeds the minimum 640-acre provision of this paragraph, the offer may include less than all available lands in any given section. Cornering lands are not considered contiguous lands. This paragraph shall not apply to offers made under § 3108.2–4 of this title or where the offer is filed on an entire parcel as it was offered by the Bureau in a competitive sale during that period specified under § 3110.5–1 of this title.

(b) An offer to lease public domain or acquired lands may not include more than 10,240 acres. The lands in an offer shall be entirely within an area of 6 miles square or within an area not exceeding 6 surveyed sections in length or width measured in cardinal directions. An offer to lease acquired lands may exceed the 6 mile square limit if:

(1) The lands are not surveyed under the rectangular survey system of public land surveys and are not within the area of the public land surveys; and

(2) The tract desired is described by the acquisition or tract number assigned by the acquiring agency and less than 50 percent of the tract lies outside the 6 mile square area, and such acquisition or tract number is provided in accordance with § 3110.5–2(d) of this title in lieu of any other description.

(c) If an offer exceeds the 10,240 acre maximum by not more than 160 acres, the offeror shall be granted 30 days from notice of the excess to withdraw the excess acreage from the offer, failing which the offer shall be rejected and priority lost.

§ 3110.4 Requirements for offer.

(a) An offer to lease shall be made on a current form approved by the Director, or on unofficial copies of that form in current use. For noncompetitive leases processed under § 3108.2–4 of this title, the current lease form shall be

used. Copies shall be exact reproductions on 1 page of both sides of the official approved form, without additions, omissions, or other changes, or advertising. The original copy of each offer shall be typewritten or printed plainly in ink, signed in ink and dated by the offeror or the offeror's duly authorized agent, and shall be accompanied by the first year's rental and a nonrefundable filing fee of $75. The original and 2 copies of each offer to lease, with each copy showing that the original has been signed, shall be filed in the proper BLM office. A noncompetitive offer to lease a future interest applied for under ''§ 3110.9'' of this title shall be accompanied by a nonrefundable filing fee of $75. Where remittances for offers are returned for insufficient funds, the offer shall not obtain priority of filing until the date the remittance is properly made.

(b) Where a correction to an offer is made, whether at the option of the offeror or at the request of the authorized officer, it shall gain priority as of the date the filing is correct and complete. The priority that existed before the date the corrected offer is filed, may be defeated by an intervening offer to the extent of any conflict in such offers, except as provided under §§ 3103.2–1(a) and 3110.3–3(c) of this title.

(c) An offer shall be limited to either public domain minerals or acquired lands minerals, subject to the provisions for corrections under paragraph (b) of this section.

(d) Compliance with subpart 3102 shall be required.

(e) All offers for leases should name the United States agency from which consent to the issuance of a lease shall be obtained, or the agency that may have title records covering the ownership for the mineral interest involved, and identify the project, if any, of which the lands covered by the offer are a part.

[53 FR 22840, June 17, 1988; 53 FR 31958, Aug. 22, 1988]

§ 3110.5 Description of lands in offer.

§ 3110.5–1 Parcel number description.

From the first day following the end of a competitive process until the end of that same month, the only acceptable description for a noncompetitive lease offer for the lands covered by that competitive process shall be the parcel number on the List of Lands Available for Competitive Nominations or the Notice of Competitive Lease Sale, whichever is appropriate. Each such offer shall contain only a single parcel. Thereafter, the description of the lands shall be made in accordance with the remainder of this section.

§ 3110.5–2 Public domain.

(a) If the lands have been surveyed under the public land rectangular survey system, each offer shall describe the lands by legal subdivision, section, township, range, and, if needed, meridian.

(b) If the lands have not been surveyed under the public land rectangular system, each offer shall describe the lands 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 official corner of the public land surveys.

(c) When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, all offers to lease lands shown on such protracted surveys, filed on or after such effective date, shall describe the lands in the same manner as provided in paragraph (a) of this section for officially surveyed lands.

(d)(1) Where offers are pending for unsurveyed lands that are subsequently surveyed or protracted before the lease issuance, the description in the lease shall be conformed to the subdivisions of the approved protracted survey or the public land survey, whichever is appropriate.

(2) The description of lands in an existing lease shall be conformed to a subsequent resurvey or amended protraction survey, whichever is appropriate.

(e) The requirements of this section shall apply to applications for conversion of abandoned unpatented oil placer mining claims made under § 3108.2–4 of this title, except that deficiencies shall be curable.

§ 3110.5–3 Acquired lands.

(a) If the lands applied for 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, such lands shall be described by legal subdivision, section, township, range, and, if needed, meridian.

(b) If the lands applied for 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, such lands shall be described by metes and bounds, giving courses and distances between the successive angle points with appropriate ties to the nearest official survey corner, or a copy of the deed or other conveyance document by which the United States acquired title to the lands may be attached to the offer and referred to therein in lieu of redescribing the lands on the offer form. If the desired lands constitute less than the entire tract acquired by the United States, such lands shall be described 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 desired lands coincides with the boundary in the deed or other conveyance document, that boundary need not be redescribed on the offer form, provided that a copy of the deed or other conveyance document upon which the coinciding description is clearly identified is attached to the offer. That portion of the description not coinciding shall be tied by description on the offer by courses and distances between successive angle points into the description in the deed or other conveyance document.

(c) If the lands applied for lie outside an area of the public land surveys and constitute the entire tract acquired by the United States, such lands shall be described as in the deed or other conveyance document by which the United States acquired title to the lands, or a copy of that document may be attached to the offer and referred to therein in lieu of redescribing the lands on the offer form. If the desired lands constitute less than the entire tract acquired by the United States, such lands shall be described by 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 desired lands coincides with the boundary in the deed or other conveyance document, that boundary need not be redescribed on the offer form, provided that a copy of the deed or other conveyance document upon which the coinciding description is clearly identified is attached to the offer. That portion of the description not coinciding shall be tied by description in the offer by courses and distances between successive angle points into the description in the deed or other conveyance document.

(d) Where the acquiring agency has assigned an acquisition or tract number covering the lands applied for, without loss of priority to the offeror, the authorized officer may require that number in addition to any description otherwise required by this section. If the authorized officer determines that the acquisition or tract number, together with identification of the State and county, constitutes an adequate description, the authorized officer may allow the description in this manner in lieu of other descriptions required by this section.

(e) Where the lands applied for do not conform to the rectangular system of public land surveys, without loss of priority to the offeror, the authorized officer may require 3 copies of a map upon which the location of the desired lands are clearly marked with respect to the administrative unit or project of which they are a part.

§ 3110.5–4 Accreted lands.

Where an offer includes any accreted lands, the accreted lands shall be described 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 appertain.

§ 3110.5–5 Conflicting descriptions.

If there is any variation in the land description among the required copies

of the official forms, the copy showing the date and time of receipt in the proper BLM office shall control.

[53 FR 22840, June 17, 1988; 53 FR 31868, Aug. 22, 1988]

§ 3110.6 Withdrawal of offer.

An offer for noncompetitive lease under this subpart may be withdrawn in whole or in part by the offeror. However, a withdrawal of an offer made in accordance with § 3110.1(b) of this title may be made only if the withdrawal is received by the proper BLM office after 60 days from the date of filing of such offer. No withdrawal may be made once the lease, an amendment of the lease, or a separate lease, whichever covers the lands so described in the withdrawal, has been signed on behalf of the United States. If a public domain offer is partially withdrawn, the lands retained in the offer shall comply with § 3110.3–3(a) of this title.

§ 3110.7 Action on offer.

(a) No lease shall be issued before final action has been taken on any prior offer to lease the lands or any extension of, or petition for reinstatement of, an existing or former lease on the lands. If a lease is issued before final action, it shall be canceled, if the prior offeror is qualified to receive a lease or the petitioner is entitled to reinstatement of a former lease.

(b) The authorized officer shall not issue a lease for lands covered by a lease which terminated automatically, until 90 days after the date of termination.

(c) The United States shall indicate its acceptance of the lease offer, in whole or in part, and the issuance of the lease, by signature of the authorized officer on the current lease form. A signed copy of the lease shall be delivered to the offeror.

(d) Except as otherwise specifically provided in the regulations of this group, an offer that is not filed in accordance with the regulations in this part shall be rejected.

(e) Filing an offer on a lease form not currently in use, unless such lease form has been declared obsolete by the Director prior to the filing shall be allowed, on the condition that the offeror is bound by the terms and conditions of the lease form currently in use.

§ 3110.8 Amendment to lease.

After the competitive process has concluded in accordance with subpart 3120 of this title, if any of the lands described in a lease offer for lands available during the 2-year period are open to oil and gas filing when the offer is filed but are omitted from the lease for any reason the original lease shall be amended to include the omitted lands unless, before the issuance of the amendment, the proper BLM office receives a withdrawal of the offer with respect to such lands or the offeror elects to receive a separate lease in lieu of an amendment. Such election shall be made by submission of a signed statement of the offeror requesting a separate lease, and a new offer on the required form executed pursuant to this part describing the remaining lands in the original offer. The new offer shall have the same priority as the old offer. No new application fee is required with the new offer. The rental payment held in connection with the original offer shall be applied to the new offer. The rental and the term of the lease for the lands added by an amendment shall be the same as if the lands had been included in the original lease when it was issued. If a separate lease is issued, it shall be dated in accordance with § 3110.3–2 of this title.

§ 3110.9 Future interest offers.

§ 3110.9–1 Availability.

A noncompetitive future interest lease shall not be issued until the lands covered by the offer have been made available for competitive lease under subpart 3120 of this title. An offer made for lands that are leased competitively shall be rejected.

§ 3110.9–2 Form of offer.

An offer to lease a future interest shall be filed in accordance with this subpart, and may include tracts in which the United States owns a fractional present interest as well as the future interest for which a lease is sought.

§ 3110.9–3 Fractional present and future interest.

Where the United States owns both a present fractional interest and a future fractional interest in the minerals in the same tract, the lease, when issued, shall cover both the present and future interests in the lands. The effective date and primary term of the present interest lease is unaffected by the vesting of a future fractional interest. The lease for the future fractional interest, when such interest vests in the United States, shall have the same primary term and anniversary date as the present fractional interest lease.

§ 3110.9–4 Future interest terms and conditions.

(a) No rental or royalty shall be due to the United States prior to the vesting of the oil and gas rights in the United States. However, the future interest lessee shall agree that if he/she is or becomes the holder of any present interest operating rights in the lands:

(1) The future interest lessee transfers all or a part of the lessee's present oil and gas interests, such lessee shall file in the proper BLM office an assignment or transfer, in accordance with subpart 3106 of this title, of the future interest lease of the same type and proportion as the transfer of the present interest, and

(2) The future interest lessee's present lease interests are relinquished, cancelled, terminated, or expired, the future interest lease rights with the United States also shall cease and terminate to the same extent.

(b) Upon vesting of the oil and gas rights in the United States, the future interest lease rental and royalty shall be as for any noncompetitive lease issued under this subpart, as provided in subpart 3103 of this title, and the acreage shall be chargeable in accordance with § 3101.2 of this title.

PART 3120—COMPETITIVE LEASES

Subpart 3120—Competitive Leases

Sec.

3120.1 General.
3120.1–1 Lands available for competitive leasing.
3120.1–2 Requirements.
3120.1–3 Protests and appeals.
3120.2 Lease terms.
3120.2–1 Duration of lease.
3120.2–2 Dating of leases.
3120.2–3 Lease size.
3120.3 Nomination process.
3120.3–1 General.
3120.3–2 Filing of a nomination for competitive leasing.
3120.3–3 Minimum bid and rental remittance.
3120.3–4 Withdrawal of a nomination.
3120.3–5 Parcels receiving nominations.
3120.3–6 Parcels not receiving nominations.
3120.3–7 Refund.
3120.4 Notice of competitive lease sale.
3120.4–1 General.
3120.4–2 Posting of notice.
3120.5 Competitive sale.
3120.5–1 Oral auction.
3120.5–2 Payments required.
3120.5–3 Award of lease.
3120.6 Parcels not bid on at auction.
3120.7 Future interest.
3120.7–1 Nomination to make lands available for competitive lease.
3120.7–2 Future interest terms and conditions.
3120.7–3 Compensatory royalty agreements.

AUTHORITY: Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act as amended (16 U.S.C. 3101 *et seq.*), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 *et seq.*), and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41).

SOURCE: 53 FR 22843, June 17, 1988, unless otherwise noted.

Subpart 3120—Competitive Leases

§ 3120.1 General.

§ 3120.1–1 Lands available for competitive leasing.

All lands available for leasing shall be offered for competitive bidding under this subpart, including but not limited to:

(a) Lands in oil and gas leases that have terminated, expired, been cancelled or relinquished.

(b) Lands for which authority to lease has been delegated from the General Services Administration.

(c) If, in proceeding to cancel a lease, interest in a lease, option to acquire a lease or an interest therein, acquired in

violation of any of the provisions of the act, an underlying lease, interest or option in the lease is cancelled or forfeited to the United States and there are valid interests therein that are not subject to cancellation, forfeiture, or compulsory disposition, such underlying lease, interest, or option shall be sold to the highest responsible qualified bidder by competitive bidding under this subpart, subject to all outstanding valid interests therein and valid options pertaining thereto. If less than the whole interest in the lease, interest, or option is cancelled or forfeited, such partial interest shall likewise be sold by competitive bidding. If no satisfactory bid is obtained as a result of the competitive offering of such whole or partial interests, such interests may be sold in accordance with section 27 of the Act by such other methods as the authorized officer deems appropriate, but on terms no less favorable to the United States than those of the best competitive bid received. Interest in outstanding leases(s) so sold shall be subject to the terms and conditions of the existing lease(s).

(d) Lands which are otherwise unavailable for leasing but which are subject to drainage (protective leasing).

(e) Lands included in any expression of interest or noncompetitive offer, except offers properly filed within the 2-year period provided under § 3110.1(b) of this title, submitted to the authorized officer.

(f) Lands selected by the authorized officer.

§ 3120.1–2 Requirements.

(a) Each proper BLM Sate office shall hold sales at least quarterly if lands are available for competitive leasing.

(b) Lease sales shall be conducted by a competitive oral bidding process.

(c) The national minimum acceptable bid shall be $2 per acre or fraction thereof payable on the gross acreage, and shall not be prorated for any lands in which the United States owns a fractional interest.

§ 3120.1–3 Protests and appeals.

No action pursuant to the regulations in this subpart shall be suspended under § 4.21(a) of this title due to an appeal from a decision by the authorized officer to hold a lease sale. The authorized officer may suspend the offering of a specific parcel while considering a protest or appeal against its inclusion in a Notice of Competitive Lease Sale.

Only the Assistant Secretary for Land and Minerals Management may suspend a lease sale for good and just cause after reviewing the reason(s) for an appeal.

§ 3120.2 Lease terms.

§ 3120.2–1 Duration of lease.

Competitive leases shall be issued for a primary term of 10 years.

[58 FR 40754, July 30, 1993]

§ 3120.2–2 Dating of leases.

All competitive leases shall be considered issued when signed by the authorized officer. Competitive leases, except future interest leases issued under § 3120.7 of this title, shall be effective as of the first day of the month following the date the leases are signed on behalf of the United States. A lease may be made effective on the first day of the month within which it is issued if a written request is made prior to the date of signature of the authorized officer. Leases for future interest shall be effective as of the date the mineral interests vest in the United States.

§ 3120.2–3 Lease size.

Lands shall be offered in leasing units of not more than 2,560 acres outside Alaska, or 5,760 acres within Alaska, which shall be as nearly compact in form as possible.

§ 3120.3 Nomination process.

The Director may elect to implement the provisions contained in §§ 3120.3–1 through 3120.3–7 of this title after review of any comments received during a period of not less than 30 days following publication in the FEDERAL REGISTER of notice that implementation of those sections is being considered.

§ 3120.3–1 General.

The Director may elect to accept nominations requiring submission of the national minimum acceptable bid,

as set forth in this section, as part of the competitive process required by the act, or elect to accept informal expressions of interest. A List of Lands Available for Competitive Nominations may be posted in accordance with § 3120.4 of this title, and nominations in response to this list shall be made in accordance with instructions contained therein and on a form approved by the Director. Those parcels receiving nominations shall be included in a Notice of Competitive Lease Sale, unless the parcel is withdrawn by the Bureau.

§ 3120.3–2 Filing of a nomination for competitive leasing.

Nominations filed in response to a List of Lands Available for Competitive Nominations and on a form approved by the Director shall:

(a) Include the nominator's name and personal or business address. The name of only one citizen, association or partnership, corporation or municipality shall appear as the nominator. All communications relating to leasing shall be sent to that name and address, which shall constitute the nominator's name and address of record:

(b) Be completed, signed in ink and filed in accordance with the instructions printed on the form and the regulations in this subpart. Execution of the nomination form shall constitute a legally binding offer to lease by the nominator, including all terms and conditions;

(c) Be filed within the filing period and in the BLM office specified in the List of Lands Available for Competitive Nominations. A nomination shall be unacceptable and shall be returned with all moneys refunded if it has not been completed and timely filed in accordance with the instructions on the form or with the other requirements in this subpart; and

(d) Be accompanied by a remittance sufficient to cover the national minimum acceptable bid, the first year's rental per acre or fraction thereof, and the administrative fee as set forth in § 3120.5–2(b) of this title for each parcel nominated on the form.

[53 FR 22843, June 17, 1988; 53 FR 31958, Aug. 22, 1988]

§ 3120.3–3 Minimum bid and rental remittance.

Nominations filed in response to a List of Lands Available for Competitive Nominations shall be accompanied by a single remittance. Failure to submit either a separate remittance with each form or an amount sufficient to cover all the parcels nominated on each form shall cause the entire filing to be deemed unacceptable with all moneys refunded.

§ 3120.3–4 Withdrawal of a nomination.

A nomination shall not be withdrawn, except by the Bureau for cause, in which case all moneys shall be refunded.

§ 3120.3–5 Parcels receiving nominations.

Parcels which receive nominations shall be included in a Notice of Competitive Lease Sale. The Notice shall indicate which parcels received multiple nominations in response to a List of Lands Available for Competitive Nominations, or parcels which have been withdrawn by the Bureau.

§ 3120.3–6 Parcels not receiving nominations.

Lands included in the List of Lands Available for Competitive Nominations which are not included in the Notice of Competitive Lease Sale because they were not nominated, unless they were withdrawn by the Bureau, shall be available for a 2-year period, for noncompetitive leasing as specified in the List.

§ 3120.3–7 Refund.

The minimum bid, first year's rental and administrative fee shall be refunded to all nominators who are unsuccessful at the oral auction.

§ 3120.4 Notice of competitive lease sale.

§ 3120.4–1 General.

(a) The lands available for competitive lease sale under this subpart shall be described in a Notice of Competitive Lease Sale.

(b) The time, date, and place of the competitive lease sale shall be stated in the Notice.

(c) The notice shall include an identification of, and a copy of, stipulations applicable to each parcel.

§ 3120.4–2 Posting of notice.

At least 45 days prior to conducting a competitive auction, lands to be offered for competitive lease sale, as included in a List of Lands Available for Competitive Nominations or in a Notice of Competitive Lease Sale, shall be posted in the proper BLM office having jurisdiction over the lands as specified in § 1821.2–1(d) of this title, and shall be made available for posting to surface managing agencies having jurisdiction over any of the included lands.

§ 3120.5 Competitive sale.

§ 3120.5–1 Oral auction.

(a) Parcels shall be offered by oral bidding. The existence of a nomination accompanied by the national minimum acceptable bid shall be announced at the auction for the parcel.

(b) A winning bid shall be the highest oral bid by a qualified bidder, equal to or exceeding the national minimum acceptable bid. The decision of the auctioneer shall be final.

(c) Two or more nominations on the same parcel when the bids are equal to the national minimum acceptable bid, with no higher oral bid being made, shall be returned with all moneys refunded. If the Bureau reoffers the parcel, it shall be reoffered only competitively under this subpart with any noncompetitive offer filed under § 3110.1(a) of this title retaining priority, provided no bid is received at an oral auction.

§ 3120.5–2 Payments required.

(a) Payments shall be made in accordance with § 3103.1–1 of this title.

(b) Each winning bidder shall submit, by the close of official business hours, or such other time as may be specified by the authorized officer, on the day of the sale for the parcel:

(1) The minimum bonus bid of $2 per acre or fraction thereof;

(2) The total amount of the first year's rental; and

(3) An administrative fee of $75 per parcel.

(c) The winning bidder shall submit the balance of the bonus bid to the proper BLM office within 10 working days after the last day of the oral auction.

§ 3120.5–3 Award of lease.

(a) A bid shall not be withdrawn and shall constitute a legally binding commitment to execute the lease bid form and accept a lease, including the obligation to pay the bonus bid, first year's rental, and administrative fee. Execution by the high bidder of a competitive lease bid form approved by the Director constitutes certification of compliance with subpart 3102 of this title, shall constitute a binding lease offer, including all terms and conditions applicable thereto, and shall be required when payment is made in accordance with § 3120.5–2(b) of this title. Failure to comply with § 3120.5–2(c) of this title shall result in rejection of the bid and forfeiture of the monies submitted under § 3120.5–2(b) of this title.

(b) A lease shall be awarded to the highest responsible qualified bidder. A copy of the lease shall be provided to the lessee after signature by the authorized officer.

(c) If a bid is rejected, the lands shall be reoffered competitively under this subpart with any noncompetitive offer filed under § 3110.1(a) of this title retaining priority, provided no bid is received in an oral auction.

(d) Issuance of the lease shall be consistent with § 3110.7 (a) and (b) of this title.

§ 3120.6 Parcels not bid on at auction.

Lands offered at the oral auction that receive no bids shall be available for filing for noncompetitive lease for a 2-year period beginning the first business day following the auction at a time specified in the Notice of Competitive Lease Sale.

§ 3120.7 Future interest.

§ 3120.7–1 Nomination to make lands available for competitive lease.

A nomination for a future interest lease shall be filed in accordance with this subpart.

§ 3120.7–2 Future interest terms and conditions.

(a) No rental or royalty shall be due to the United States prior to the vesting of the oil and gas rights in the United States. However, the future interest lessee shall agree that if, he/she is or becomes the holder of any present interest operating rights in the lands:

(1) The future interest lessee transfers all or a part of the lessee's present oil and gas interests, such lessee shall file in the proper BLM office an assignment or transfer, in accordance with subpart 3106 of this title, of the future interest lease of the same type and proportion as the transfer of the present interest, and

(2) The future interest lessee's present lease interests are relinquished, cancelled, terminated, or expired, the future interest lease rights with the United States also shall cease and terminate to the same extent.

(b) Upon vesting of the oil and gas rights in the United States, the future interest lease rental and royalty shall be as for any competitive lease issued under this subpart, as provided in subpart 3103 of this title, and the acreage shall be chargeable in accordance with § 3101.2 of this title.

§ 3120.7–3 Compensatory royalty agreements.

The terms and conditions of compensatory royalty agreements involving acquired lands in which the United States owns a future or fractional interest shall be established on an individual case basis. Such agreements shall be required when leasing is not possible in situations where the interest of the United States in the oil and gas deposit includes both a present and a future fractional interest in the same tract containing a producing well.

[53 FR 22843, June 17, 1988]

PART 3130—OIL AND GAS LEASING: NATIONAL PETROLEUM RESERVE, ALASKA

NOTE: The information collection requirements contained in part 3130 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0067. The information is being collected to allow the authorized officer to determine if the bidder is qualified to hold a lease. The information will be used in making that determination. The obligation to respond is required to obtain a benefit.

Subpart 3130—Oil and Gas Leasing, National Petroleum Reserve, Alaska: General

Sec.
3130.0–1 Purpose.
3130.0–2 Policy.
3130.0–3 Authority.
3130.0–5 Definitions.
3130.0–7 Cross references. [Reserved]
3130.1 Attorney General review.
3130.2 Limitation on time to institute suit to contest a Secretary's decision.
3130.3 Drainage.
3130.4 Leasing: General.
3130.4–1 Tract size.
3130.4–2 Lease term.
3130.5 Bona fide purchasers.
3130.6 Leasing maps and land descriptions.
3130.6–1 Leasing maps.
3130.6–2 Land descriptions.

Subpart 3131—Leasing Program

3131.1 Receipt and consideration of nominations; public notice and participation.
3131.2 Tentative tract selection.
3131.3 Special stipulations.
3131.4 Lease sales.
3131.4–1 Notice of sale.

Subpart 3132—Issuance of Leases

3132.1 Who may hold a lease.
3132.2 Submission of bids.
3132.3 Payments.
3132.4 Qualifications.
3132.5 Award of leases.
3132.5–1 Forms.
3132.5–2 Dating of leases.

Subpart 3133—Rentals and Royalties

3133.1 Rentals.
3133.2 Royalties.
3133.2–1 Minimum royalties.
3133.3 Under what circumstances will BLM waive, suspend, or reduce the rental, royalty, or minimum royalty on my NPR–A lease?
3133.4 How do I apply for a waiver, suspension or reduction of rental, royalty or minimum royalty for my NPR–A lease?

Subpart 3134—Bonding: General

3134.1 Bonding.
3134.1–1 Form of bond.
3134.1–2 Additional bonds.

3137.83 What establishes a participating area?
3137.84 What must I submit to BLM to establish a new participating area, or modify an existing participating area?
3137.85 What is the effective date of a participating area?
3137.86 What happens to participating area when I obtain new information demonstrating that the participating area should be larger or smaller than previously determined?
3137.87 What must I do if there are unleased Federal tracts in a participating area?
3137.88 What happens when a well outside a participating area does not meet the productivity criteria?
3137.89 How does production allocation occur from wells that do not meet the productivity criteria?
3137.90 Who must operate wells that do not meet the productivity criteria?
3137.91 When will BLM allow a well previously determined to be a non-unit well to be used in establishing or modifying a PA?
3137.92 When does a participating area terminate?

PRODUCTION ALLOCATION

3137.100 How must I allocate production to the United States when a participating area includes unleased Federal lands?

OBLIGATIONS AND EXTENSIONS

3137.110 Do the terms and conditions of a unit agreement modify Federal lease stipulations?
3137.111 When will BLM extend the primary term of all leases committed to a unit agreement?
3137.112 What happens if I am prevented from performing actual or constructive drilling or reworking operations?

CHANGE IN OWNERSHIP

3137.120 As a transferee of an interest in a unitized NPR–A lease, am I subject to the terms and conditions of the unit agreement?

UNIT TERMINATION

3137.130 Under what circumstances will BLM approve a voluntary termination of the unit?
3137.131 What happens if the unit terminated before the unit operator met the initial development obligations?
3137.132 What if I do not meet a continuing development obligation before I establish any participating area in the unit?
3137.133 After participating areas are established, when does the unit terminate?
3137.134 What happens to committed leases if the unit terminates?
3137.135 What are the unit operator's obligations after unit termination?

APPEALS

3137.150 How do I appeal a decision that BLM issues under this subpart?

Subpart 3138—Subsurface Storage Agreements in the National Petroleum Reserve–Alaska (NPR–A)

3138.10 When will BLM enter into a subsurface storage agreements in NPR–A covering federally-owned lands?
3138.11 How do I apply for a subsurface storage agreement?
3138.12 What must I pay for storage?

AUTHORITY: 42 U.S.C. 6508, 43 U.S.C. 1733 and 1740.

SOURCE: 46 FR 55497, Nov. 9, 1981, unless otherwise noted.

Subpart 3130—Oil and Gas Leasing, National Petroleum Reserve, Alaska: General

§ 3130.0–1 Purpose.

These regulations establish the procedures under which the Secretary of the Interior will exercise the authority granted to administer a competitive leasing program for oil and gas within the National Petroleum Reserve—Alaska.

§ 3130.0–2 Policy.

The oil and gas leasing program within the National Petroleum Reserve—Alaska shall be conducted in accordance with the purposes and policy directions provided by the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514), and other executive, legislative, judicial and Department of the Interior guidance.

§ 3130.0–3 Authority.

(a) The Department of the Interior Appropriations Act, Fiscal year 1981 (Pub. L. 96–514);

(b) The Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504, *et seq.*); and

(c) The Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), except that sections 202 and 603 are not applicable.

§ 3130.0–5 Definitions.

As used in this part, the term:

(a) *Act* means the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514).

(b) *Bureau* means the Bureau of Land Management.

(c) *Constructive operations* means the exploring, testing, surveying or otherwise investigating the potential of a lease for oil and gas or the actual drilling or preparation for drilling of wells therefor.

(d) *NPR–A* means the area formerly within Naval Petroleum Reserve Numbered 4 Alaska which was redesignated as the National Petroleum Reserve—Alaska by the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501).

(e) *Reworking operations* means all operations designed to secure, restore or improve production through some use of a hole previously drilled, including, but not limited to, mechanical or chemical treatment of any horizon, deepening to test deeper strata and plugging back to test higher strata.

(f) *Special Areas* means the Utokok River, the Teshekpuk Lake areas and other areas within NPR—A identified by the Secretary as having significant subsistence, recreational, fish and wildlife or historical or scenic value.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988]

§ 3130.0–7 Cross references. [Reserved]

§ 3130.1 Attorney General review.

(a) Prior to the issuance of any lease, contract or operating agreement under this subpart, the Secretary shall notify the Attorney General of the proposed issuance, the name of the successful bidder, the terms of the proposed lease, contract or operating agreement and any other information the Attorney General may require to conduct an antitrust review of the proposed action. Such other information shall include, but is not limited to, information to be provided the Secretary by the successful bidder or its owners.

(b) In advance of the publication of any notice of sale, the Attorney General shall notify the Secretary of his/her preliminary determination of the information each successful bidder shall be required to submit for antitrust review purposes. The Secretary shall require this information to be promptly submitted by successful bidders, and may provide prospective bidders the opportunity to submit such information in advance of or accompanying their bids. For subsequent notices of sale, the Attorney General's preliminary information requirements shall be as specified for the prior notice unless a change in the requirements is communicated to the Secretary in advance of publication of the new notice of sale. Where a bidder in a prior sale has previously submitted any of the currently required information, a reference to the date of submission and to the serial number of the record in which it is filed, together with a statement of any and all changes in the information since the date of the previous submission, shall be sufficient.

(c) The Secretary shall not issue any lease, contract or operating agreement until:

(1) Thirty days after the Attorney General receives notice from the Secretary of the proposed lease contract or operating agreement, together with any other information required under this section; or

(2) The Attorney General notifies the Secretary that issuance of the proposed lease, contract or operating agreement does not create or maintain a situation inconsistent with the antitrust laws, whichever comes first. The Attorney General shall inform the successful bidder, and simultaneously the Secretary, if the information supplied is insufficient, and shall specify what information is required for the Attorney General to complete his/her review. The 30-day period shall stop running on the date of such notification and not resume running until the Attorney General receives the required information.

(d) The Secretary shall not issue the lease, contract for operating agreement to the successful bidder, if, during the 30-day period, the Attorney General notifies the Secretary that such issuance would create or maintain a situation inconsistent with the antitrust laws.

(e) If the Attorney General does not reply in writing to the notification provided under paragraph (a) of this section within the 30-day review period,

the Secretary may issue the lease, contract or operating agreement without waiting for the advice of the Attorney General.

(f) Information submitted to the Secretary to comply with this section shall be treated by the Secretary and by the Attorney General as confidential and proprietary data if marked confidential by the submitting bidder or other person. Such information shall be submitted to the Secretary in sealed envelopes and shall be transmitted in that form to the Attorney General.

(g) The procedures outlined in paragraphs (a) through (f) of this section apply to the proposed assignment or transfer of any lease, contract or operating agreement.

§ 3130.2 Limitation on time to institute suit to contest a Secretary's decision.

Any action seeking judicial review of the adequacy of any programmatic or site-specific environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) concerning oil and gas leasing in NPR–A shall be barred unless brought in the appropriate District Court within 60 days after notice of availability of such statement is published in the FEDERAL REGISTER.

§ 3130.3 Drainage.

Upon a determination by the authorized officer, that lands owned by the United States within NPR–A are being drained, the regulations under § 3162.2 of this title, including the provisions relating to compensatory agreements or royalties, shall apply.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988; 66 FR 1892, Jan. 10, 2001]

§ 3130.4 Leasing: General.

§ 3130.4–1 Tract size.

A tract selected for leasing shall consist of a compact area of not more than 60,000 acres.

§ 3130.4–2 Lease term.

The primary term of an NPR–A lease is 10 years.

[67 FR 17885, Apr. 11, 2002]

§ 3130.5 Bona fide purchasers.

The provisions of § 3108.4 of this title shall apply to bona fide purchasers of leases within NPR–A.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988]

§ 3130.6 Leasing maps and land descriptions.

§ 3130.6–1 Leasing maps.

The Bureau shall prepare leasing maps showing the tracts to be offered for lease sale.

§ 3130.6–2 Land descriptions.

(a) All tracts shall be composed of entire sections either surveyed or protracted, whichever is applicable, except that if the tracts are adjacent to upland navigable water areas, they may be adjusted on the basis of subdivisional parts of the sections.

(b) Leased lands shall be described according to section, township and range in accordance with the official survey or protraction diagrams.

Subpart 3131—Leasing Program

§ 3131.1 Receipt and consideration of nominations; public notice and participation.

During preparation of a proposed leasing schedule, the Secretary shall invite and consider suggestions and relevant information for such program from the Governor of Alaska, local governments, Native corporations, industry, other Federal agencies, including the Attorney General and all interested parties, including the general public. This request for information shall be issued as a notice in the FEDERAL REGISTER.

§ 3131.2 Tentative tract selection.

(a) The State Director Alaska, Bureau of Land Management, shall issue calls for Nominations and Comments on tracts for leasing for oil and gas in specified areas. The call for Nominations and Comments shall be published in the FEDERAL REGISTER and may be published in other publications as desired by the State Director. Nominations and Comments on tracts shall be addressed to the State Director Alaska,

Bureau of Land Management. The State Director shall also request comments on tracts which should receive special concern and analysis.

(b) The State Director, after completion of the required environmental analysis (see 40 CFR 1500–1508), shall select tracts to be offered for sale. In making the selection, the State Director shall consider available environmental information, multiple-use conflicts, resource potential, industry interest, information from appropriate Federal agencies and other available information. The State Director shall develop measures to mitigate adverse impacts, including lease stipulations and information to lessees. These mitigating measures shall be made public in the notice of sale.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988]

§ 3131.3 Special stipulations.

Special stipulations shall be developed to the extent the authorized officer deems necessary and appropriate for mitigating reasonably foreseeable and significant adverse impacts on the surface resources. Special Areas stipulations for exploration or production shall be developed in accordance with section 104 of the Naval Petroleum Reserves Production Act of 1976. Any special stipulations and conditions shall be set forth in the notice of sale and shall be attached to and made a part of the lease, if issued. Additional stipulations needed to protect surface resources and special areas may be imposed at the time the surface use plan and permit to drill are approved.

§ 3131.4 Lease sales.

§ 3131.4–1 Notice of sale.

(a) The State Director Alaska, Bureau of Land Management, shall publish the notice of sale in the FEDERAL REGISTER, and may publish the notice in other publications if he/she deems it appropriate. The publication in the FEDERAL REGISTER shall be at least 30 days prior to the date of the sale. The notice shall state the place and time at which bids are to be filed, and the place, date and hour at which bids are to be opened.

(b) Tracts shall be offered for lease by competitive sealed bidding under conditions specified in the notice of lease sale and in accordance with all applicable laws and regulations. Bidding systems used in sales shall be based on bidding systems included in section (205)(a)(1)(A) through (H) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1801 *et seq.*).

(c) A detailed statement of the sale, including a description of the areas to be offered for lease, the lease terms, conditions and special stipulations and how and where to submit bids shall be made available to the public immediately after publication of the notice of sale.

Subpart 3132—Issuance of Leases

§ 3132.1 Who may hold a lease.

Leases issued pursuant to this subpart may be held only by:

(a) Citizens and nationals of the United States;

(b) Aliens lawfully admitted for permanent residence in the United States as defined in 8 U.S.C. 1101(a)(20);

(c) Private, public or municipal corporations organized under the laws of the United States or of any State or of the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa or any of its territories; or

(d) Associations of such citizens, nationals, resident aliens or private, public or municipal corporations.

§ 3132.2 Submission of bids.

(a) A separate sealed bid shall be submitted for each tract in the manner prescribed. A bid shall not be submitted for less than an entire tract.

(b) Each bidder shall submit with the bid a certified or cashier's check, bank draft, U.S. currency or any other form of payment approved by the Secretary for one-fifth of the amount of the cash bonus, unless stated otherwise in the notice of sale.

(c) Each bid shall be accompanied by statements of qualifications prepared in accordance with § 3132.4 of this title.

(d) Bidders are bound by the provisions of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders.

§ 3132.3 Payments.

(a) Payments of bonuses, including deferred bonuses, first year's rental, other payments due upon lease issuance, and filing fees shall be made to the Alaska State Office, Department of the Interior, Bureau of Land Management. All payments shall be made by certified or cashier's check, bank draft, U.S. currency or any other form of payment approved by the Secretary. Payments shall be made payable to the Department of the Interior, Bureau of Land Management, unless otherwise directed.

(b) All other payments required by a lease or the regulations in this part shall be payable to the Department of the Interior, Minerals Management Service.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988]

§ 3132.4 Qualifications.

Submission of a lease bid constitutes certification of compliance with the regulations of this part. Anyone seeking to acquire, or anyone holding, a Federal oil and gas lease or interest therein may be required to submit additional information to show compliance with the regulations of this part.

[47 FR 8546, Feb. 26, 1982]

§ 3132.5 Award of leases.

(a) Sealed bids received in response to the notice of lease sale shall be opened at the place, date and hour specified in the notice of sale. The opening of bids is for the sole purpose of publicly announcing and recording the bids received. No bids shall be accepted or rejected at that time.

(b) The United States reserves the right to reject any and all bids received for any tract, regardless of the amount offered.

(c) In the event the highest bids are tie bids, the tying bidders shall be allowed to submit within 15 days of the public announcement of a tie bid additional sealed bids to break the tie. The additional bids shall include any additional amount necessary to bring the amount tendered with his/her bid to one-fifth of the additional bid. Additional bids to break tie bids shall be processed in accordance with paragraph (a) of this section.

(d) If the authorized officer fails to accept the highest bid for a lease within 90 days or a lesser period of time as specified in the notice of sale, the highest bid for that lease shall be considered rejected. This 90-day period or lesser period as specified in the notice of sale shall not include any period of time during which acceptance, rejection or other processing of bids and lease issuance by the Department of the Interior are enjoined or prohibited by court order.

(e) Written notice of the final decision on the bids shall be transmitted to those bidders whose deposits have been held in accordance with instructions set forth in the notice of sale. If a bid is accepted, 2 copies of the lease shall be transmitted with the notice of acceptance to the successful bidder. The bidder shall, not later than the 15th day after receipt of the lease, sign both copies of the lease and return them, together with the first year's rental and the balance of the bonus bid, unless deferred, and shall file a bond, if required to do so. Deposits shall be refunded on rejected bids.

(f) If the successful bidder fails to execute the lease within the prescribed time or otherwise to comply with the applicable regulations, the deposit shall be forfeited and disposed of as other receipts under the Act.

(g) If the awarded lease is executed by an attorney-in-fact acting on behalf of the bidder, the lease shall be accompanied by evidence that the bidder authorized the attorney-in-fact to execute the lease on his/her behalf. Reference may be made to the serial number of the record and the office of the Bureau of Land Management in which such evidence has already been filed.

(h) When the executed lease is returned to the authorized officer, he/she shall within 15 days of receipt of the material required by paragraph (e) of this section, execute the lease on behalf of the United States. A copy of the fully executed lease shall be transmitted to the lessee.

§ 3132.5–1 Forms.

Leases shall be issued on forms approved by the Director.

§ 3132.5–2 Dating of leases.

All leases issued under the regulations in this part shall become effective as of the first day of the month following the date they are signed on behalf of the United States. When prior written request is made, a lease may become effective as of the first day of the month within which it is signed on behalf of the United States.

Subpart 3133—Rentals and Royalties

§ 3133.1 Rentals.

(a) An annual rental shall be due and payable at the rate prescribed in the notice of sale and the lease, but in no event shall such rental be less than $3 per acre, or fraction thereof. Payment shall be made on or before the first day of each lease year prior to discovery of oil or gas on the lease.

(b) If there is no actual or allocated production on the portion of a lease that has been segregated from a producing lease, the owner of such segregated lease shall pay an annual rental for such segregated portion at the rate per acre specified in the original lease. This rental shall be payable each lease year following the year in which the segregation became effective and prior to discovery of oil or gas on such segregated portion.

(c) Annual rental paid in any year prior to discovery of oil or gas on the lease shall be in addition to, and shall not be credited against, any royalties due from production.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988]

§ 3133.2 Royalties.

Royalties on oil and gas shall be at the rate specified in the notice of sale as to the tracts, if appropriate, and in the lease, unless the Secretary, in order to promote increased production on the leased area through direct, secondary or tertiary recovery means, reduces or eliminates any royalty set out in the lease.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988]

§ 3133.2–1 Minimum royalties.

For leases which provide for minimum royalty payments, each lessee shall pay the minimum royalty specified in the lease at the end of each lease year beginning with the first lease year following a discovery on the lease.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988]

§ 3133.3 Under what circumstances will BLM waive, suspend, or reduce the rental, royalty, or minimum royalty on my NPR–A lease?

(a) BLM will waive, suspend, or reduce the rental, royalty, or minimum royalty of your lease if BLM finds that—

(1) It encourages the greatest ultimate recovery of oil or gas or it is in the interest of conservation; and

(2) You can't successfully operate the lease under its terms. This means that your cost to operate the lease exceeds income from the lease.

(b) If the subsurface estate is held by a regional corporation, BLM will consult with the regional corporation, in accordance with 43 CFR 2650.4–3, before approving an action under this section. *Regional corporation* is defined in 43 U.S.C. 1602.

[67 FR 17885, Apr. 11, 2002]

§ 3133.4 How do I apply for a waiver, suspension or reduction of rental, royalty or minimum royalty for my NPR–A lease?

(a) Submit to BLM your application and in it describe the relief you are requesting and include—

(1) The lease serial number;

(2) The number, location and status of each well drilled;

(3) 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;

(4) The number of wells counted as producing each month and the average production per well per day;

(5) A detailed statement of expenses and costs of operating the entire lease;

(6) All facts that demonstrate that you can't successfully operate the wells under the terms of the lease;

(7) The amount of any overriding royalty and payments out of production or similar interests applicable to your lease; and

(8) Any other information BLM requires.

(b) Your application must be signed by—

(1) All record title holders of the lease; or

(2) By the operator on behalf of all record title holders.

[67 FR 17885, Apr. 11, 2002]

Subpart 3134—Bonding: General

§ 3134.1 Bonding.

(a) Prior to issuance of an oil and gas lease, the successful bidder shall furnish the authorized officer a surety or personal bond in accordance with the provisions of § 3104.1 of this title in the sum of $100,000 conditioned on compliance with all the lease terms, including rentals and royalties, conditions and any stipulations. The bond shall not be required if the bidder already maintains or furnishes a bond in the sum of $300,000 conditioned on compliance with the terms, conditions and stipulations of all oil and gas leases held by the bidder within NPR–A, or maintains or furnishes a nationwide bond as set forth in § 3104.3(b) of this title and furnishes a rider thereto sufficient to bring total coverage to $300,000 to cover all oil and gas leases held within NPR–A.

(b) A bond in the sum of $100,000 or $300,000, or a nationwide bond as provided in § 3104.3(b) of this title with a rider thereto sufficient to bring total coverage to $300,000 to cover all oil and gas leases within NPR–A, may be provided by an operating rights owner (sublessee) or operator in lieu of a bond furnished by the lessee, and shall assume the responsibilities and obligations of the lessee for the entire leasehold in the same manner and to the extent as though he/she were the lessee.

(c) If as a result of a default, the surety on a bond makes payment to the United States of any indebtedness under a lease secured by the bond, the face amount of such bond and the surety's liability shall be reduced by the amount of such payment.

(d) A new bond in the amount previously held or a larger amount as determined by the authorized officer shall be posted within 6 months or such shorter period as the authorized officer may direct after a default. In lieu thereof, separate or substitute bonds for each lease covered by the prior bond may be filed.The authorized officer may cancel a lease(s) covered by a deficient bond(s), in accordance with § 3136.3 of this title. Where a bond is furnished by an operator, suit may be brought thereon without joining the lessee when such lessee is not a party to the bond.

(e) Except as provided in this subpart, the bonds required for NPR–A leases are in addition to any other bonds the successful bidder may have filed or be required to file under §§ 3104.2, 3104.3(a) and 3154.1 and subparts 3206 and 3209 of this title.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988; 53 FR 22846, June 17, 1988]

§ 3134.1–1 Form of bond.

All bonds furnished by a lessee, operating rights owner (sublessee), or operator shall be on a form approved by the Director.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988]

§ 3134.1–2 Additional bonds.

(a) The authorized officer may require the bonded party to supply additional security in the form of a supplemental bond or bonds or to increase the coverage of an existing bond if, after operations or production have begun, such additional security is deemed necessary to assure maximum protection of Special Areas.

(b) The holders of any oil and gas lease bond for a lease on the NPR–A shall be permitted to obtain a rider to include the coverage of oil and gas geophysical operations within the boundaries of NPR–A.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988]

lease interests have consented to the gas storage agreement 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, including bonding, and reservoir management.

(c) BLM may request documentation in addition to that which you provide under paragraph (a) of this section.

§ 3138.12 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).

PART 3140—COMBINED HYDROCARBON LEASING

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

Sec.

3140.0–1 Purpose.
3140.0–3 Authority.
3140.0–5 Definitions.
3140.1 General provisions.
3140.1–1 Existing rights.
3140.1–2 Notice of intent to convert.
3140.1–3 Exploration plans.
3140.1–4 Other provisions.
3140.2 Applications.
3140.2–1 Forms.
3140.2–2 Who may apply.
3140.2–3 Application requirements.
3140.3 Time limitations.
3140.3–1 Conversion applications.
3140.3–2 Action on an application.
3140.4 Conversion.
3140.4–1 Approval of plan of operations (and unit and operating agreements).
3140.4–2 Issuance of the combined hydrocarbon lease.
3140.5 Duration of the lease.
3140.6 Use of additional lands.
3140.7 Lands within the National Park System.

Subpart 3141—Competitive Leasing in Special Tar Sand Areas

3141.0–1 Purpose.
3141.0–3 Authority.
3141.0–5 Definitions.
3141.0–8 Effect of existing regulations.
3141.1 General.
3141.2 Prelease exploration within Special Tar Sand Areas.
3141.2–1 Geophysical exploration.
3141.2–2 Exploration licenses.
3141.3 Land use plans.
3141.4 Consultation.
3141.4–1 Consultation with the Governor.
3141.4–2 Consultation with others.
3141.5 Leasing procedures.
3141.5–1 Economic evaluation.
3141.5–2 Term of lease.
3141.5–3 Royalties and rentals.
3141.5–4 Lease size.
3141.5–5 Dating of lease.
3141.6 Sale procedures.
3141.6–1 Initiation of competitive lease offering.
3141.6–2 Publication of a notice of competitive lease offering.
3141.6–3 Conduct of sales.
3141.6–4 Qualifications.
3141.6–5 Fair market value.
3141.6–6 Rejection of bid.
3141.6–7 Consideration of next highest bid.
3141.7 Award of lease.

Subpart 3142—Paying Quantities/Diligent Development

3142.0–1 Purpose.
3142.0–3 Authority.
3142.0–5 Definitions.
3142.1 Diligent development.
3142.2 Minimum production levels.
3142.2–1 Minimum production schedule.
3142.2–2 Advance royalties in lieu of production.
3142.3 Expiration.

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

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

AUTHORITY: 30 U.S.C. 181 *et seq.*

SOURCE: 47 FR 22478, May 24, 1982, unless otherwise noted.

§ 3140.0–1 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.

§ 3140.0–3 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).

§ 3140.0–5 Definitions.

As used in this subpart, the term:

(a) *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.

(b) *A complete plan of operations* means a plan of operations which is in substantial compliance with the information requirements of 43 CFR 3572.1 for both exploration plans and mining plans, as well as any additional information required in these regulations and under 43 CFR 3572.1, as may be appropriate.

(c) *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.

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

(e) *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.

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

[47 FR 22478, May 24, 1982, as amended at 55 FR 12351, Apr. 3, 1990]

§ 3140.1 General provisions.

§ 3140.1–1 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 situated to a combined hydrocarbon lease, provided that such conversion is consistent with the provisions of this subpart.

(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 shall have no effect on the validity of the mining claim nor the right to maintain that claim.

§ 3140.1–2 Notice of intent to convert.

(a) Owners of oil and gas leases in Special Tar Sand Areas which are scheduled to expire prior to the effective date of these regulations or within 6 months thereafter, may preserve the right to convert their leases to combined hydrocarbon leases by filing a Notice of Intent to Convert with the State Director, Utah State Office, Bureau of Land Management, 136 E. South Temple, Salt Lake City, Utah 84111.

(b) A letter, submitted by the lessee, notifying the Bureau of Land Management of the lessee's intention to submit a plan of operations shall constitute a notice of intent to convert a lease. The Notice of Intent shall contain the lease number.

(c) The Notice of Intent shall be filed prior to the expiration date of the lease. The notice shall preserve the lessee's conversion rights only for a period ending 6 months after the effective date of this subpart.

§ 3140.1–3 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 § 3140.7 of this title.

(c) The filing of an exploration plan alone shall be insufficient to meet the requirements of a complete plan of operations as set forth in § 3140.2–3 of this title.

[47 FR 22478, May 24, 1982, as amended at 55 FR 12351, Apr. 3, 1990]

§ 3140.1–4 Other provisions.

(a) A combined hydrocarbon lease shall be for no more than 5,120 acres. Acreage held under lease in a Special Tar Sand Area is not chargeable to State oil and gas limitations allowable in § 3101.2 of this title.

(b) The rental rate for a combined hydrocarbon lease shall be $2 per acre per year and shall be payable annually in advance.

(c)(1) The royalty rate for a combined hydrocarbon lease converted from an oil and gas lease shall 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 shall be 12½ percent.

(3) A reduction of royalties may be granted either as provided in § 3103.4 of this title 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.

(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 shall 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 § 3140.4–1(b) of this title.

(2) If the plan of operations submitted for conversion is designed to cover a unit, a fully executed unit agreement shall be approved before the plan of operations applicable to the unit may be approved under § 3140.2 of this title. The proposed plan of operations and the proposed unit agreement may be reviewed concurrently. The approved unit agreement shall be effective after the leases or claims subject to it are converted to combined hydrocarbon leases. The plan of operations shall 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 part 3100 of this title are applicable, as appropriate, to all combined hydrocarbon leases issued under this subpart.

[47 FR 22478, May 24, 1982, as amended at 48 FR 33682, July 22, 1983; 55 FR 12351, Apr. 3, 1990; 61 FR 4752, Feb. 8, 1996]

§ 3140.2 Applications.

§ 3140.2–1 Forms.

No special form is required for a conversion application.

§ 3140.2–2 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.

[55 FR 12351, Apr. 3, 1990]

§ 3140.2–3 Application requirements.

(a) The applicant shall submit to the State Director, Utah State Office of the Bureau of Land Management, a written request for a combined hydrocarbon lease signed by the owner of the lease or valid claim which shall be accompanied by 3 copies of a plan of operations which shall meet the requirements of 43 CFR 3592.1 and which shall provide 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 amended plan, the applicant shall submit a written statement of the proposed changes or supplements and the justification for the changes proposed. Any modifications shall 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 shall have no effect on the primary term of the lease. The authorized officer shall, 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 shall be approved without the consent of the Regional Director of the National Park Service in accordance with § 3140.7 of this title.

(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 shall 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 shall include any proposed designation of operator or proposed operating agreement.

(f) The plan of operations may include an exploration phase, if necessary, but it shall 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 shall 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 shall be suspended, not any operation and production requirements thereunder.

(2) If the authorized officer determines that the plan of operations is not complete, the applicant shall 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 shall have no effect on the suspension of the running of the oil and gas lease.

[47 FR 22478, May 24, 1982, as amended at 55 FR 12351, Apr. 3, 1990]

§ 3140.3 Time limitations.

§ 3140.3–1 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 shall be filed on or before November 15, 1983, or prior to the expiration of the oil and gas lease, whichever is earlier, except as provided in § 3140.1–2 of this title.

§ 3140.3–2 Action on an application.

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

[47 FR 22478, May 24, 1982, as amended at 55 FR 12351, Apr. 3, 1990]

§ 3140.4 Conversion.

§ 3140.4–1 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 shall have such lease or claim converted to a combined

hydrocarbon lease when the plan of operations, filed under § 3140.2 of this title, is deemed acceptable and is approved by the authorized officer.

(b) The conversion of a lease within a unit of the National Park System shall be approved only with the consent of the Regional Director of the National Park Service in accordance with § 3140.7 of this title.

(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.

[47 FR 22478, May 24, 1982, as amended at 55 FR 12351, Apr. 3, 1990]

§ 3140.4–2 Issuance of the combined hydrocarbon lease.

(a) After a plan of operations is found acceptable, and is approved, the authorized officer shall 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 shall 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 shall be the first day of the month following the date that the authorized officer signs the lease.

(d)(1) Except to the extent that any such lease would exceed 5,210 acres, the authorized officer may issue, upon the request of the applicant, 1 combined hydrocarbon lease to cover contiguous oil and gas leases or valid claims based on mineral locations which have been approved for conversion.

(2) To the extent necessary to promote the development of the resource, the authorized officer may issue, upon the request of the applicant, 1 combined hydrocarbon lease that does not exceed 5,120 acres, which shall be as nearly compact as possible, to cover non-contiguous oil and gas leases or valid claims which have been approved for conversion.

§ 3140.5 Duration of the lease.

A combined hydrocarbon lease shall be for a primary term of 10 years and for so long thereafter as oil or gas is produced in paying quantities.

§ 3140.6 Use of additional lands.

(a) The authorized officer may noncompetitively 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 shall be filed under the provisions of part 2920 of this title 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 shall not be issued when the use can be authorized under parts 2800 and 2880 of this title. 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 shall only be issued by the National Park Service. Applications for such permits or leases shall be filed with the Regional Director of the National Park Service.

§ 3140.7 Lands within the National Park System.

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 shall 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 3100.0–3 (g)(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 shall 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 § 3109.2(b) of this title.

[47 FR 22478, May 24, 1982, as amended at 48 FR 33682, July 22, 1983; 55 FR 12351, Apr. 3, 1990]

Subpart 3141—Competitive Leasing in Special Tar Sand Areas

AUTHORITY: 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 43 U.S.C. 1701 *et seq.*, 95 Stat. 1070.

SOURCE: 48 FR 7422, Feb. 18, 1983, unless otherwise noted.

NOTE: The information collection requirements contained in 43 CFR subpart 3141 do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* because there are fewer than 10 respondents annually.

§ 3141.0–1 Purpose.

The purpose of this subpart is to provide for the competitive leasing of lands and issuance of Combined Hydrocarbon Leases within Special Tar Sand Areas.

§ 3141.0–3 Authority.

These regulations 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 Manangement Act of 1976 (43 U.S.C. 1701 *et seq.*), and the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070).

§ 3141.0–5 Definitions.

As used in this subpart, the term:

(a) *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.

(b) *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 and sand.

(c) *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.

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

§ 3141.0–8 Effect of existing regulations.

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

(1) All of subpart 3100, with the exception of § 3100.3–2;

(2) The following sections of subpart 3101: §§ 3101.1–1, 3101.2–1, 3101.2–2, 3101.2–4, 3101.2–5, 3101.7–1, 3101.7–2, and 3101.7–3;

(3) All of subpart 3102;

(4) All of subpart 3103, with the exception of §§ 3103.2–1, those portions of 3103.2–2 dealing with noncompetitive leases, and 3103.3–1 (a), (b), and (c);

(5) All of subpart 3104;

(6) All of subpart 3105;

(7) All of subpart 3106, with the exception of § 3106.1 (c);

(8) All of subpart 3107, with the exception of § 3107.7;

(9) All of subpart 3108; and

(10) All of subpart 3109, with special emphasis on § 3109.2 (b).

(b) Prior to commencement of operations, the lessee shall 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.

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

[48 FR 7422, Feb. 18, 1983, as amended at 55 FR 12351, Apr. 3, 1990]

§ 3141.1 General.

(a) All oil and gas within a Special Tar Sand Area shall be leased only by competitive bonus bidding and only combined hydrocarbon leases shall be issued for oil and gas within such areas.

(b) The acreage of combined hydrocarbon leases held within a Special Tar Sand Area shall not be charged against acreage limitations for the holding of oil and gas leases.

(c)(1) The authorized officer may noncompetitively 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 shall be filed under the provisions of part 2920 of this title 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 shall not be issued under this part when the use can be authorized under part 2800 of this title. 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 shall be issued only by the National Park Service. Applications for such permits or leases shall be filed with the Regional Director of the National Park Service.

§ 3141.2 Prelease exploration within Special Tar Sand Areas.

§ 3141.2–1 Geophysical exploration.

Geophysical exploration in Special Tar Sand Areas shall be governed by part 3150 of this title. Information obtained under a permit shall be made available to the Bureau of Land Management upon request.

[48 FR 7422, Feb. 18, 1983, as amended at 55 FR 12351, Apr. 3, 1990]

§ 3141.2–2 Exploration licenses.

(a) Any person(s) qualified to hold a lease under the provisions of subpart 3102 of this title 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 Bureau of Land Management, within or adjacent to a Special Tar Sand Area. The application for such a license shall be submitted to the proper BLM office having jurisdiction of 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 shall be subject to the following requirements:

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

(2) Each application shall be accompanied by a nonrefundable filing fee of $250.00;

(3) Each application shall 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 shall include 3 copies of an exploration plan which complies with the requirements of 43 CFR 4392.1 (a); and

(5) An application shall cover no more than 5,120 acres, which shall be as nearly compact as possible.

The authorized officer may grant an exploration license covering more than 5,120 acres only if the application contains a justification for an exception to the normal limitation.

(c) The authorized officer may, if he/she 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 shall be conducted according to the following:

(1) Immediately upon the notification of a determination that parties

shall be given an opportunity to participate in the exploration license, the applicant shall publish a ''Notice of Invitation,'' approved by the authorized officer, once every week for 2 consecutive weeks in at least 1 newspaper of general circulation in the area where the lands covered by the exploration license are situated. This notice shall 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'' shall 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 shall 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 shall become effective on the date specifed by the authorized officer as the date when exploration activities may begin. The exploration plan approved by the Bureau of Land Management shall be attached and made a part of each exploration license.

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

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

(2) The rental shall be $2 per acre per year payable in advance;

(3) The licensee shall 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 subpart 3104 of this title, if adequate. The period of liability under the bond shall 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 shall provide to the Bureau of Land Management upon request all required information obtained under the license. Any information provided shall be treated as confidential and proprietary, if appropriate, at the request of the licensee, and shall not be made public until the areas involved have been leased or only if the Bureau of Land Management determines that public access to the data will not damage the competitive position of the licensee.

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

(6) The authorized officer shall 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, may direct adjustment in the exploration plan;

(8) The licensee may submit a request for modification of the exploration plan to the authorized officer. Any modification shall 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 shall be subject to termination or suspension as provided in § 2920.9–3 of this title.

[48 FR 7422, Feb. 18, 1983, as amended at 55 FR 12351, Apr. 3, 1990]

§ 3141.3 Land use plans.

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

§ 3141.4 Consultation.

§ 3141.4–1 Consultation with the Governor.

The Secretary shall consult with the Governor of the State in which any tract proposed for sale is located. The Secretary shall give the Governor 30 days to comment before determining whether to conduct a lease sale. The Secretary shall 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 shall accept the recommendations of the Governor if he/she determines that they provide for a reasonable balance between the national interest and the State's interest. The Secretary shall 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.

§ 3141.4–2 Consultation with others.

(a) Where the surface is administered by an agency other than the Bureau of Land Management, 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 shall be in accordance with the consultation requirements of subpart 3100 of this title.

(b) The issuance of combined hydrocarbon leases within units of the National Park System shall 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 or subsequent development of combined hydrocarbon resources within a unit of National Park System, the Regional Director of the National Park Service shall 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 § 3109.2 (b) of this title.

[48 FR 7422, Feb. 18, 1983, as amended at 55 FR 12351, Apr. 3, 1990]

§ 3141.5 Leasing procedures.

§ 3141.5–1 Economic evaluation.

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

§ 3141.5–2 Term of lease.

Combined hydrocarbon leases shall have a primary term of 10 years and shall remain in effect so long thereafter as oil or gas is produced in paying quantities.

§ 3141.5–3 Royalties and rentals.

(a) The royalty rate on all combined hydrocarbon leases is 12½ percent of the value of production removed or sold from a lease. The Minerals Management Service shall be responsible for collecting and administering royalties.

(b) The lessee may request the Secretary to reduce the royalty rate applicable to tar sand 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 Bureau of Land Managment and may request a reduction in the royalty after commencement of commercial operations in accordance with § 3103.4–1 of this title.

(c) The rental rate for a combined hydrocarbon lease shall be $2 per acre per

year, and shall be payable annually in advance.

(d) Except as explained in paragraphs (a), (b), and (c) of this section, all other provisions of §§ 3103.2 and 3103.3 of this title apply to combined hydrocarbon leasing.

[48 FR 7422, Feb. 18, 1983, as amended at 55 FR 12351, Apr. 3, 1990]

§ 3141.5–4 Lease size.

Combined hydrocarbon leases shall not exceed 5,120 acres.

§ 3141.5–5 Dating of lease.

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

§ 3141.6 Sale procedures.

§ 3141.6–1 Initiation of competitive lease offering.

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

§ 3141.6–2 Publication of a notice of competitive lease offering.

Where a determination to offer lands for competitive leasing is made, a notice shall be published of the lease sale in the FEDERAL REGISTER and a newspaper of general circulation in the area in which the lands to be leased are located. The publication shall appear once in the FEDERAL REGISTER and at least once a week for 3 consecutive weeks in a newspaper, or for other such periods deemed necessary. The notice shall 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 shall 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.

[48 FR 7422, Feb. 18, 1983, as amended at 55 FR 12351, Apr. 3, 1990]

§ 3141.6–3 Conduct of sales.

(a) Competitive sales shall be conducted by the submission of written sealed bids.

(b) Minimum bids shall be not less than $25 per acre.

(c) In the event that only 1 sealed bid is received and it is equal to or greater than the minimum bid, that bid shall be considered the highest bid.

(d) The authorized officer may reject any or all bids.

(e) The authorized officer may waive minor deficiencies in the bids or the lease sale advertisement.

(f) A bid deposit of one-fifth of the amount of the sealed bid shall be required and shall accompany the sealed bid. All bid deposits shall be in the form of either a certified check, money order, bank cashier's check or cash.

§ 3141.6–4 Qualifications.

Each bidder shall submit with the bid a statement over the bidder's signature with respect to compliance with subpart 3102 of this title.

§ 3141.6–5 Fair market value.

Only those bids which reflect the fair market value of the tract(s) as determined by the authorized officer shall be accepted; all other bids shall be rejected.

§ 3141.6–6 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 one-fifth bonus accompanying the bid shall be forfeited.

§ 3141.6–7 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 shall an offer be made to the next highest bidder if the difference beween his/her bid and that of the rejected successful bidder is greater than the one-fifth bonus

forfeited by the rejected successful bidder.

[55 FR 12351, Apr. 3, 1990]

§ 3141.7 Award of lease.

After determining the highest responsible qualified bidder, the authorized officer shall send 3 copies of the lease on a form approved by the Director, and any necessary stipulations, to the successful bidder. The successful bidder shall, not later than the 30th 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 subpart 3104 of this title. Failure to comply with this section shall result in rejection of the lease.

Subpart 3142—Paying Quantities/ Diligent Development

SOURCE: 51 FR 7276, Mar. 3, 1986, unless otherwise noted.

§ 3142.0.1 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.

§ 3142.0–3 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).

§ 3142.0–5 Definitions.

As used in part 3140 of this title, the term *production in paying quantities* means:

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

(b) Production of oil or gas by conventional methods as the term is currently used in part 3160 of this title.

§ 3142.1 Diligent development.

A lessee shall have met his/her 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 shall 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 § 3142.0–5(a) of this title, 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 shall be made part of the plan of operations or pays annually advance royalty in lieu of this minimum production.

§ 3142.2 Minimum production levels.

§ 3142.2–1 Minimum production schedule.

Upon receipt of the supplement to the plan of operations described in § 3142.1(b) of this title, the authorized officer shall 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 shall 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, he/she may consider, but is not limited to, the following: or grade, strip ratio, vertical and horizal continuity, extract process recoverability, and proven or unproven status of extraction technology, terrain, environmental mitigation factors, marketability of products and capital operations costs. The authorized officer shall 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 shall start in the eleventh year of the lease. This minimum production level shall 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.

§ 3142.2–2 Advance royalties in lieu of production.

(a) Failure to meet the minimum annual tar sand production schedule level in any year shall result in the assessment of an advance royalty in lieu of production which shall 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 shall be no production during the remainder of the lease year, the lessee shall 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 shall approve a suspension of production for that lease year and the lease shall 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 plan of operations for that lease or unit, the lessee shall 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 shall direct a suspension of production for those periods during which no production occurred.

§ 3142.3 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, shall 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 shall 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

3151.1 Notice of intent to conduct oil and gas geophysical exploration operations.
3151.2 Notice of completion of operations.

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.
3152.7 Completion of operations.

Subpart 3153—Exploration of Lands Under the Jurisdiction of the Department of Defense

3153.1 Geophysical permit requirements.

Subpart 3154—Bond Requirements

3154.1 Types of bonds.
3154.2 Additional bonding.
3154.3 Bond cancellation or termination of liability.

AUTHORITY: 16 U.S.C. 3150(b) and 668dd; 30 U.S.C. 189 and 359; 42 U.S.C. 6508; 43 U.S.C. 1201, 1732(b), 1733, 1734, 1740.

SOURCE: 53 FR 17359, May 16, 1988, unless otherwise noted.

safety or the environment. Further, where other applicable law contains specific provisions for suspension, revocation, or cancellation of a permit or other authorization to use, occupy, or develop the public lands, the specific provisions of such law shall prevail.

§ 3150.2 Appeals.

(a) A party adversely affected by a decision or approval of the authorized officer may appeal that decision to the Interior Board of Land Appeals as set forth in part 4 of this title.

(b) All decisions and approvals of the authorized officer under this part shall remain effective pending appeal unless the Interior Board of Land Appeals determines otherwise upon consideration of the standards stated in this paragraph. The provisions of 43 CFR 4.21(a) shall not apply to any decision or approval of the authorized officer under this part. A petition for a stay of a decision or approval of the authorized officer shall be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, Department of the Interior, and shall show sufficient justification based on the following standards:

(1) The relative harm to the parties if the stay is granted or denied,

(2) The likelihood of the appellant's success on the merits,

(3) The likelihood of irreparable harm to the appellant or resources if the stay is not granted, and

(4) Whether the public interest favors granting the stay.

Nothing in this paragraph shall diminish the discretionary authority of the authorized officer to stay the effectiveness of a decision subject to appeal pursuant to paragraph (a) of this section upon a request by an adversely affected party or on the authorized officer's own initiative. If the authorized officer denies such a request, the requester can petition for a stay of the denial decision by filing a petition with the Interior Board of Land Appeals that addresses the standards described above in this paragraph.

[57 FR 9012, Mar. 13, 1992, as amended at 57 FR 44336, Sept. 25, 1992]

Subpart 3151—Exploration Outside of Alaska

§ 3151.1 Notice of intent to conduct oil and gas geophysical exploration operations.

Parties wishing to conduct oil and gas geophysical exploration outside of the State of Alaska shall file a Notice of Intent to Conduct Oil and Gas Exploration Operations, referred to herein as a notice of intent. The notice of intent shall be filed with the District Manager of the proper BLM office on the form approved by the Director. Within 5 working days of the filing date, the authorized officer shall process the notice of intent and notify the operator of practices and procedures to be followed. If the notice of intent cannot be processed within 5 working days of the filing date, the authorized officer shall promptly notify the operator as to when processing will be completed, giving the reason for the delay. The operator shall, within 5 working days of the filing date, or such other time as may be convenient for the operator, participate in a field inspection if requested by the authorized officer. Signing of the notice of intent by the operator shall signify agreement to comply with the terms and conditions contained therein and in this part, and with all practices and procedures specified at any time by the authorized officer.

§ 3151.2 Notice of completion of operations.

Upon completion of exploration, there shall be filed with the District Manager a Notice of Completion of Oil and Gas Exploration Operations. Within 30 days after this filing, the authorized officer shall notify the party whether rehabilitation of the lands is satisfactory or whether additional rehabilitation is necessary, specifying the nature and extent of actions to be taken by the operator.

Subpart 3152—Exploration in Alaska

§ 3152.1 Application for oil and gas geophysical exploration permit.

Parties wishing to conduct oil and gas geophysical exploration operations

in Alaska shall complete an application for an oil and gas geophysical exploration permit. The application shall contain the following information:

(a) The applicant's name and address;

(b) The operator's name and address;

(c) The contractor's name and address;

(d) A description of lands involved by township and range, including a map or overlays showing the lands to be entered and affected;

(e) The period of time when operations will be conducted; and

(f) A plan for conducting the exploration operations.

The application shall be submitted, along with a nonrefundable filing fee of $25 (except where the exploration operations are to be conducted on a lease held by or on behalf of the lessee), to the District Manager of the proper BLM office.

§ 3152.2 Action on application.

(a) The authorized officer shall review each application and approve or disapprove it within 90 calendar days, unless compliance with statutory requirements such as the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) delays this action. The applicant shall be notified promptly in writing of any such delay.

(b) The authorized officer shall include in each geophysical exploration permit terms and conditions deemed necessary to protect values, mineral resources, and nonmineral resources. Geophysical permits within National Petroleum Reserve—Alaska shall contain such reasonable conditions, restrictions and prohibitions as the authorized officer deems appropriate to mitigate adverse effects upon the surface resources of the Reserve and to satisfy the requirement of section 104(b) of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504) (See part 3130 for stipulations relating to the National Petroleum Reserve—Alaska).

(c) An exploration permit shall become effective on the date specified by the authorized officer and shall expire 1 year thereafter.

(d) For lands subject to section 1008 of the Alaska National Interest Lands Conservation Act, exploration shall be authorized only upon a determination that such activities can be conducted in a manner which is consistent with the purposes for which the affected area is managed under applicable law.

§ 3152.3 Renewal of exploration permit.

Upon application by the permittee and payment of a nonrefundable filing fee of $25 (except where the exploration operations are to be conducted on a leasehold by or on behalf of the lessee), an exploration permit may be renewed for a period not to exceed 1 year.

§ 3152.4 Relinquishment of exploration permit.

Subject to the continued obligations of the permittee and the surety to comply with the terms and conditions of the exploration permit and the regulations, the permittee may relinquish an exploration permit for all or any portion of the lands covered by it. Such relinquishment shall be filed with the District Manager of the proper BLM office.

§ 3152.5 Modification of exploration permit.

(a) A permittee may request, and the authorized officer may approve a modification of an exploration permit.

(b) The authorized officer may, after consultation with the permittee, require modifications determined necessary.

§ 3152.6 Collection and submission of data.

(a) The permittee shall submit to the authorized officer all data and information obtained in carrying out the exploration plan.

(b) All information submitted under this section is subject to part 2 of this title, which sets forth the rules of the Department of the Interior relating to public availability of information contained in Departmental records, as provided at § 3100.4 of this chapter.

[53 FR 17359, May 16, 1988, as amended at 63 FR 52952, Oct. 1, 1998]

§ 3152.7 Completion of operations.

(a) The permittee shall submit to the authorized officer a completion report

within 30 days of completion of all operations under the permit. The completion report shall contain the following:

(1) A description of all work performed;

(2) Charts, maps or plats depicting the areas and blocks in which the exploration was conducted and specifically identifying the lines of geophysical traverses and any roads constructed;

(3) The dates on which the actual exploration was conducted;

(4) Such other information about the exploration operations as may be specified by the authorized officer in the permit; and

(5) A statement that all terms and conditions have been complied with or that corrective measures shall be taken to rehabilitate the lands or other resources.

(b) Within 90 days after the authorized officer receives a completion report from the permittee that exploration has been completed or after the expiration of the permit, whichever occurs first, the authorized officer shall notify the permittee of the specific nature and extent of any additional measures required to rectify any damage to the lands and resources.

[53 FR 17359, May 16, 1988; 53 FR 31959, Aug. 22, 1988]

Subpart 3153—Exploration of Lands Under the Jurisdiction of the Department of Defense

§ 3153.1 Geophysical permit requirements.

Except in unusual circumstances, permits for geophysical exploration on unleased lands under the jurisdiction of the Department of Defense shall be issued by the appropriate agency of that Department. In the event an agency of the Department of Defense refers an application for exploration to the Bureau for issuance, the provisions of subpart 3152 of this title shall apply. Geophysical exploration on lands under the jurisdiction of the Department of Defense shall be authorized only with the consent of, and subject to such terms and conditions as may be required by, the Department of Defense.

Subpart 3154—Bond Requirements

§ 3154.1 Types of bonds.

Prior to each planned exploration, the party(s) filing the notice of intent or application for a permit shall file with the authorized officer a bond as described in § 3104.1 of this title in the amount of at least $5,000, conditioned upon full and faithful compliance with the terms and conditions of this subpart and the notice of intent or permit. In lieu thereof, the party(s) may file a statewide bond in the amount of $25,000 covering all oil and gas exploration operations in the same State or a nationwide bond in the amount of $50,000 covering all oil and gas exploration operations in the nation. Holders of individual, statewide or nationwide oil and gas lease bonds shall be allowed to conduct exploration on their leaseholds without further bonding, and holders of statewide or nationwide lease bonds wishing to conduct exploration on lands they do not have under lease may obtain a rider to include oil and gas exploration operations under this part. Holders of nationwide or any National Petroleum Reserve-Alaska oil and gas lease bonds shall be permitted to obtain a rider to include the coverage of oil and gas exploration within the National Petroleum Reserve—Alaska under subpart 3152 of this title.

§ 3154.2 Additional bonding.

The authorized officer may increase the amount of any bond that is required under this subpart after determining that additional coverage is needed to ensure protection of the lands or resources.

§ 3154.3 Bond cancellation or termination of liability.

The authorized officer shall not consent to the cancellation of the bond or the termination of liability unless and until the terms and conditions of the notice of intent or permit have been met. Should the authorized officer fail to notify the party within 90 days of the filing of a notice of completion of the need for additional action by the operator to rehabilitate the lands, liability for that particular exploration

operation shall automatically terminate.

[53 FR 17359, May 16, 1988; 53 FR 31867, Aug. 22, 1988]

PART 3160—ONSHORE OIL AND GAS OPERATIONS

Subpart 3160—Onshore Oil and Gas Operations: General

Sec.
3160.0–1 Purpose.
3160.0–2 Policy.
3160.0–3 Authority.
3160.0–4 Objectives.
3160.0–5 Definitions.
3160.0–7 Cross references.
3160.0–9 Information collection.

Subpart 3161—Jurisdiction and Responsibility

3161.1 Jurisdiction.
3161.2 Responsibility of the authorized officer.
3161.3 Inspections.

Subpart 3162—Requirements for Operating Rights Owners and Operators

3162.1 General requirements.
3162.2 Drilling, producing, and drainage obligations.
3162.2–2 What steps may BLM take to avoid uncompensated drainage of Federal or Indian mineral resources?
3162.2–3 When am I responsible for protecting my Federal or Indian lease from drainage?
3162.2–4 What protective action may BLM require the lessee to take to protect the leases from drainage?
3162.2–5 Must I take protective action when a protective well would be uneconomic?
3162.2–6 When will I have constructive notice that drainage may be occurring?
3162.2–7 Who is liable for drainage if more than one person holds undivided interests in the record title or operating rights for the same lease?
3162.2–8 Does my responsibility for drainage protection end when I assign or transfer my lease interest?
3162.2–9 What is my duty to inquire about the potential for drainage and inform BLM of my findings?
3162.2–10 Will BLM notify me when it determines that drainage is occurring?
3162.2–11 How soon after I know of the likelihood of drainage must I take protective action?
3162.2–12 If I hold an interest in a lease, for what period will the Department assess compensatory royalty against me?
3162.2–13 If I acquire an interest in a lease that is being drained, will the Department assess me for compensatory royalty?
3162.2–14 May I appeal BLM's decision to require drainage protective measures?
3162.2–15 Who has the burden of proof if I appeal BLM's drainage determination?
3162.3 Conduct of operations.
3162.3–1 Drilling applications and plans.
3162.3–2 Subsequent well operations.
3162.3–3 Other lease operations.
3162.3–4 Well abandonment.
3162.4 Records and reports.
3162.4–1 Well records and reports.
3162.4–2 Samples, tests, and surveys.
3162.4–3 Monthly report of operations (Form 3160–6).
3162.5 Environment and safety.
3162.5–1 Environmental obligations.
3162.5–2 Control of wells.
3162.5–3 Safety precautions.
3162.6 Well and facility identification.
3162.7 Measurement, disposition, and protection of production.
3162.7–1 Disposition of production.
3162.7–2 Measurement of oil.
3162.7–3 Measurement of gas.
3162.7–4 Royalty rates on oil; sliding and step-scale leases (public land only).
3162.7–5 Site security on Federal and Indian (except Osage) oil and gas leases.

Subpart 3163—Noncompliance, Assessments, and Penalties

3163.1 Remedies for acts of noncompliance.
3163.2 Civil penalties.
3163.3 Criminal penalties.
3163.4 Failure to pay.
3163.5 Assessments and civil penalties.
3163.6 Injunction and specific performance.

Subpart 3164—Special Provisions

3164.1 Onshore Oil and Gas Orders.
3164.2 NTL's and other implementing procedures.
3164.3 Surface rights.
3164.4 Damages on restricted Indian lands.

Subpart 3165—Relief, Conflicts, and Appeals

3165.1 Relief from operating and producing requirements.
3165.1–1 Relief from royalty and rental requirements.
3165.2 Conflicts between regulations.
3165.3 Notice, State Director review and hearing on the record.
3165.4 Appeals.

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.

leasing laws, including mineral resources or mineral estates reserved to the United States in the conveyance of a surface or nonmineral estate.

Fresh water means water containing not more than 1,000 ppm of total dissolved solids, provided that such water does not contain objectionable levels of any constituent that is toxic to animal, plant or acquatic life, unless otherwise specified in applicable notices or orders.

Knowingly or willfully means a violation that constitutes the voluntary or conscious performance of an act that is prohibited or the voluntary or conscious failure to perform an act or duty that is required. It does not include performances or failures to perform that are honest mistakes or merely inadvertent. It includes, but does not require, performances or failures to perform that result from a criminal or evil intent or from a specific intent to violate the law. The knowing or willful nature of conduct may be established by plain indifference to or reckless disregard of the requirements of the law, regulations, orders, or terms of the lease. A consistent pattern of performance or failure to perform also may be sufficient to establish the knowing or willful nature of the conduct, where such consistent pattern is neither the result of honest mistakes or mere inadvertency. Conduct that is otherwise regarded as being knowing or willful is rendered neither accidental nor mitigated in character by the belief that the conduct is reasonable or legal.

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, extraction of or removal of oil or gas.

Lease site means any lands, including the surface of a severed mineral estate, on which exploration for, or extraction and removal of, oil or gas is authorized under a lease.

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

Lessor means the party to a lease who holds legal or beneficial title to the mineral estate in the leased lands.

Major violation means noncompliance that causes or threatens immediate, substantial, and adverse impacts on public health and safety, the environment, production accountability, or royalty income.

Maximum ultimate economic recovery means the recovery of oil and gas from leased lands which a prudent operator could be expected to make from that field or reservoir given existing knowledge of reservoir and other pertinent facts and utilizing common industry practices for primary, secondary or tertiary recovery operations.

Minor violation means noncompliance that does not rise to the level of a *major violation*.

New or resumed production under section 102(b)(3) of the Federal Oil and Gas Royalty Management Act means the date on which a well commences production, or resumes production after having been off production for more than 90 days, and is to be construed as follows:

(1) For an oil well, the date on which liquid hydrocarbons are first sold or shipped from a temporary storage facility, such as a test tank, or the date on which liquid hydrocarbons are first produced into a permanent storage facility, whichever first occurs; and

(2) For a gas well, the date on which gas is first measured through sales metering facilities or the date on which associated liquid hydrocarbons are first sold or shipped from a temporary storage facility, whichever first occurs. For purposes of this provision, a gas well shall not be considered to have been off of production unless it is incapable of production.

Notice to lessees and operators (NTL) means a written notice issued by the authorized officer. NTL's implement the regulations in this part and operating orders, and serve as instructions on specific item(s) of importance within a State, District, or Area.

Onshore oil and gas order means a formal numbered order issued by the Director that implements and supplements the regulations in this part.

Operating rights owner means a person who owns operating rights in a lease. A record title holder may also be an operating rights owner in a lease if it did not transfer all of its operating rights.

Operator means any person or entity including but not limited to the lessee or operating rights owner, who has stated in writing to the authorized officer that it is responsible under the terms and conditions of the lease for the operations conducted on the leased lands or a portion thereof.

Paying well means a well that is capable of producing oil or gas of sufficient value to exceed direct operating costs and the costs of lease rentals or minimum royalty.

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

Production in paying quantities means production from a lease of oil and/or gas of sufficient value to exceed direct operating costs and the cost of lease rentals or minimum royalties.

Protective well means a well drilled or modified to prevent or offset drainage of oil and gas resources from its Federal or Indian lease.

Record title holder means the person(s) to whom BLM or an Indian lessor issued a lease or approved the assignment of record title in a lease.

Superintendent means the superintendent of an Indian Agency, or other officer authorized to act in matters of record and law with respect to oil and gas leases on restricted Indian lands.

Surface use plan of operations means a plan for surface use, disturbance, and reclamation.

Waste of oil or gas means any act or failure to act by the operator that is not sanctioned by the authorized officer as necessary for proper development and production and which results in: (1) A reduction in the quantity or quality of oil and gas ultimately producible from a reservoir under prudent and proper operations; or (2) avoidable surface loss of oil or gas.

[53 FR 17362, May 16, 1988, as amended at 53 FR 22846, June 17, 1988; 66 FR 1892, Jan. 10, 2001]

§ 3160.0–7 Cross references.

25 CFR parts 221, 212, 213, and 227
30 CFR Group 200
40 CFR Chapter V
43 CFR parts 2, 4, and 1820 and Groups 3000, 3100 and 3500

[48 FR 36584, Aug. 12, 1983]

§ 3160.0–9 Information collection.

(a) The information collection requirements contained in §§ 3162.3, 3162.3–1, 3162.3–2, 3162.3–3, 3162.3–4, 3162.4–1, 3162.4–2, 3162.5–1, 3162.5–2, 3162.5–3, 3162.6, 3162.7–1, 3162.7–2, 3162.7–3, 3162.7–5, 3164.3, 3165.1, and 3165.3 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance Number 1004–0134. The information may be collected from some operators either to provide data so that proposed operations may be approved or to enable the monitoring of compliance with granted approvals. The information will be used to grant approval to begin or alter operations or to allow operations to continue. The obligation to respond is required to obtain benefits under the lease.

(b) Public reporting burden for this information is estimated to average 0.4962 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer (783), Bureau of Land Management, Washington, DC 20240, and the Office of Management and Budget, Paperwork Reduction Project, 1004–0134, Washington, DC 20503.

(c)(1) The information collection requirements contained in part 3160 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned the following Clearance Numbers:

OPERATING FORMS

Form No.	Name and filing date	OMB No.
3160–3	Application for Permit to Drill, Deepen, or Plug Back—Filed 30 days prior to planned action	1004–0136
3160–4	With Completion of Recompletion Report and Log—Due 30 days after well completion	1004–0137
3160–5	Sundry Notice and Reports on Wells—Subsequent report due 30 days after operations completed	1004–0135

The information will be used to manage Federal and Indian oil and gas leases. It will be used to allow evaluation of the technical, safety, and environmental factors involved with drilling and producing oil and gas on Federal and Indian oil and gas leases. Response is mandatory only if the operator elects to initiate drilling, completion, or subsequent operations on an oil and gas well, in accordance with 30 U.S.C. 181 *et seq*.

(2) Public reporting burden for this information is estimated to average 25 minutes per response for clearance number 1004–0135, 30 minutes per response for clearance number 1004–0136, and 1 hour per response for clearance number 1004–0137, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer (783), Bureau of Land Management, Washington, DC 20240, and the Office of Management and Budget, Paperwork Reduction Project, 1004–0135, 1004–0136, or 1004–0137, as appropriate, Washington, DC 20503.

(d) There are many leases and agreements currently in effect, and which will remain in effect, involving both Federal and Indian oil and gas leases which specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements also often specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager, and Deputy Minerals Manager. In addition, many leases and agreements specifically refer to 30 CFR part 221 or specific sections thereof, which has been redesignated as 43 CFR part 3160. Those references shall now be read in the context of Secretarial Order 3087 and now mean either the Bureau of Land Management or Minerals Management Service, as appropriate.

[57 FR 3024, Jan. 27, 1992]

Subpart 3161—Jurisdiction and Responsibility

§ 3161.1 Jurisdiction.

(a) All operations conducted on a Federal or Indian oil and gas lease by the operator are subject to the regulations in this part.

(b) Regulations in this part relating to site security, measurement, reporting of production and operations, and assessments or penalties for noncompliance with such requirements are applicable to all wells and facilities on State or privately-owned mineral lands committed to a unit or communitization agreement which affects Federal or Indian interests, notwithstanding any provision of a unit or communitization agreement to the contrary.

[52 FR 5391, Feb. 20, 1987, as amended at 53 FR 17362, May 16, 1988]

§ 3161.2 Responsibility of the authorized officer.

The authorized officer is authorized and directed to approve unitization, communitization, gas storage and other contractual agreements for Federal lands; to assess compensatory royalty; to approve suspensions of operations or production, or both; to issue NTL's: to approve and monitor other operator proposals for drilling, development or production of oil and gas; to perform administrative reviews; to impose monetary assessments or penalties; to provide technical information and advice relative to oil and gas development and operations on Federal and Indian lands; to enter into cooperative agreements with States, Federal agencies and Indian tribes relative to oil and gas development and operations; to approve, inspect and regulate the operations that are subject to the regulations in this part; to require compliance with lease terms, with the regulations in this title and all other applicable regulations promulgated under the cited laws; and to require that all operations be conducted in a manner which protects other natural resources and the environmental quality, protects life and property and results in the maximum ultimate recovery of oil and gas with minimum waste

and with minimum adverse effect on the ultimate recovery of other mineral resources. The authorized officer may issue written or oral orders to govern specific lease operations. Any such oral orders shall be confirmed in writing by the authorized officer within 10 working days from issuance thereof. Before approving operations on leasehold, the authorized officer shall determine that the lease is in effect, that acceptable bond coverage has been provided and that the proposed plan of operations is sound both from a technical and environmental standpoint.

[48 FR 36584, Aug. 12, 1983, as amended at 52 FR 5391, Feb. 20, 1987; 53 FR 17362, May 16, 1988]

§ 3161.3 Inspections.

(a) The authorized officer shall establish procedures to ensure that each Federal and Indian lease site which is producing or is expected to produce significant quantities of oil or gas in any year or which has a history of noncompliance with applicable provisions of law or regulations, lease terms, orders or directives shall be inspected at least once annually. Similarly, each lease site on non-Federal or non-Indian lands subject to a formal agreement such as a unit or communitization agreement which has been approved by the Department of the Interior and in which the United States or the Indian lessors share in production shall be inspected annually whenever any of the foregoing criteria are applicable.

(b) In accomplishing the inspections, the authorized officer may utilize Bureau personnel, may enter into cooperative agreements with States or Indian Tribes, may delegate the inspection authority to any State, or may contract with any non-Federal Government entities. Any cooperative agreement, delegation or contractual arrangement shall not be effective without concurrence of the Secretary and shall include applicable provisions of the Federal Oil and Gas Royalty Management Act.

[49 FR 37363, Sept. 21, 1984, as amended at 52 FR 5391, Feb. 20, 1987]

Subpart 3162—Requirements for Operating Rights Owners and Operators

§ 3162.1 General requirements.

(a) The operating rights owner or operator, as appropriate, shall comply with applicable laws and regulations; with the lease terms, Onshore Oil and Gas Orders, NTL's; and with other orders and instructions of the authorized officer. These include, but are not limited to, conducting all operations in a manner which ensures the proper handling, measurement, disposition, and site security of leasehold production; which protects other natural resources and environmental quality; which protects life and property; and which results in maximum ultimate economic recovery of oil and gas with minimum waste and with minimum adverse effect on ultimate recovery of other mineral resources.

(b) The operator shall permit properly identified authorized representatives to enter upon, travel across and inspect lease sites and records normally kept on the lease pertinent thereto without advance notice. Inspections normally will be conducted during those hours when responsible persons are expected to be present at the operation being inspected. Such permission shall include access to secured facilities on such lease sites for the purpose of making any inspection or investigation for determining whether there is compliance with the mineral leasing laws, the regulations in this part, and any applicable orders, notices or directives.

(c) For the purpose of making any inspection or investigation, the Secretary or his authorized representative shall have the same right to enter upon or travel across any lease site as the operator has acquired by purchase, condemnation or otherwise.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983; 49 FR 37364, Sept. 21, 1984; 53 FR 17363, May 16, 1988]

§ 3162.2 Drilling, producing, and drainage obligations.

3162.2–1 Drilling and producing obligations.

(a) The operator, at its election, may drill and produce other wells in conformity with any system of well spacing or production allotments affecting the field or area in which the leased lands are situated, and which is authorized and sanctioned by applicable law or by the authorized officer.

(b) After notice in writing, the lessee(s) and operating rights owner(s) shall promptly drill and produce such other wells as the authorized officer may reasonably require in order that the lease may be properly and timely developed and produced in accordance with good economic operating practices.

[66 FR 1892, Jan. 10, 2001. Redesignated at 66 FR 1892, Jan. 10, 2001; 66 FR 24073, May 11, 2001]

§ 3162.2–2 What steps may BLM take to avoid uncompensated drainage of Federal or Indian mineral resources?

If we determine that a well is draining Federal or Indian mineral resources, we may take any of the following actions:

(a) If the mineral resources being drained are in Federal or Indian leases, we may require the lessee to drill and produce all wells that are necessary to protect the lease from drainage, unless the conditions of this part are met. BLM will consider applicable Federal, State, or Tribal rules, regulations, and spacing orders when determining which action to take. Alternatively, we may accept other equivalent protective measures;

(b) If the mineral resources being drained are either unleased (including those which may not be subject to leasing) or in Federal or Indian leases, we may execute agreements with the owners of interests in the producing well under which the United States or the Indian lessor may be compensated for the drainage (with the consent of the Federal or (in consultation with the Indian mineral owner and BIA) Indian lessees, if any);

(c) We may offer for lease any qualifying unleased mineral resources under part 3120 of this chapter or enter into a communitization agreement; or

(d) We may approve a unit or communitization agreement that provides for payment of a royalty on production attributable to unleased mineral resources as provided in § 3181.5.

[66 FR 1893, Jan. 10, 2001]

§ 3162.2–3 When am I responsible for protecting my Federal or Indian lease from drainage?

You must protect your Federal or Indian lease from drainage if your lease is being drained of mineral resources by a well:

(a) Producing for the benefit of another mineral owner;

(b) Producing for the benefit of the same mineral owner but with a lower royalty rate; or

(c) Located in a unit or communitization agreement, which due to its Federal or Indian mineral owner's allocation or participation factor, generates less revenue for the United States or the Indian mineral owner for the mineral resources produced from your lease.

[66 FR 1893, Jan. 10, 2001]

§ 3162.2–4 What protective action may BLM require the lessee to take to protect the leases from drainage?

We may require you to:

(a) Drill or modify and produce all wells that are necessary to protect the leased mineral resources from drainage;

(b) Enter into a unitization or communitization agreement with the lease containing the draining well; or

(c) Pay compensatory royalties for drainage that has occurred or is occurring.

[66 FR 1893, Jan. 10, 2001]

§ 3162.2–5 Must I take protective action when a protective well would be uneconomic?

You are not required to take any of the actions listed in § 3162.2–4 if you can prove to BLM that when you first knew or had constructive notice of drainage you could not produce a sufficient quantity of oil or gas from a protective

well on your lease for a reasonable profit above the cost of drilling, completing, and operating the protective well.

[66 FR 1893, Jan. 10, 2001]

§ 3162.2–6 When will I have constructive notice that drainage may be occurring?

(a) You have constructive notice that drainage may be occurring when well completion or first production reports for the draining well are filed with either BLM, State oil and gas commissions, or regulatory agencies and are publicly available.

(b) If you operate or own any interest in the draining well or lease, you have constructive notice that drainage may be occurring when you complete drill stem, production, pressure analysis, or flow tests of the well.

[66 FR 1893, Jan. 10, 2001]

§ 3162.2–7 Who is liable for drainage if more than one person holds undivided interests in the record title or operating rights for the same lease?

(a) If more than one person holds record title interests in a portion of a lease that is subject to drainage, each person is jointly and severally liable for taking any action we may require under this part to protect the lease from drainage, including paying compensatory royalty accruing during the period and for the area in which it holds its record title interest.

(b) Operating rights owners are jointly and severally liable with each other and with all record title holders for drainage affecting the area and horizons in which they hold operating rights during the period they hold operating rights.

[66 FR 1893, Jan. 10, 2001]

§ 3162.2–8 Does my responsibility for drainage protection end when I assign or transfer my lease interest?

If you assign your record title interest in a lease or transfer your operating rights, you are not liable for drainage that occurs after the date we approve the assignment or transfer. However, you remain responsible for the payment of compensatory royalties for any drainage that occurred when you held the lease interest.

[66 FR 1893, Jan. 10, 2001]

§ 3162.2–9 What is my duty to inquire about the potential for drainage and inform BLM of my findings?

(a) When you first acquire a lease interest, and at all times while you hold the lease interest, you must monitor the drilling of wells in the same or adjacent spacing units and gather sufficient information to determine whether drainage is occurring. This information can be in various forms, including but not limited to, well completion reports, sundry notices, or available production information. As a prudent lessee, it is your responsibility to analyze and evaluate this information and make the necessary calculations to determine:

(1) The amount of drainage from production of the draining well;

(2) The amount of mineral resources which will be drained from your Federal or Indian lease during the life of the draining well; and

(3) Whether a protective well would be economic to drill.

(b) You must notify BLM within 60 days from the date of actual or constructive notice of:

(1) Which of the actions in § 3162.2–4 you will take; or

(2) The reasons a protective well would be uneconomic.

(c) If you do not have sufficient information to comply with § 3162.2–9(b)(1), indicate when you will provide the information.

(d) You must provide BLM with the analysis under paragraph (a) of this section within 60 days after we request it.

[66 FR 1893, Jan. 10, 2001]

§ 3162.2–10 Will BLM notify me when it determines that drainage is occurring?

We will send you a demand letter by certified mail, return receipt requested, or personally serve you with notice, if we believe that drainage is occurring. However, your responsibility to take protective action arises when you first knew or had constructive notice of the drainage, even when

that date precedes the BLM demand letter.

[66 FR 1894, Jan. 10, 2001]

§ 3162.2–11 How soon after I know of the likelihood of drainage must I take protective action?

(a) You must take protective action within a reasonable time after the earlier of:

(1) The date you knew or had constructive notice that the potentially draining well had begun to produce oil or gas; or

(2) The date we issued a demand letter for protective action.

(b) Since the time required to drill and produce a protective well varies according to the location and conditions of the oil and gas reservoir, BLM will determine this on a case-by-case basis. When we determine whether you took protective action within a reasonable time, we will consider several factors including, but not limited to:

(1) Time required to evaluate the characteristics and performance of the draining well;

(2) Rig availability;

(3) Well depth;

(4) Required environmental analysis;

(5) Special lease stipulations which provide limited time frames in which to drill; and

(6) Weather conditions.

(c) If BLM determines that you did not take protection action timely, you will owe compensatory royalty for the period of the delay under § 3162.2–12.

[66 FR 1894, Jan. 10, 2001]

§ 3162.2–12 If I hold an interest in a lease, for what period will the Department assess compensatory royalty against me?

The Department will assess compensatory royalty beginning on the first day of the month following the earliest reasonable time we determine you should have taken protective action. You must continue to pay compensatory royalty until:

(a) You drill sufficient economic protective wells and remain in continuous production;

(b) We approve a unitization or communitization agreement that includes the mineral resources being drained;

(c) The draining well stops producing; or

(d) You relinquish your interest in the Federal or Indian lease.

[66 FR 1894, Jan. 10, 2001]

§ 3162.2–13 If I acquire an interest in a lease that is being drained, will the Department assess me for compensatory royalty?

If you acquire an interest in a Federal or Indian lease through an assignment of record title or transfer of operating rights under this part, you are liable for all drainage obligations accruing on and after the date we approve the assignment or transfer.

[66 FR 1894, Jan. 10, 2001]

§ 3162.2–14 May I appeal BLM's decision to require drainage protective measures?

You may appeal any BLM decision requiring you take drainage protective measures. You may request BLM State Director review under 43 CFR 3165.3 and/or appeal to the Interior Board of Land Appeals under 43 CFR part 4 and subpart 1840.

[66 FR 1894, Jan. 10, 2001]

§ 3162.2–15 Who has the burden of proof if I appeal BLM's drainage determination?

BLM has the burden of establishing a *prima facie* case that drainage is occurring and that you knew of such drainage. Then the burden of proof shifts to you to refute the existence of drainage or to prove there was not sufficient information to put you on notice of the need for drainage protection. You also have the burden of proving that drilling and producing from a protective well would not be economically feasible.

[66 FR 1894, Jan. 10, 2001]

§ 3162.3 Conduct of operations.

(a) Whenever a change in operator occurs, the authorized officer shall be notified promptly in writing, and the new operator shall furnish evidence of sufficient bond coverage in accordance with § 3106.6 and subpart 3104 of this title.

(b) A contractor on a leasehold shall be considered the agent of the operator

for such operations with full responsibility for acting on behalf of the operator for purposes of complying with applicable laws, regulations, the lease terms, NTL's, Onshore Oil and Gas Orders, and other orders and instructions of the authorized officer.

[53 FR 17363, May 16, 1988; 53 FR 31959, Aug. 22, 1988]

§ 3162.3–1 Drilling applications and plans.

(a) Each well shall be drilled in conformity with an acceptable well-spacing program at a surveyed well location approved or prescribed by the authorized officer after appropriate environmental and technical reviews (see § 3162.5–1 of this title). An acceptable well-spacing program may be either (1) one which conforms with a spacing order or field rule issued by a State Commission or Board and accepted by the authorized officer, or (2) one which is located on a lease committed to a communitized or unitized tract at a location approved by the authorized officer, or (3) any other program established by the authorized officer.

(b) Any well drilled on restricted Indian land shall be subject to the location restrictions specified in the lease and/or Title 25 of the CFR.

(c) The operator shall submit to the authorized officer for approval an Application for Permit to Drill for each well. No drilling operations, nor surface disturbance preliminary thereto, may be commenced prior to the authorized officer's approval of the permit.

(d) The Application for Permit to Drill process shall be initiated at least 30 days before commencement of operations is desired. Prior to approval, the application shall be administratively and technically complete. A complete application consists of Form 3160–3 and the following attachments:

(1) A drilling plan, which may already be on file, containing information required by paragraph (e) of this section and appropriate orders and notices.

(2) A surface use plan of operations containing information required by paragraph (f) of this section and appropriate orders and notices.

(3) Evidence of bond coverage as required by the Department of the Interior regulations, and

(4) Such other information as may be required by applicable orders and notices.

(e) Each drilling plan shall contain the information specified in applicable notices or orders, including a description of the drilling program, the surface and projected completion zone location, pertinent geologic data, expected hazards, and proposed mitigation measures to address such hazards. A drilling plan may be submitted for a single well or for several wells proposed to be drilled to the same zone within a field or area of geological and environmental similarity. A drilling plan may be modified from time to time as circumstances may warrant, with the approval of the authorized officer.

(f) The surface use plan of operations shall contain information specified in applicable orders or notices, including the road and drillpad location, details of pad construction, methods for containment and disposal of waste material, plans for reclamation of the surface, and other pertinent data as the authorized officer may require. A surface use plan of operations may be submitted for a single well or for several wells proposed to be drilled in an area of environmental similarity.

(g) For Federal lands, upon receipt of the Application for Permit to Drill or Notice of Staking, the authorized officer shall post the following information for public inspection at least 30 days before action to approve the Application for Permit to Drill: the company/operator name; the well name/number; the well location described to the nearest quarter-quarter section (40 acres), or similar land description in the case of lands described by metes and bounds, or maps showing the affected lands and the location of all tracts to be leased and of all leases already issued in the general area; and any substantial modifications to the lease terms. Where the inclusion of maps in such posting is not practicable, maps of the affected lands shall be made available to the public for review. This information also shall be provided promptly by the authorized

officer to the appropriate office of the Federal surface management agency, for lands the surface of which is not under Bureau jurisdiction, requesting such agency to post the proposed action for public inspection for at least 30 days. The posting shall be in the office of the authorized officer and in the appropriate surface managing agency if other than the Bureau. The posting of an Application for Permit to Drill is for information purposes only and is not an appealable decision.

(h) Upon initiation of the Application for Permit to Drill process, the authorized officer shall consult with the appropriate Federal surface management agency and with other interested parties as appropriate and shall take one of the following actions as soon as practical, but in no event later than 5 working days after the conclusion of the 30-day notice period for Federal lands, or within 30 days from receipt of the application for Indian lands:

(1) Approve the application as submitted or with appropriate modifications or conditions;

(2) Return the application and advise the applicant of the reasons for disapproval; or

(3) Advise the applicant, either in writing or orally with subsequent written confirmation, of the reasons why final action will be delayed along with the date such final action can be expected.

The surface use plan of operations for National Forest System lands shall be approved by the Secretary of Agriculture or his/her representative prior to approval of the Application for Permit to Drill by the authorized officer. Appeals from the denial of approval of such surface use plan of operations shall be submitted to the Secretary of Agriculture.

(i) Approval of the Application for Permit to Drill does not warrant or certify that the applicant holds legal or equitable title to the subject lease(s) which would entitle the applicant to conduct drilling operations.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983, further amended at 52 FR 5391, Feb. 20, 1987; 53 FR 17363, May 16, 1988; 53 FR 22846, June 17, 1988; 53 FR 31958, Aug. 22, 1988]

§ 3162.3–2 Subsequent well operations.

(a) A proposal for further well operations shall be submitted by the operator on Form 3160–5 for approval by the authorized officer prior to commencing operations to redrill, deepen, perform casing repairs, plug-back, alter casing, perform nonroutine fracturing jobs, recomplete in a different interval, perform water shut off, commingling production between intervals and/or conversion to injection. If there is additional surface distubance, the proposal shall include a surface use plan of operations. A subsequent report on these operations also will be filed on Form 3160–5. The authorized officer may prescribe that each proposal contain all or a portion of the information set forth in § 3162.3–1 of this title.

(b) Unless additional surface disturbance is involved and if the operations conform to the standard of prudent operating practice, prior approval is not required for routine fracturing or acidizing jobs, or recompletion in the same interval; however, a subsequent report on these operations must be filed on Form 3160–5.

(c) No prior approval or a subsequent report is required for well cleanout work, routine well maintenance, or bottom hole pressure surveys.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983, further amended at 52 FR 5391, Feb. 20, 1987; 53 FR 17363, May 16, 1988; 53 FR 22847, June 17, 1988]

§ 3162.3–3 Other lease operations.

Prior to commencing any operation on the leasehold which will result in additional surface disturbance, other than those authorized under § 3162.3–1 or § 3162.3–2 of this title, the operator shall submit a proposal on Form 3160–5 to the authorized officer for approval. The proposal shall include a surface use plan of operations.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983, and amended at 52 FR 5391, Feb. 20, 1987; 53 FR 17363, May 16, 1988; 53 FR 22847, June 17, 1988]

§ 3162.3–4 Well abandonment.

(a) The operator shall promptly plug and abandon, in accordance with a plan first approved in writing or prescribed

by the authorized officer, each newly completed or recompleted well in which oil or gas is not encountered in paying quantities or which, after being completed as a producing well, is demonstrated to the satisfaction of the authorized officer to be no longer capable of producing oil or gas in paying quantities, unless the authorized officer shall approve the use of the well as a service well for injection to recover additional oil or gas or for subsurface disposal of produced water. In the case of a newly drilled or recompleted well, the approval to abandon may be written or oral with written confirmation.

(b) Completion of a well as plugged and abandoned may also include conditioning the well as water supply source for lease operations or for use by the surface owner or appropriate Government Agency, when authorized by the authorized officer. All costs over and above the normal plugging and abandonment expense will be paid by the party accepting the water well.

(c) No well may be temporarily abandoned for more than 30 days without the prior approval of the authorized officer. The authorized officer may authorize a delay in the permanent abandonment of a well for a period of 12 months. When justified by the operator, the authorized officer may authorize additional delays, no one of which may exceed an additional 12 months. Upon the removal of drilling or producing equipment from the site of a well which is to be permanently abandoned, the surface of the lands disturbed in connection with the conduct of operations shall be reclaimed in accordance with a plan first approved or prescribed by the authorized officer.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983, further amended at 53 FR 17363, May 16, 1988; 53 FR 22847, June 17, 1988]

§ 3162.4 Records and reports.

§ 3162.4–1 Well records and reports.

(a) The operator shall keep accurate and complete records with respect to all lease operations including, but not limited to, production facilities and equipment, drilling, producing, redrilling, deepening, repairing, plugging back, and abandonment operations, and other matters pertaining to operations. With respect to production facilities and equipment, the record shall include schematic diagrams as required by applicable orders and notices.

(b) Standard forms for providing basic data are listed in NOTE 1 at the beginning of this title. As noted on Form 3160–4, two copies of all electric and other logs run on the well must be submitted to the authorized officer. Upon request, the operator shall transmit to the authorized officer copies of such other records maintained in compliance with paragraph (a) of this section.

(c) Not later than the 5th business day after any well begins production on which royalty is due anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well which has been off production for more than 90 days, the operator shall notify the authorized officer by letter or sundry notice, Form 3160–5, or orally to be followed by a letter or sundry notice, of the date on which such production has begun or resumed.

(d) All records and reports required by this section shall be maintained for 6 years from the date they were generated. In addition, if the Secretary, or his/her designee notifies the recordholder that the Department of the Interior has initiated or is participating in an audit or investigation involving such records, the records shall be maintained until the Secretary, or his/her designee, releases the recordholder from the obligation to maintain such records.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983; 49 FR 37364, Sept. 21, 1984; 52 FR 5391, Feb. 20, 1987; 53 FR 17363, May 16, 1988]

§ 3162.4–2 Samples, tests, and surveys.

(a) During the drilling and completion of a well, the operator shall, when required by the authorized officer, conduct tests, run logs, and make other surveys reasonably necessary to determine the presence, quantity, and quality of oil, gas, other minerals, or the presence or quality of water; to determine the amount and/or direction of deviation of any well from the

verticial; and to determine the relevant characteristics of the oil and gas reservoirs penetrated.

(b) After the well has been completed, the operator shall conduct periodic well tests which will demonstrate the quantity and quality of oil and gas and water. The method and frequency of such well tests will be specified in appropriate notices and orders. When needed, the operator shall conduct reasonable tests which will demonstrate the mechanical integrity of the downhole equipment.

(c) Results of samples, tests, and surveys approved or prescribed under this section shall be provided to the authorized officer without cost to the lessor.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983, further amended at 53 FR 17363, May 16, 1988]

§ 3162.4–3 Monthly report of operations (Form 3160–6).

The operator shall report production data to BLM in accordance with the requirements of this section until required to begin reporting to MMS pursuant to 30 CFR 216.50. When reporting production data to BLM in accordance with the requirements of this section, the operator shall either use Form BLM 3160–6 or Form MMS– 3160. A separate report of operations for each lease shall be made on Form 3160–6 for each calendar month, beginning with the month in which drilling operations are initiated, and shall be filed with the authorized officer on or before the 10th day of the second month following the operation month, unless an extension of time for the filing of such report is granted by the authorized officer. The report on this form shall disclose accurately all operations conducted on each well during each month, the status of operations on the last day of the month, and a general summary of the status of operations on the leased lands, and the report shall be submitted each month until the lease is terminated or until omission of the report is authorized by the authorized officer. It is particularly necessary that the report shall show for each calendar month:

(a) The lease be identified by inserting the name of the United States land office and the serial number, or in the case of Indian land, the lease number and lessor's name, in the space provided in the upper right corner;

(b) Each well be listed separately by number, its location be given by 40-acre subdivision (¼ ¼ sec. or lot), section number, township, range, and meridian;

(c) The number of days each well produced, whether oil or gas, and the number of days each input well was in operation be stated;

(d) The quantity of oil, gas and water produced, the total amount of gasoline, and other lease products recovered, and other required information. When oil and gas, or oil, gas and gasoline, or other hydrocarbons are concurrently produced from the same lease, separate reports on this form should be submitted for oil and for gas and gasoline, unless otherwise authorized or directed by the authorized officer.

(e) The depth of each active or suspended well, and the name, character, and depth of each formation drilled during the month, the date each such depth was reached, the date and reason for every shut-down, the names and depths of important formation changes and contents of formations, the amount and size of any casing run since last report, the dates and results of any tests such as production, water shut-off, or gasoline content, and any other noteworthy information on operations not specifically provided for in the form.

(f) The footnote shall be completely filled out as required by the authorized officer. If no runs or sales were made during the calendar month, the report shall so state.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983; 52 FR 5391, Feb. 20, 1987; 53 FR 16413, May 9, 1988]

§ 3162.5 Environment and safety.

§ 3162.5–1 Environmental obligations.

(a) The operator shall conduct operations in a manner which protects the mineral resources, other natural resources, and environmental quality. In that respect, the operator shall comply with the pertinent orders of the authorized officer and other standards

and procedures as set forth in the applicable laws, regulations, lease terms and conditions, and the approved drilling plan or subsequent operations plan. Before approving any Application for Permit to Drill submitted pursuant to §3162.3–1 of this title, or other plan requiring environmental review, the authorized officer shall prepare an environmental record of review or an environmental assessment, as appropriate. These environmental documents will be used in determining whether or not an environmental impact statement is required and in determining any appropriate terms and conditions of approval of the submitted plan.

(b) The operator shall exercise due care and diligence to assure that leasehold operations do not result in undue damage to surface or subsurface resources or surface improvements. All produced water must be disposed of by injection into the subsurface, by approved pits, or by other methods which have been approved by the authorized officer. Upon the conclusion of operations, the operator shall reclaim the disturbed surface in a manner approved or reasonably prescribed by the authorized officer.

(c) All spills or leakages of oil, gas, produced water, toxic liquids, or waste materials, blowouts, fires, personal injuries, and fatalities shall be reported by the operator in accordance with these regulations and as prescribed in applicable order or notices. The operator shall exercise due diligence in taking necessary measures, subject to approval by the authorized officer, to control and remove pollutants and to extinguish fires. An operator's compliance with the requirements of the regulations in this part shall not relieve the operator of the obligation to comply with other applicable laws and regulations.

(d) When reasonably required by the authorized officer, a contingency plan shall be submitted describing procedures to be implemented to protect life, property, and the environment.

(e) The operator's liability for damages to third parties shall be governed by applicable law.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983, further amended at 53 FR 17363, May 16, 1988; 53 FR 22847, June 17, 1988]

§3162.5–2 Control of wells.

(a) *Drilling wells.* The operator shall take all necessary precautions to keep each well under control at all times, and shall utilize and maintain materials and equipment necessary to insure the safety of operating conditions and procedures.

(b) *Vertical drilling.* The operator shall conduct drilling operations in a manner so that the completed well does not deviate significantly from the vertical without the prior written approval of the authorized officer. Significant deviation means a projected deviation of the well bore from the vertical of 10° or more, or a projected bottom hole location which could be less than 200 feet from the spacing unit or lease boundary. Any well which deviates more than 10° from the vertical or could result in a bottom hole location less than 200 feet from the spacing unit or lease boundary without prior written approval must be promptly reported to the authorized officer. In these cases, a directional survey is required.

(c) *High pressure or loss of circulation.* The operator shall take immediate steps and utilize necessary resources to maintain or restore control of any well in which the pressure equilibrium has become unbalanced.

(d) *Protection of fresh water and other minerals.* The operator shall isolate freshwater-bearing and other usable water containing 5,000 ppm or less of dissolved solids and other mineral-bearing formations and protect them from contamination. Tests and surveys of the effectiveness of such measures shall be conducted by the operator

using procedures and practices approved or prescribed by the authorized officer.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983, further amended at 53 FR 17363, May 16, 1988]

§ 3162.5–3 Safety precautions.

The operator shall perform operations and maintain equipment in a safe and workmanlike manner. The operator shall take all precautions necessary to provide adequate protection for the health and safety of life and the protection of property. Compliance with health and safety requirements prescribed by the authorized officer shall not relieve the operator of the responsibility for compliance with other pertinent health and safety requirements under applicable laws or regulations.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983, further amended at 53 FR 17363, May 16, 1988]

§ 3162.6 Well and facility identification.

(a) Every well within a Federal or Indian lease or supervised agreement shall have a well indentification sign. All signs shall be maintained in a legible condition.

(b) For wells located on Federal and Indian lands, the operator shall properly identify, by a sign in a conspicuous place, each well, other than those permanently abandoned. The well sign shall include the well number, the name of the operator, the lease serial number, the surveyed location (the quarter-quarter section, section, township and range or other authorized survey designation acceptable to the authorized officer; such as metes and bounds). When approved by the authorized officer, individual well signs may display only a unique well name and number. When specifically requested by the authorized officer, the sign shall include the unit or communitization name or number. The authorized officer may also require the sign to include the name of the Indian allottee lessor(s) preceding the lease serial number. In all cases, individual well signs in place on the effective date of this rulemaking which do not have the unit or communitization agreement number or do not have quarter-quarter identification will satisfy these requirements until such time as the sign is replaced. All new signs shall have identification as above, including quarter-quarter section.

(c) All facilities at which Federal or Indian oil is stored shall be clearly identified with a sign that contains the name of the operator, the lease serial number or communitization or unit agreement identification number, as appropriate, and in public land states, the quarter-quarter section, township, and range. On Indian leases, the sign also shall include the name of the appropriate Tribe and whether the lease is tribal or allotted. For situations of 1 tank battery servicing 1 well in the same location, the requirements of this paragraph and paragraph (b) of this section may be met by 1 sign as long as it includes the information required by both paragraphs. In addition, each storage tank shall be clearly identified by a unique number. All identification shall be maintained in legible condition and shall be clearly apparent to any person at or approaching the sales or transportation point. With regard to the quarter-quarter designation and the unique tank number, any such designation established by state law or regulation shall satisfy this requirement.

(d) All abandoned wells shall be marked with a permanent monument containing the information in paragraph (b) of this section. The requirement for a permanent monument may be waived in writing by the authorized officer.

[52 FR 5391, Feb. 20, 1987, as amended at 53 FR 17363, May 16, 1988]

§ 3162.7 Measurement, disposition, and protection of production.

§ 3162.7–1 Disposition of production.

(a) The operator shall put into marketable condition, if economically feasible, all oil, other hydrocarbons, gas, and sulphur produced from the leased land.

(b) Where oil accumulates in a pit, such oil must either be (1) recirculated through the regular treating system and returned to the stock tanks for sale, or (2) pumped into a stock tank

without treatment and measured for sale in the same manner as from any sales tank in accordance with applicable orders and notices. In the absence of prior approval from the authorized officer, no oil should go to a pit except in an emergency. Each such occurrence must be reported to the authorized officer and the oil promptly recovered in accordance with applicable orders and notices.

(c)(1) Any person engaged in transporting by motor vehicle any oil from any lease site, or allocated to any such lease site, shall carry on his/her person, in his/her vehicle, or in his/her immediate control, documentation showing at a minimum; the amount, origin, and intended first purchaser of the oil.

(2) Any person engaged in transporting any oil or gas by pipeline from any lease site, or allocated to any lease site, shall maintain documentation showing, at a minimum, the amount, origin, and intended first purchaser of such oil or gas.

(3) On any lease site, any authorized representative who is properly identified may stop and inspect any motor vehicle that he/she has probable cause to believe is carrying oil from any such lease site, or allocated to such lease site, to determine whether the driver possesses proper documentation for the load of oil.

(4) Any authorized representative who is properly identified and who is accompanied by an appropriate law enforcement officer, or an appropriate law enforcement officer alone, may stop and inspect any motor vehicle which is not on a lease site if he/she has probable cause to believe the vehicle is carrying oil from a lease site, or allocated to a lease site, to determine whether the driver possesses proper documentation for the load of oil.

(d) The operator shall conduct operations in such a manner as to prevent avoidable loss of oil and gas. A operator shall be liable for royalty payments on oil or gas lost or wasted from a lease site, or allocated to a lease site, when such loss or waste is due to negligence on the part of the operator of such lease, or due to the failure of the operator to comply with any regulation, order or citation issued pursuant to this part.

(e) When requested by the authorized officer, the operator shall furnish storage for royalty oil, on the leasehold or at a mutually agreed upon delivery point off the leased land without cost to the lessor, for 30 days following the end of the calendar month in which the royalty accrued.

(f) Any records generated under this section shall be maintained for 6 years from the date they were generated or, if notified by the Secretary, or his designee, that such records are involved in an audit or investigation, the records shall be maintained until the recordholder is released by the Secretary from the obligation to maintain them.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983; 49 FR 37364, Sept. 21, 1984; 53 FR 17363, May 16, 1988]

§ 3162.7–2 Measurement of oil.

All oil production shall be measured on the lease by tank gauging, positive displacement metering system, or other methods acceptable to the authorized officer, pursuant to methods and procedures prescribed in applicable orders and notices. Where production cannot be measured due to spillage or leakage, the amount of production shall be determined in accordance with the methods and procedures approved or prescribed by the authorized officer. Off-lease storage or measurement, or commingling with production from other sources prior to measurement, may be approved by the authorized officer.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983; 49 FR 37364, Sept. 21, 1984; 52 FR 5392, Feb. 20, 1987]

§ 3162.7–3 Measurement of gas.

All gas production shall be measured by orifice meters or other methods acceptable to the authorized officer on the lease pursuant to methods and procedures prescribed in applicable orders and notices. The measurement of the volume of all gas produced shall be adjusted by computation to the standard pressure and temperature of 14.73 psia and 60° F unless otherwise prescribed by the authorized officer, regardless of the pressure and temperature at which

the gas is actually measured. Gas lost without measurement by meter shall be estimated in accordance with methods prescribed in applicable orders and notices. Off-lease measurement or commingling with production from other sources prior to measurement may be approved by the authorized officer.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983; 49 FR 37364, Sept. 21, 1984; 52 FR 5392, Feb. 20, 1987]

§ 3162.7–4 Royalty rates on oil; sliding and step-scale leases (public land only).

Sliding- and step-scale royalties are based on the average daily production per well. The authorized officer shall specify which wells on a leasehold are commercially productive, including in that category all wells, whether produced or not, for which the annual value of permissible production would be greater than the estimated reasonable annual lifting cost, but only wells that yield a commercial volume of production during at least part of the month shall be considered in ascertaining the average daily production per well. The average daily production per well for a lease is computed on the basis of a 28-, 29-, 30-, or 31-day month (as the case may be), the number of wells on the leasehold counted as producing, and the gross production from the leasehold. The authorized officer will determine which commercially productive wells shall be considered each month as producing wells for the purpose of computing royalty in accordance with the following rules, and in the authorized officer's discretion may count as producing any commercially productive well shut in for conservation purposes.

(a) For a previously producing leasehold, count as producing for every day of the month each previously producing well that produced 15 days or more during the month, and disregard wells that produced less than 15 days during the month.

(b) Wells approved by the authorized officer as input wells shall be counted as producing wells for the entire month if so used 15 days or more during the month and shall be disregarded if so used less than 15 days during the month.

(c) When the initial production of a leasehold is made during the calendar month, compute royalty on the basis of producing well days.

(d) When a new well is completed for production on a previously producing leasehold and produces for 10 days or more during the calendar month in which it is brought in, count such new wells as producing every day of the month in arriving at the number of producing well days. Do not count any new well that produces for less than 10 days during the calendar month.

(e) Consider ''head wells'' that make their best production by intermittent pumping or flowing as producing every day of the month, provided they are regularly operated in this manner with approval of the authorized officer.

(f) For previously producing leaseholds on which no wells produced for 15 days or more, compute royalty on the basis of actual producing well days.

(g) For previously producing leaseholds on which no wells were productive during the calendar month but from which oil was shipped, compute royalty at the same royalty percentage as that of the last preceding calendar month in which production and shipments were normal.

(h) Rules for special cases not subject to definition, such as those arising from averaging the production from two distinct sands or horizons when the production of one sand or horizon is relatively insignificant compared to that of the other, shall be made by the authorized officer as need arises.

(i)(1) In the following summary of operations on a typical leasehold for the month of June, the wells considered for the purpose of computing royalty on the entire production of the property for the months are indicated.

Well No. and record	Count (marked X)
1. Produced full time for 30 days	X
2. Produced for 26 days; down 4 days for repairs	X
3. Produced for 28 days; down June 5, 12 hours, rods; June 14, 6 hours, engine down; June 26, 24 hours, pulling rods and tubing.	X
4. Produced for 12 days; down June 13 to 30.	
5. Produced for 8 hours every day (head well)	X
6. Idle producer (not operated).	
7. New well, completed June 17; produced for 14 days.	X

Well No. and record	Count (marked X)
8. New well, completed June 22; produced for 9 days.	

(2) In this example, there are eight wells on the leasehold, but wells No. 4, 6, and 8 are not counted in computing royalties. Wells No. 1, 2, 3, 5, and 7 are counted as producing for 30 days. The average production per well per day is determined by dividing the total production of the leasehold for the month (including the oil produced by wells 4 and 8) by 5 (the number of wells counted as producing), and dividing the quotient thus obtained by the number of days in the month.

[53 FR 1226, Jan. 15, 1988, as amended at 53 FR 17364, May 16, 1988]

§ 3162.7–5 Site security on Federal and Indian (except Osage) oil and gas leases.

(a) *Definitions.*

Appropriate valves. Those valves in a particular piping system, i.e., fill lines, equalizer or overflow lines, sales lines, circulating lines, and drain lines that shall be sealed during a given operation.

Effectively sealed. The placement of a seal in such a manner that the position of the sealed valve may not be altered without the seal being destroyed.

Production phase. That period of time or mode of operation 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.

Sales phase. That period of time or mode of operation during which crude oil is removed from the storage facilities for sales, transportation or other purposes.

Seal. A device, uniquely numbered, which completely secures a valve.

(b) *Minimum Standards.* Each operator of a Federal or Indian lease shall comply with the following minimum standards to assist in providing accountability of oil or gas production:

(1) All lines entering or leaving oil storage tanks shall have valves capable of being effectively sealed during the production and sales operations unless otherwise modified by other subparagraphs of this paragraph, and any equipment needed for effective sealing, excluding the seals, shall be located at the site. For a minimum of 6 years the operator shall maintain a record of seal numbers used and shall document on which valves or connections they were used as well as when they were installed and removed. The site facility diagram(s) shall show which valves will be sealed in which position during both the production and sales phases of operation.

(2) Each Lease Automatic Custody Transfer (LACT) system shall employ meters that have non-resettable totalizers. There shall be no by-pass piping around the LACT. All components of the LACT that are used for volume or quality determinations of the oil shall be effectively sealed. For systems where production may only be removed through the LACT, no sales or equalizer valves need be sealed. However, any valves which may allow access for removal of oil before measurement through the LACT shall be effectively sealed.

(3) There shall be no by-pass piping around gas meters. Equipment which permits changing the orifice plate without bleeding the pressure off the gas meter run is not considered a bypass.

(4) For oil measured and sold by hand gauging, all appropriate valves shall be sealed during the production or sales phase, as applicable.

(5) Circulating lines having valves which may allow access to remove oil from storage and sales facilities to any other source except through the treating equipment back to storage shall be effectively sealed as near the storage tank as possible.

(6) The operator, with reasonable frequency, shall inspect all leases to determine production volumes and that the minimum site security standards are being met. The operator shall retain records of such inspections and measurements for 6 years from generation. Such records and measurements shall be available to any authorized officer or authorized representative upon request.

(7) Any person removing oil from a facility by motor vehicle shall possess

the identification documentation required by appicable NTL's or onshore Orders while the oil is removed and transported.

(8) Theft or mishandling of oil from a Federal or Indian lease shall be reported to the authorized officer as soon as discovered, but not later than the next business day. Said report shall include an estimate of the volume of oil involved. Operators also are expected to report such thefts promptly to local law enforcement agencies and internal company security.

(9) Any operator may request the authorized officer to approve a variance from any of the minimum standards prescribed by this section. The variance request shall be submitted in writing to the authorized officer who may consider such factors as regional oil field facility characteristics and fenced, guarded sites. The authorized officer may approve a variance if the proposed alternative will ensure measures equal to or in excess of the minimum standards provided in paragraph (b) of this section wil be put in place to detect or prevent internal and external theft, and will result in proper production accountability.

(c) *Site security plans.* (1) Site security plans, which include the operator's plan for complying with the minimum standards enumerated in paragraph (b) of this section for ensuring accountability of oil/condensate production are required for all facilities and such facilities shall be maintained in compliance with the plan. For new facilities, notice shall be given that it is subject to a specific existing plan, or a notice of a new plan shall be submitted, no later than 60 days after completion of construction or first production or following the inclusion of a well on committed non-Federal lands into a federally supervised unit or communitization agreement, whichever occurs first, and on that date the facilities shall be in compliance with the plan. At the operator's option, a single plan may include all of the operator's leases, unit and communitized areas, within a single BLM district, provided the plan clearly identifies each lease, unit, or communitized area included within the scope of the plan and the extent to which the plan is applicable to each lease, unit, or communitized area so identified.

(2) The operator shall retain the plan but shall notify the authorized officer of its completion and which leases, unit and communitized areas are involved. Such notification is due at the time the plan is completed as required by paragraph (c)(1) of this section, Such notification shall include the location and normal business hours of the office where the plan will be maintained. Upon request, all plans shall be made available to the authorized officer.

(3) The plan shall include the frequency and method of the operator's inspection and production volume recordation. The authorized officer may, upon examination, require adjustment of the method or frequency of inspection.

(d) *Site facility diagrams.* (1) Facility diagrams are required for all facilities which are used in storing oil/condensate produced from, or allocated to, Federal or Indian lands. Facility diagrams shall be 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.

(2) No format is prescribed for facility diagrams. They are to be prepared on 8½″×11″ paper, if possible, and be legible and comprehensible to a person with ordinary working knowledge of oil field operations and equipment. The diagram need not be drawn to scale.

(3) A site facility diagram shall accurately reflect the actual conditions at the site and shall, commencing with the header if applicable, clearly identify the vessels, piping, metering system, and pits, if any, which apply to the handling and disposal of oil, gas and water. The diagram shall indicate which valves shall be sealed and in what position during the production or sales phase. The diagram shall clearly identify the lease on which the facility is located and the site security plan to

which it is subject, along with the location of the plan.

[47 FR 47765, Oct. 27, 1982. Redesignated at 48 FR 36583–36586, Aug. 12, 1983, and amended at 52 FR 5392, Feb. 20, 1987. Redesignated at 53 FR 1218, Jan. 15, 1988; 53 FR 24688, June 30, 1988]

Subpart 3163—Noncompliance, Assessments, and Penalties

§ 3163.1 Remedies for acts of noncompliance.

(a) Whenever an operating rights owner or operator fails or refuses to comply with the regulations in this part, the terms of any lease or permit, or the requirements of any notice or order, the authorized officer shall notify the operating rights owner or operator, as appropriate, in writing of the violation or default. Such notice shall also set forth a reasonable abatement period:

(1) If the violation or default is not corrected within the time allowed, the authorized officer may subject the operating rights owner or operator, as appropriate, to an assessment of not more than $500 per day for each day nonabatement continues where the violation or default is deemed a major violation;

(2) Where noncompliance involves a minor violation, the authorized officer may subject the operating rights owner or operator, as appropriate, to an assessment of $250 for failure to abate the violation or correct the default within the time allowed;

(3) When necessary for compliance, or where operations have been commenced without approval, or where continued operations could result in immediate, substantial, and adverse impacts on public health and safety, the environment, production accountability, or royalty income, the authorized officer may shut down operations. Immediate shut-in action may be taken where operations are initiated and conducted without prior approval, or where continued operations could result in immediate, substantial, and adverse impacts on public health and safety, the environment, production accountability, or royalty income. Shut-in actions for other situations may be taken only after due notice, in writing, has been given;

(4) When necessary for compliance, the authorized officer may enter upon a lease and perform, or have performed, at the sole risk and expense of the operator, operations that the operator fails to perform when directed in writing by the authorized officer. Appropriate charges shall include the actual cost of performance, plus an additional 25 percent of such amount to compensate the United States for administrative costs. The operator shall be provided with a reasonable period of time either to take corrective action or to show why the lease should not be entered;

(5) Continued noncompliance may subject the lease to cancellation and forfeiture under the bond. The operator shall be provided with a reasonable period of time either to take corrective action or to show why the lease should not be recommended for cancellation;

(6) Where actual loss or damage has occurred as a result of the operator's noncompliance, the actual amount of such loss or damage shall be charged to the operator.

(b) Certain instances of noncompliance are violations of such a serious nature as to warrant the imposition of immediate assessments upon discovery. Upon discovery the following violations shall result in immediate assessments, which may be retroactive, in the following specified amounts per violation:

(1) For failure to install blowout preventer or other equivalent well control equipment, as required by the approved drilling plan, $500 per day for each day that the violation existed, including days the violation existed prior to discovery, not to exceed $5,000;

(2) For drilling without approval or for causing surface disturbance on Federal or Indian surface preliminary to drilling without approval, $500 per day for each day that the violation existed, including days the violation existed prior to discovery, not to exceed $5,000;

(3) For failure to obtain approval of a plan for well abandonment prior to commencement of such operations, $500.

(c) Assessments under paragraph (a)(1) of this section shall not exceed

$1,000 per day, per operating rights owner or operator, per lease. Assessments under paragraph (a)(2) of this section shall not exceed a total of $500 per operating rights owner or operator, per lease, per inspection.

(d) Continued noncompliance shall subject the operating rights owner or operator, as appropriate, to penalties described in § 3163.2 of this title.

(e) On a case-by-case basis, the State Director may compromise or reduce assessments under this section. In compromising or reducing the amount of the assessment, the State Director shall state in the record the reasons for such determination.

[52 FR 5393, Feb. 20, 1987; 52 FR 10225, Mar. 31, 1987, as amended at 53 FR 17364, May 16, 1988; 53 FR 22847, June 17, 1988]

§ 3163.2 Civil penalties.

(a) Whenever an operating rights owner or operator, as appropriate, fails or refuses to comply with any applicable requirements of the Federal Oil and Gas Royalty Management Act, any mineral leasing law, any regulation thereunder, or the terms of any lease or permit issued thereunder, the authorized officer shall notify the operating rights owner or operator, as appropriate, in writing of the violation, unless the violation was discovered and reported to the authorized officer by the liable person or the notice was previously issued under § 3163.1 of this title. If the violation is not corrected within 20 days of such notice or report, or such longer time as the authorized officer may agree to in writing, the operating rights owner or operator, as appropriate, shall be liable for a civil penalty of up to $500 per violation for each day such violation continues, dating from the date of such notice or report. Any amount imposed and paid as assessments under the provisions of § 3163.1(a)(1) of this title shall be deducted from penalties under this section.

(b) If the violation specified in paragraph (a) of this section is not corrected within 40 days of such notice or report, or a longer period as the authorized officer may agree to in writing, the operating rights owner or operator, as appropriate, shall be liable for a civil penalty of up to $5,000 per violation for each day the violation continues, not to exceed a maximum of 60 days, dating from the date of such notice or report. Any amount imposed and paid as assessments under the provisions of § 3163.1(a)(1) of this title shall be deducted from penalties under this section.

(c) In the event the authorized officer agrees to an abatement period of more than 20 days, the date of notice shall be deemed to be 20 days prior to the end of such longer abatement period for the purpose of civil penalty calculation.

(d) Whenever a transporter fails to permit inspection for proper documentation by any authorized representative, as provided in § 3162.7–1(c) of this title, the transporter shall be liable for a civil penalty of up to $500 per day for the violation, not to exceed a maximum of 20 days, dating from the date of notice of the failure to permit inspection and continuing until the proper documentation is provided.

(e) Any person shall be liable for a civil penalty of up to $10,000 per violation for each day such violation continues, not to exceed a maximum of 20 days if he/she:

(1) Fails or refuses to permit lawful entry or inspection authorized by § 3162.1(b) of this title; or

(2) Knowingly or willfully fails to notify the authorized officer by letter or Sundry Notice, Form 3160–5 or orally to be followed by a letter or Sundry Notice, not later than the 5th business day after any well begins production on which royalty is due, or resumes production in the case of a well which has been off of production for more than 90 days, from a well located on a lease site, or allocated to a lease site, of the date on which such production began or resumed.

(f) Any person shall be liable for a civil penalty of up to $25,000 per violation for each day such violation continues, not to exceed a maximum of 20 days if he/she:

(1) Knowingly or willfully prepares, maintains or submits false, inaccurate or misleading reports, notices, affidavits, records, data or other written information required by this part; or

(2) Knowingly or willfully takes or removes, transports, uses or diverts

any oil or gas from any Federal or Indian lease site without having valid legal authority to do so; or

(3) Purchases, accepts, sells, transports or conveys to another any oil or gas knowing or having reason to know that such oil or gas was stolen or unlawfully removed or diverted from a Federal or Indian lease site.

(g) Determinations of Penalty Amounts for this section are as follows:

(1) For major violations, all initial proposed penalties shall be at the maximum rate provided in paragraphs (a), (b), and (d) through (f) of this section, i.e., in paragraph (a) of this section, the initial proposed penalty for a major violation shall be at the rate of $500 per day through the 40th day of a noncompliance beginning after service of notice, and in paragraph (b) of this section, $5,000 per day for each day the violation remains uncorrected after the date of notice or report of the violation. Such penalties shall not exceed a rate of $1,000 per day, per operating rights owner or operator, per lease under paragraph (a) of this section or $10,000 per day, per operating rights owner or operator, per lease under paragraph (b) of this section. For paragraphs (d) through (f) of this section, the rate shall be $500, $10,000, and $25,000, respectively.

(2) For minor violations, no penalty under paragraph (a) of this section shall be assessed unless:

(i) The operating rights owner or operator, as appropriate, has been notified of the violation in writing and did not correct the violation within the time allowed; and

(ii) The operating rights owner or operator, as appropriate, has been assessed $250 under § 3163.1 of this title and a second notice has been issued giving an abatement period of not less than 20 days; and

(iii) The noncompliance was not abated within the time allowed by the second notice. The initial proposed penalty for a minor violation under paragraph (a) of this section shall be at the rate of $50 per day beginning with the date of the second notice. Under paragraph (b) of this section, the penalty shall be at a daily rate of $500. Such penalties shall not exceed a rate of $100 per day, per operating rights owner or operator, per lease under paragraph (a) of this section, of $1,000 per day, per operating rights owner or operator, per lease under paragraph (b) of this section.

(h) On a case-by-case basis, the Secretary may compromise or reduce civil penalties under this section. In compromising or reducing the amount of a civil penalty, the Secretary shall state on the record the reasons for such determination.

(i) Civil penalties provided by this section shall be supplemental to, and not in derogation of, any other penalties or assessments for noncompliance in any other provision of law, except as provided in paragraphs (a) and (b) of this section.

(j) If the violation continues beyond the 60-day maximum specified in paragraph (b) of this section or beyond the 20 day maximum specified in paragraphs (e) and (f) of this section, lease cancellation proceedings shall be initiated under either Title 43 or Title 25 of the Code of Federal Regulations.

(k) If the violation continues beyond the 20-day maximum specified in paragraph (d) of this section, the authorized officer shall revoke the transporter's authority to remove crude oil or other liquid hydrocarbons from any Federal or Indian lease under the authority of that authorized officer or to remove any crude oil or liquid hydrocarbons allocation to such lease site. This revocation of the transporter's authority shall continue until compliance is achieved and related penalty paid.

[52 FR 5393, Feb. 20, 1987; 52 FR 10225, Mar. 31, 1987, as amended at 53 FR 17364, May 16, 1988]

§ 3163.3 Criminal penalties.

Any person who commits an act for which a civil penalty is provided in § 3163.4–1(b)(6) of this title shall, upon conviction, be punished by a fine of not more than $50,000 or by imprisonment for not more than 2 years or both.

[49 FR 37367, Sept. 21, 1984. Redesignated at 52 FR 5394, Feb 20, 1987]

§ 3163.4 Failure to pay.

If any person fails to pay an assessment or a civil penalty under § 3163.1 or § 3163.2 of this title after the order

making the assessment or penalty becomes a final order, and if such person does not file a petition for judicial review in accordance with this subpart, or, after a court in an action brought under this subpart has entered a final judgment in favor of the Secretary, the court shall have jurisdiction to award the amount assessed plus interest from the date of the expiration of the 90-day period provided by § 3165.4(e) of this title. The Federal Oil and Gas Royalty Management Act requires that any judgment by the court shall include an order to pay.

[52 FR 5394, Feb. 20, 1987; 52 FR 10225, Mar. 31, 1987]

§ 3163.5 Assessments and civil penalties.

(a) Assessments made under § 3163.1 of this title are due upon issuance and shall be paid within 30 days of receipt of certified mail written notice or personal service, as directed by the authorized officer in the notice. Failure to pay assessed damages timely will be subject to late payment charges as prescribed under Title 30 CFR Group 202.

(b) Civil penalties under § 3163.2 of this title shall be paid within 30 days of completion of any final order of the Secretary or the final order of the Court.

(c) Payments made pursuant to this section shall not relieve the responsible party of compliance with the regulations in this part or from liability for waste or any other damage. A waiver of any particular assessment shall not be construed as precluding an assessment pursuant to § 3163.1 of this title for any other act of noncompliance occurring at the same time or at any other time. The amount of any civil penalty under § 3163.2 of this title, as finally determined, may be deducted from any sums owing by the United States to the person charged.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983; 49 FR 37368, Sept. 21, 1984; 52 FR 5394, Feb. 20, 1987; 52 FR 10225, Mar. 31, 1987; 53 FR 17364, May 16, 1988]

§ 3163.6 Injunction and specific performance.

(a) In addition to any other remedy under this part or any mineral leasing law, the Attorney General of the United States or his designee may bring a civil action in a district court of the United States to:

(1) Restrain any violation of the Federal Oil and Gas Royalty and Management Act or any mineral leasing law of the United States; or

(2) Compel the taking of any action required by or under the Act or any mineral leasing law of the United States.

(b) A civil action described in paragraph (a) may be brought only in the United States district court of the judicial district wherein the act, omission or transaction constituting a violation under the Act or any other mineral leasing law occurred, or wherein the defendant is found or transacts business.

[49 FR 37368, Sept. 21, 1984]

Subpart 3164—Special Provisions

§ 3164.1 Onshore Oil and Gas Orders.

(a) The Director is authorized to issue Onshore Oil and Gas Orders when necessary to implement and supplement the regulations in this part. All orders will be published in the FEDERAL REGISTER both for public comment and in final form.

(b) These Orders are binding on operating rights owners and operators, as appropriate, of Federal and restricted Indian oil and gas leases which have been, or may hereafter be, issued. The Onshore Oil and Gas Orders listed below are currently in effect:

Order No.	Subject	Effective date	FEDERAL REGISTER reference	Supersedes
1.	Approval of operations	Nov. 21, 1983	48 FR 48916 and 48 FR 56226	NTL–6.
2.	Drilling	Dec. 19, 1988	53 FR 46790	None.

Order No.	Subject	Effective date	FEDERAL REGISTER reference	Supersedes
3.	Site security	Mar. 27, 1989	54 FR 8056	NTL–7.
4.	Measurement of oil	Aug. 23, 1989	54 FR 8086	None.
5.	Measurement of gas	Mar. 27, 1989, new facilities greater than 200 MCF production; Aug. 23, 1989, existing facility greater than 200 MCF production; Feb. 26, 1990, existing facility less than 200 MCF production.	54 FR 8100	None.
6.	Hydrogen sulfide operations	Jan. 22, 1991	55 FR 48958	None.
7.	Disposal of produced water	October 8, 1993	58 FR 47354	NTL–2B

Note: Numbers to be assigned sequentially by the Washington Office as proposed Orders are prepared for publication.

[47 FR 47765, Oct. 27, 1982. Redesignated at 48 FR 36583–36586, Aug. 12, 1983, and amended at 48 FR 48921, Oct. 21, 1983; 48 FR 56226, Dec. 20, 1983; 53 FR 17364, May 16, 1988; 54 FR 8060, Feb. 24, 1989; 54 FR 8092, Feb. 24, 1989; 54 FR 8106, Feb. 24, 1989; 54 FR 39527, 39529, Sept. 27, 1989; 56 FR 48967, Nov. 23, 1991; 57 FR 3025, Jan. 27, 1992; 58 FR 47361, Sept. 8, 1993; 58 FR 58505, Nov. 2, 1993]

§ 3164.2 NTL's and other implementing procedures.

(a) The authorized officer is authorized to issue NTL's when necessary to implement the onshore oil and gas orders and the regulations in this part. All NTL's will be issued after notice and opportunity for comment.

(b) All NTL's issued prior to the promulgation of these regulations shall remain in effect until modified, superseded by an Onshore Oil and Gas Order, or otherwise terminated.

(c) A manual and other written instructions will be used to provide policy and procedures for internal guidance of the Bureau of Land Management.

§ 3164.3 Surface rights.

(a) Operators shall have the right of surface use only to the extent specifically granted by the lease. With respect to restricted Indian lands, additional surface rights may be exercised when granted by a written agreement with the Indian surface owner and approved by the Superintendent of the Indian agency having jurisdiction.

(b) Except for the National Forest System lands, the authorized officer is responsible for approving and supervising the surface use of all drilling, development, and production activities on the leasehold. This includes storage tanks and processing facilities, sales facilities, all pipelines upstream from such facilities, and other facilities to aid production such as water disposal pits and lines, and gas or water injection lines.

(c) On National Forest System lands, the Forest Service shall regulate all surface disturbing activities in accordance with Forest Service regulations, including providing to the authorized officer appropriate approvals of such activities.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983, further amended at 53 FR 17364, May 16, 1988; 53 FR 22847, June 17, 1988]

§ 3164.4 Damages on restricted Indian lands.

Assessments for damages to lands, crops, buildings, and to other improvements on restricted Indian lands shall be made by the Superintendent and be payable in the manner prescribed by said official.

Subpart 3165—Relief, Conflicts, and Appeals

§ 3165.1 Relief from operating and producing requirements.

(a) Applications for relief from either the operating or the producing requirements of a lease, or both, shall be filed with the authorized officer, and shall include a full statement of the circumstances that render such relief necessary.

(b) The authorized officer shall act on applications submitted for a suspension

of operations or production, or both, filed pursuant to §3103.4–4 of this title. The application for suspension shall be filed with the authorized officer prior to the expiration date of the lease; shall be executed by all operating rights owners or, in the case of a Federal unit approved under part 3180 of this title, by the unit operator on behalf of the committed tracts or by all operating rights owners of such tracts; and shall include a full statement of the circumstances that makes such relief necessary.

(c) If approved, a suspension of operations and production will be effective on the first of the month in which the completed application was filed or the date specified by the authorized officer. Suspensions will terminate when they are no longer justified in the interest of conservation, when such action is in the interest of the lessor, or as otherwise stated by the authorized officer in the approval letter.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983, further amended at 53 FR 17364, May 16, 1988; 61 FR 4752, Feb. 8, 1996]

§3165.1–1 Relief from royalty and rental requirements.

Applications for any modification authorized by law of the royalty or rental requirements of a lease for lands of the United States shall be filed in the office of the authorized officer having jurisdiction of the lands. (For other regulations relating to royalty and rental relief, and suspension of operations and production, see part 3103 of this title.)

[48 FR 36586, Aug. 12, 1983, as amended at 53 FR 17365, May 16, 1988]

§3165.2 Conflicts between regulations.

In the event of any conflict between the regulations in this part and the regulations in title 25 CFR concerning oil and gas operations on Federal and Indian leaseholds, the regulations in this part shall govern with respect to the obligations in the conduct of oil and gas operations, acts of noncompliance, and the jurisdiction and authority of the authorized officer.

[47 FR 47765, Oct. 27, 1982. Redesignated and amended at 48 FR 36583–36586, Aug. 12, 1983, further amended at 53 FR 17365, May 16, 1988]

§3165.3 Notice, State Director review and hearing on the record.

(a) *Notice.* Whenever an operating rights owner or operator, as appropriate, fails to comply with any provisions of the lease, the regulations in this part, applicable orders or notices, or any other appropriate orders of the authorized officer, written notice shall be given the appropriate party and the lessee(s) to remedy any defaults or violations. Written orders or a notice of violation, assessment, or proposed penalty shall be issued and served by personal service by an authorized officer or by certified mail. Service shall be deemed to occur when received or 7 business days after the date it is mailed, whichever is earlier. Any person may designate a representative to receive any notice of violation, assessment, or proposed penalty on his/her behalf. In the case of a major violation, the authorized officer shall make a good faith effort to contact such designated representative by telephone to be followed by a written notice. Receipt of notice shall be deemed to occur at the time of such verbal communication, and the time of notice and the name of the receiving party shall be confirmed in the file. If the good faith effort to contact the designated representative is unsuccessful, notice of the major violation may be given to any person conducting or supervising operations subject to the regulations in this part. In the case of a minor violation, written notice shall be provided as described above. A copy of all orders, notices, or instructions served on any contractor or field employee or designated representative shall also be mailed to the operator. Any notice involving a civil penalty shall be mailed to the operating rights owner.

(b) *State Director review.* Any adversely affected party that contests a notice of violation or assessment or an instruction, order, or decision of the authorized officer issued under the regulations in this part, may request an administrative review, before the State Director, either with or without oral presentation. Such request, including all supporting documentation, shall be filed in writing with the appropriate State Director within 20 business days of the date such notice of violation or

assessment or instruction, order, or decision was received or considered to have been received and shall be filed with the appropriate State Director. Upon request and showing of good cause, an extension for submitting supporting data may be granted by the State Director. Such review shall include all factors or circumstances relevant to the particular case. Any party who is adversely affected by the State Director's decision may appeal that decision to the Interior Board of Land Appeals as provided in §3165.4 of this part.

(c) *Review of proposed penalties.* Any adversely affected party wishing to contest a notice of proposed penalty shall request an administrative review before the State Director under the procedures set out in paragraph (b) of this section. However, no civil penalty shall be assessed under this part until the party charged with the violation has been given the opportunity for a hearing on the record in accordance with section 109(e) of the Federal Oil and Gas Royalty Management Act. Therefore, any party adversely affected by the State Director's decision on the proposed penalty, may request a hearing on the record before an Administrative Law Judge or, in lieu of a hearing, may appeal that decision directly to the Interior Board of Land Appeals as provided in §3165.4(b)(2) of this part. If such party elects to request a hearing on the record, such request shall be filed in the office of the State Director having jurisdiction over the lands covered by the lease within 30 days of receipt of the State Director's decision on the notice of proposed penalty. Where a hearing on the record is requested, the State Director shall refer the complete case file to the Office of Hearings and Appeals for a hearing before an Administrative Law Judge in accordance with part 4 of this title. A decision shall be issued following completion of the hearing and shall be served on the parties. Any party, including the United States, adversely affected by the decision of the Administrative Law Judge may appeal to the Interior Board of Land Appeals as provided in §3163.4 of this title.

(d) *Action on request for State Director review. Action on request for administrative review.* The State Director shall issue a final decision within 10 business days of the receipt of a complete request for administrative review or, where oral presentation has been made, within 10 business days therefrom. Such decision shall represent the final Bureau decision from which further review may be obtained as provided in paragraph (c) of this section for proposed penalties, and in §3165.4 of this title for all decisions.

(e) *Effect of request for State Director review or for hearing on the record.* (1) Any request for review by the State Director under this section shall not result in a suspension of the requirement for compliance with the notice of violation or proposed penalty, or stop the daily accumulation of assessments or penalties, unless the State Director to whom the request is made so determines.

(2) Any request for a hearing on the record before an administrative law judge under this section shall not result in a suspension of the requirement for compliance with the decision, unless the administrative law judge so determines. Any request for hearing on the record shall stop the accumulation of additional daily penalties until such time as a final decision is rendered, except that within 10 days of receipt of a request for a hearing on the record, the State Director may, after review of such request, recommend that the Director reinstate the accumulation of daily civil penalties until the violation is abated. Within 45 days of the filing of the request for a hearing on the record, the Director may reinstate the accumulation of civil penalties if he/she determines that the public interest requires a reinstatement of the accumulation and that the violation is causing or threating immediate, substantial and adverse impacts on public health and safety, the environment, production accountability, or royalty income. If the Director does not reinstate the daily accumulation within 45 days of the filing of the request for a hearing on the record, the suspension shall continue.

[52 FR 5394, Feb. 20, 1987; 52 FR 10225, Mar. 31, 1987, as amended at 53 FR 17365, May 16, 1988; 66 FR 1894, Jan. 10, 2001]

§ 3165.4 Appeals.

(a) *Appeal of decision of State Director.* Any party adversely affected by the decision of the State Director after State Director review, under § 3165.3(b) of this title, of a notice of violation or assessment or of an instruction, order, or decision may appeal that decision to the Interior Board of Land Appeals pursuant to the regulations set out in part 4 of this title.

(b) *Appeal from decision on a proposed penalty after a hearing on the record.* (1) Any party adversely affected by the decision of an Administrative Law Judge on a proposed penalty after a hearing on the record under § 3165.3(c) of this title may appeal that decision to the Interior Board of Land Appeals pursuant to the regulations in part 4 of this title.

(2) In lieu of a hearing on the record under § 3165.3(c) of this title, any party adversely affected by the decision of the State Director on a proposed penalty may waive the opportunity for such a hearing on the record by appealing directly to the Interior Board of Land Appeals under part 4 of this title. However, if the right to a hearing on the record is waived, further appeal to the District Court under section 109(j) of the Federal Oil and Gas Royalty Management Act is precluded.

(c) *Effect of an appeal on an approval/decision by a State Director or Administrative Law Judge.* All decisions and approvals of a State Director or Administrator Law Judge under this part shall remain effective pending appeal unless the Interior Board of Land Appeals determines otherwise upon consideration of the standards stated in this paragraph. The provisions of 43 CFR 4.21(a) shall not apply to any decision or approval of a State Director or Administrative Law Judge under this part. A petition for a stay of a decision or approval of a State Director or Administrative Law Judge shall be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, Department of the Interior, and shall show sufficient justification based on the following standards:

(1) The relative harm to the parties if the stay is granted or denied,

(2) The likelihood of the appellant's success on the merits,

(3) The likelihood of irreparable harm to the appellant or resources if the stay is not granted, and

(4) Whether the public interest favors granting the stay.

Nothing in this paragraph shall diminish the discretionary authority of a State Director or Administrative Law Judge to stay the effectiveness of a decision subject to appeal pursuant to paragraph (a) or (b) of this section upon a request by an adversely affected party or on the State Director's or Administrative Law Judge's own initiative. If a State Director or Administrative Law Judge denies such a request, the requester can petition for a stay of the denial decision by filing a petition with the Interior Board of Land Appeals that addresses the standards described above in this paragraph.

(d) *Effect of appeal on compliance requirements.* Except as provided in paragraph (d) of this section, any appeal filed pursuant to paragraphs (a) and (b) of this section shall not result in a suspension of the requirement for compliance with the order or decision from which the appeal is taken unless the Interior Board of Land Appeals determines that suspension of the requirements of the order or decision will not be detrimental to the interests of the lessor or upon submission and acceptance of a bond deemed adequate to indemnify the lessor from loss or damage.

(e) *Effect of appeal on assessments and penalties.* (1) Except as provided in paragraph (d)(3) of this section, an appeal filed pursuant to paragraph (a) of this section shall suspend the accumulation of additional daily assessments. However, the pendency of an appeal shall not bar the authorized officer from assessing civil penalties under § 3163.2 of this title in the event the operator has failed to abate the violation which resulted in the assessment. The Board of Land Appeals may issue appropriate orders to coordinate the pending appeal and the pending civil penalty proceeding.

(2) Except as provided in paragraph (d)(3) of this section, an appeal filed pursuant to paragraph (b) of this section shall suspend the accumulation of additional daily civil penalties.

(3) When an appeal is filed under paragraph (a) or (b) of this section, the State Director may, within 10 days of receipt of the notice of appeal, recommend that the Director reinstate the accumulation of assessments and daily civil penalties until such time as a final decision is rendered or until the violation is abated. The Director may, if he/she determines that the public interest requires it, reinstate such accumulation(s) upon a finding that the violation is causing or threatening immediate substantial and adverse impacts on public health and safety, the environment, production accountability, or royalty income. If the Director does not act on the recommendation to reinstate the accumulation(s) within 45 days of the filing of the notice of appeal, the suspension shall continue.

(4) When an appeal is filed under paragraph (a) of this section from a decision to require drainage protection, BLM's drainage determination will remain in effect during the appeal, notwithstanding the provisions of 43 CFR 4.21. Compensatory royalty and interest determined under 30 CFR Part 218 will continue to accrue throughout the appeal.

(f) *Judicial review.* Any person who is aggrieved by a final order of the Secretary under this section may seek review of such order in the United States District Court for the judicial district in which the alleged violation occurred. Because section 109 of the Federal Oil and Gas Royalty Management Act provides for judicial review of civil penalty determinations only where a person has requested a hearing on the record, a waiver of such hearing precludes further review by the district court. Review by the district court shall be on the administrative record only and not de novo. Such an action shall be barred unless filed within 90 days after issuance of final decision as provided in §4.21 of this title.

[52 FR 5395, Feb. 20, 1987; 52 FR 10225, Mar. 31, 1987, as amended at 53 FR 17365, May 16, 1988; 57 FR 9013, Mar. 13, 1992; 66 FR 1894, Jan. 10, 2001]

PART 3180—ONSHORE OIL AND GAS UNIT AGREEMENTS: UNPROVEN AREAS

NOTE: Many existing unit agreements currently in effect specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager and Deputy Minerals Manager in the body of the agreements, as well as references to 30 CFR part 221 or specific sections thereof. Those references shall now be read in the context of Secretarial Order 3087 and now mean either the Bureau of Land Management or Minerals Management Service, as appropriate.

Subpart 3180—Onshore Oil and Gas Unit Agreements: General

Sec.

3180.0–1 Purpose.
3180.0–2 Policy.
3180.0–3 Authority.
3180.0–5 Definitions.

Subpart 3181—Application for Unit Agreement

3181.1 Preliminary consideration of unit agreement.
3181.2 Designation of unit area; depth of test well.
3181.3 Parties to unit agreement.
3181.4 Inclusion of non-Federal lands.
3181.5 Compensatory royalty payment for unleased Federal land.

Subpart 3182—Qualifications of Unit Operator

3182.1 Qualifications of unit operator.

Subpart 3183—Filing and Approval of Documents

3183.1 Where to file papers.
3183.2 Designation of area.
3183.3 Executed agreements.
3183.4 Approval of executed agreement.
3183.5 Participating area.
3183.6 Plan of development.
3183.7 Return of approved documents.

Subpart 3184 [Reserved]

Subpart 3185—Appeals

3185.1 Appeals.

Subpart 3186—Model Forms

3186.1 Model onshore unit agreement for unproven areas.

unit agreement are not regarded as a working interest.

[48 FR 26766, June 10, 1983. Redesignated and amended at 48 FR 36587, Aug. 12, 1983; 51 FR 34603, Sept. 30, 1986]

Subpart 3181—Application for Unit Agreement

§ 3181.1 Preliminary consideration of unit agreement.

The model unit agreement set forth in § 3186.1 of this title, is acceptable for use in unproven areas. Unique situations requiring special provisions should be clearly identified, since these and other special conditions may necessitate a modification of the model unit agreement set forth in § 3186.1 of this title. Any proposed special provisions or other modifications of the model agreement should be submitted for preliminary consideration so that any necessary revision may be prescribed prior to execution by the interested parties. Where Federal lands constitute less than 10 percent of the total unit area, a non-Federal unit agreement may be used. Upon submission of such an agreement, the authorized officer will take appropriate action to commit the Federal lands.

§ 3181.2 Designation of unit area; depth of test well.

An application for designation of an area as logically subject to development under a unit agreement and for determination of the depth of a test well may be filed by a proponent of such an agreement at the proper BLM office. Such application shall be accompanied by a map or diagram on a scale of not less than 2 inches to 1 mile, outlining the area sought to be designated under this section. The Federal, State, Indian and privately owned land should be indicated by distinctive symbols or colors. Federal and Indian oil and gas leases and lease applications should be identified by lease serial numbers. Geologic information, including the results of any geophysical surveys, and any other available information showing that unitization is necessary and advisable in the public interest should be furnished.All information submitted under this section is subject to part 2 of this title, which sets forth the rules of the Department of the Interior relating to public availability of information contained in Departmental records, as provided under this part at § 3100.4 of this chapter. These data will be considered by the authorized officer and the applicant will be informed of the decision reached. The designation of an area, pursuant to an application filed under this section, shall not create an exclusive right to submit an agreement for such area, nor preclude the inclusion of such area or any party thereof in another unit area.

[48 FR 26766, June 10, 1983. Redesignated at 48 FR 36587, Aug. 12, 1983, and amended at 63 FR 52953, Oct. 1, 1998]

§ 3181.3 Parties to unit agreement.

The owners of any right, title, or interest in the oil and gas deposits to be unitized are regarded as proper parties to a proposed agreement. All such parties must be invited to join the agreement. If any party fails or refuses to join the agreement, the proponent of the agreement, at the time it is filed for approval, must submit evidence of reasonable effort made to obtain joinder of such party and, when requested, the reasons for such nonjoinders. The address of each signatory party to the agreement should be inserted below the signature. Each signature should be attested by at least one witness if not notarized. The signing parties may execute any number of counterparts of the agreement with the same force and effect as if all parties signed the same document, or may execute a ratification or consent in a separate instrument with like force and effect.

§ 3181.4 Inclusion of non-Federal lands.

(a) Where State-owned land is to be unitized with Federal lands, approval of the agreement by appropriate State officials must be obtained prior to its submission to the proper BLM office for final approval. When authorized by the laws of the State in which the unitized land is situated, appropriate provision may be made in the agreement, recognizing such laws to the extent that they are applicable to non-Federal unitized land.

(b) When Indian lands are included, modification of the unit agreement will be required where appropriate. Approval of an agreement containing Indian lands by the Bureau of Indian Affairs must be obtained prior to final approval by the authorized officer.

§ 3181.5 Compensatory royalty payment for unleased Federal land.

The unit agreement submitted by the unit proponent for approval by the authorized officer shall provide for payment to the Federal Government of a 12½ percent royalty on production that would be attributable to unleased Federal lands in a PA of the unit if said lands were leased and committed to the unit agreement. The value of production subject to compensatory royalty payment shall be determined pursuant to 30 CFR part 206, provided that no additional royalty shall be due on any production subject to compensatory royalty under this provision.

[58 FR 58632, Nov. 2, 1993, as amended at 59 FR 16999, Apr. 11, 1994]

Subpart 3182—Qualifications of Unit Operator

§ 3182.1 Qualifications of unit operator.

A unit operator must qualify as to citizenship in the same manner as those holding interests in Federal oil and gas leases under the regulations at subpart 3102 of this title. The unit operator may be an owner of a working interest in the unit area or such other party as may be selected by the owners of working interests. The unit operator shall execute an acceptance of the duties and obligations imposed by the agreement. No designation of or change in a unit operator will become effective until approved by the authorized officer, and no such approval will be granted unless the successor unit operator is deemed qualified to fulfill the duties and obligations prescribed in the agreement.

Subpart 3183—Filing and Approval of Documents

§ 3183.1 Where to file papers.

All papers, instruments, documents, and proposals submitted under this part shall be filed in the proper BLM office.

[48 FR 26766, June 10, 1983. Redesignated at 48 FR 36587, Aug. 12, 1983, and amended at 51 FR 34603, Sept. 30, 1986]

§ 3183.2 Designation of area.

An application for designation of a proposed unit area and determination of the required depth of test well(s) shall be filed in duplicate. A like number of counterparts should be filed of any geologic data and any other information submitted in support of such application.

§ 3183.3 Executed agreements.

Where a duly executed agreement is submitted for final approval, a minimum of four signed counterparts should be filed. The number of counterparts to be filed for supplementing, modifying, or amending an existing agreement, including change of unit operator, designation of new unit operator, establishment or revision of a participating area, and termination shall be prescribed by the authorized officer.

§ 3183.4 Approval of executed agreement.

(a) A unit agreement shall be approved by the authorized officer upon a determination that such agreement is necessary or advisable in the public interest and is for the purpose of more properly conserving natural resources. Such approval shall be incorporated in a Certification-Determination document appended to the agreement (see § 3186.1 of this part for an example), and the unit agreement shall not be deemed effective until the authorized officer has executed the Certification-Determination document. No such agreement shall be approved unless the parties signatory to the agreement hold

sufficient interests in the unit area to provide reasonably effective control of operations.

(b) The public interest requirement of an approved unit agreement for unproven areas shall be satisfied only if the unit operator commences actual drilling operations and thereafter diligently prosecutes such operations in accordance with the terms of said agreement. If an application is received for voluntary termination of a unit agreement for an unproven area during its fixed term or such an agreement automatically expires at the end of its fixed term without the public interest requirement having been satisfied, the approval of that agreement by the authorized officer and lease segregations and extensions under § 3107.3–2 of this title shall be invalid, and no Federal lease shall be eligible for extensions under § 3107.4 of this title.

(c) Any modification of an approved agreement shall require the prior approval of the authorized officer.

[53 FR 17365, May 16, 1988, as amended at 58 FR 58633, Nov. 2, 1993]

§ 3183.5 Participating area.

Two counterparts of a substantiating geologic report, including structure-contour map, cross sections, and pertinent data, shall accompany each application for approval of a participating area or revision thereof under an approved agreement.

[48 FR 26766, June 10, 1983. Redesignated at 48 FR 36587, Aug. 12, 1983, and further redesignated at 53 FR 17365, May 16, 1988]

§ 3183.6 Plan of development.

Three counterparts of all plans of development and operation shall be submitted for approval under an approved agreement.

[48 FR 26766, June 10, 1983. Redesignated at 48 FR 36587, Aug. 12, 1983, and further redesignated at 53 FR 17365, May 16, 1988]

§ 3183.7 Return of approved documents.

One approved counterpart of each instrument or document submitted for approval will be returned to the unit operator by the authorized officer or his representative, together with such additional counterparts as may have been furnished for that purpose.

[48 FR 26766, June 10, 1983. Redesignated at 48 FR 36587, Aug. 12, 1983, and amended at 51 FR 34603, Sept. 30, 1986. Further redesignated at 53 FR 17365, May 16, 1988]

Subpart 3184 [Reserved]

Subpart 3185—Appeals

§ 3185.1 Appeals.

Any party adversely affected by an instruction, order, or decision issued under the regulations in this part may request an administrative review before the State Director under § 3165.3 of this title. Any party adversely affected by a decision of the State Director after State Director review may appeal that decision as provided in part 4 of this title.

[58 FR 58633, Nov. 2, 1993]

Subpart 3186—Model Forms

§ 3186.1 Model onshore unit agreement for unproven areas.

Introductory Section

1 Enabling Act and Regulations.
2 Unit Area.
3 Unitized Land and Unitized Substances.
4 Unit Operator.
5 Resignation or Removal of Unit Operator.
6 Successor Unit Operator.
7 Accounting Provisions and Unit Operating Agreement.
8 Rights and Obligations of Unit Operator.
9 Drilling to Discovery.
10 Plan of Further Development and Operation.
11 Participation After Discovery.
12 Allocation of Production.
13 Development or Operation of Nonparticipating Land or Formations.
14 Royalty Settlement.
15 Rental Settlement.
16 Conservation.
17 Drainage.
18 Leases and Contracts Conformed and Extended.
19 Convenants Run with Land.
20 Effective Date and Term.
21 Rate of Prospecting, Development, and Production.
22 Appearances.
23 Notices.
24 No Waiver of Certain Rights.
25 Unavoidable Delay.
26 Nondiscrimination.
27 Loss of Title.

28 Nonjoinder and Subsequent Joinder.
29 Counterparts.
30 Surrender.[1]
31 Taxes.[1]
32 No Partnership.[1]

Concluding Section IN WITNESS WHEREOF.

General Guidelines.

Certification—Determination.

UNIT AGREEMENT FOR THE DEVELOPMENT AND OPERATION OF THE

Unit area _____
County of _____
State of _____
No. _____

This agreement, entered into as of the _____ day of _____, 19__ by and between the parties subscribing, ratifying, or consenting hereto, and herein referred to as the ''parties hereto,''

WITNESSETH:

WHEREAS, the parties hereto are the owners of working, royalty, or other oil and gas interests in the unit area subject to this agreement; and

WHEREAS, the Mineral Leasing Act of February 25, 1920, 41 Stat. 437, as amended, 30 U.S.C. Sec. 181 *et seq.*, authorizes Federal lessees and their representatives to unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit plan of development or operations of any oil and gas pool, field, or like area, or any part thereof for the purpose of more properly conserving the natural resources thereof whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest; and

WHEREAS, the parties hereto hold sufficient interests in the _____ Unit Area covering the land hereinafter described to give reasonably effective control of operations therein; and

WHEREAS, it is the purpose of the parties hereto to conserve natural resources, prevent waste, and secure other benefits obtainable through development and operation of the area subject to this agreement under the terms, conditions, and limitations herein set forth;

NOW, THEREFORE, in consideration of the premises and the promises herein contained, the parties hereto commit to this agreement their respective interests in the below-defined unit area, and agree severally among themselves as follows:

1. ENABLING ACT AND REGULATIONS. The Mineral Leasing Act of February 25, 1920, as amended, supra, and all valid pertinent regulations including operating and unit plan regulations, heretofore issued thereunder or valid, pertinent, and reasonable regulations hereafter issued thereunder are accepted and made a part of this agreement as to Federal lands, provided such regulations are not inconsistent with the terms of this agreement; and as to non-Federal lands, the oil and gas operating regulations in effect as of the effective date hereof governing drilling and producing operations, not inconsistent with the terms hereof or the laws of the State in which the non-Federal land is located, are hereby accepted and made a part of this agreement.

2. UNIT AREA. The area specified on the map attached hereto marked Exhibit A is hereby designated and recognized as constituting the unit area, containing _____ acres, more or less.

Exhibit A shows, in addition to the boundary of the unit area, the boundaries and identity of tracts and leases in said area to the extent known to the Unit Operator. Exhibit B attached hereto is a schedule showing to the extent known to the Unit Operator, the acreage, percentage, and kind of ownership of oil and gas interests in all lands in the unit area. However, nothing herein or in Exhibits A or B shall be construed as a representation by any party hereto as to the ownership of any interest other than such interest or interests as are shown in the Exhibits as owned by such party. Exhibits A and B shall be revised by the Unit Operator whenever changes in the unit area or in the ownership interests in the individual tracts render such revision necessary, or when requested by the Authorized Officer, hereinafter referred to as AO and not less than four copies of the revised Exhibits shall be filed with the proper BLM office.

[1] Optional sections (in addition the penultimate paragraph of Section 9 is to be included only when more than one obligation well is required and paragraph (h) of section 18 is to be used only when applicable).

The above-described unit area shall when practicable be expanded to include therein any additional lands or shall be contracted to exclude lands whenever such expansion or contraction is deemed to be necessary or advisable to conform with the purposes of this agreement. Such expansion or contraction shall be effected in the following manner:

(a) Unit Operator, on its own motion (after preliminary concurrence by the AO), or on demand of the AO, shall prepare a notice of proposed expansion or contraction describing the contemplated changes in the boundaries of the unit area, the reasons therefor, any plans for additional drilling, and the proposed effective date of the expansion or contraction, preferably the first day of a month subsequent to the date of notice.

(b) Said notice shall be delivered to the proper BLM office, and copies thereof mailed to the last known address of each working interest owner, lessee and lessor whose interests are affected, advising that 30 days will be allowed for submission to the Unit Operator of any objections.

(c) Upon expiration of the 30-day period provided in the preceding item (b) hereof, Unit Operator shall file with the AO evidence of mailing of the notice of expansion or contraction and a copy of any objections thereto which have been filed with Unit Operator, together with an application in triplicate, for approval of such expansion or contraction and with appropriate joinders.

(d) After due consideration of all pertinent information, the expansion or contraction shall, upon approval by the AO, become effective as of the date prescribed in the notice thereof or such other appropriate date.

(e) All legal subdivisions of lands (i.e., 40 acres by Government survey or its nearest lot or tract equivalent; in instances of irregular surveys, unusually large lots or tracts shall be considered in multiples of 40 acres or the nearest aliquot equivalent thereof), no parts of which are in or entitled to be in a participating area on or before the fifth anniversary of the effective date of the first initial participating area established under this unit agreement, shall be eliminated automatically from this agreement, effective as of said fifth anniversary, and such lands shall no longer be a part of the unit area and shall no longer be subject to this agreement, unless diligent drilling operations are in progress on unitized lands not entitled to participation on said fifth anniversary, in which event all such lands shall remain subject hereto for so long as such drilling operations are continued diligently, with not more than 90-days time elapsing between the completion of one such well and the commencement of the next such well. All legal subdivisions of lands not entitled to be in a participating area within 10 years after the effective date of the first initial participating area approved under this agreement shall be automatically eliminated from this agreement as of said tenth anniversary. The Unit Operator shall, within 90 days after the effective date of any elimination hereunder, describe the area so eliminated to the satisfaction of the AO and promptly notify all parties in interest. All lands reasonably proved productive of unitized substances in paying quantities by diligent drilling operations after the aforesaid 5-year period shall become participating in the same manner as during said first 5-year period. However, when such diligent drilling operations cease, all nonparticipating lands not then entitled to be in a participating area shall be automatically eliminated effective as the 91st day thereafter.

Any expansion of the unit area pursuant to this section which embraces lands theretofore eliminated pursuant to this subsection 2(e) shall not be considered automatic commitment or recommitment of such lands. If conditions warrant extension of the 10-year period specified in this subsection, a single extension of not to exceed 2 years may be accomplished by consent of the owners of 90 percent of the working interest in the current nonparticipating unitized lands and the owners of 60 percent of the basic royalty interests (exclusive of the basic royalty interests of the United States) in nonparticipating unitized lands with approval of the AO, provided such extension application is submitted not later

than 60 days prior to the expiration of said 10-year period.

3. UNITIZED LAND AND UNITIZED SUBSTANCES. All land now or hereafter committed to this agreement shall constitute land referred to herein as ''unitized land'' or ''land subject to this agreement.'' All oil and gas in any and all formations of the unitized land are unitized under the terms of this agreement and herein are called ''unitized substances.''

4. UNIT OPERATOR. _____ is hereby designated as Unit Operator and by signature hereto as Unit Operator agrees and consents to accept the duties and obligations of Unit Operator for the discovery, development, and production of unitized substances as herein provided. Whenever reference is made herein to the Unit Operator, such reference means the Unit Operator acting in that capacity and not as an owner of interest in unitized substances, and the term ''working interest owner'' when used herein shall include or refer to Unit Operator as the owner of a working interest only when such an interest is owned by it.

5. RESIGNATION OR REMOVAL OF UNIT OPERATOR. Unit Operator shall have the right to resign at any time prior to the establishment of a participating area or areas hereunder, but such resignation shall not become effective so as to release Unit Operator from the duties and obligations of Unit Operator and terminate Unit Operator's rights as such for a period of 6 months after notice of intention to resign has been served by Unit Operator on all working interest owners and the AO and until all wells then drilled hereunder are placed in a satisfactory condition for suspension or abandonment, whichever is required by the AO, unless a new Unit Operator shall have been selected and approved and shall have taken over and assumed the duties and obligations of Unit Operator prior to the expiration of said period.

Unit Operator shall have the right to resign in like manner and subject to like limitations as above provided at any time after a participating area established hereunder is in existence, but in all instances of resignation or removal, until a successor Unit Operator is selected and approved as hereinafter provided, the working interest owners shall be jointly responsible for performance of the duties of Unit Operator, and shall not later than 30 days before such resignation or removal becomes effective appoint a common agent to represent them in any action to be taken hereunder.

The resignation of Unit Operator shall not release Unit Operator from any liability for any default by it hereunder occurring prior to the effective date of its resignation.

The Unit Operator may, upon default or failure in the performance of its duties or obligations hereunder, be subject to removal by the same percentage vote of the owners of working interests as herein provided for the selection of a new Unit Operator. Such removal shall be effective upon notice thereof to the AO.

The resignation or removal of Unit Operator under this agreement shall not terminate its right, title, or interest as the owner of working interest or other interest in unitized substances, but upon the resignation or removal of Unit Operator becoming effective, such Unit Operator shall deliver possession of all wells, equipment, materials, and appurtenances used in conducting the unit operations to the new duly qualified successor Unit Operator or to the common agent, if no such new Unit Operator is selected to be used for the purpose of conducting unit operations hereunder. Nothing herein shall be construed as authorizing removal of any material, equipment, or appurtenances needed for the preservation of any wells.

6. SUCCESSOR UNIT OPERATOR. Whenever the Unit Operator shall tender his or its resignation as Unit Operator or shall be removed as hereinabove provided, or a change of Unit Operator is negotiated by the working interest owners, the owners of the working interests according to their respective acreage interests in all unitized land shall, pursuant to the Approval of the Parties requirements of the unit operating agreement, select a successor Unit Operator. Such selection shall not become effective until:

(a) a Unit Operator so selected shall accept in writing the duties and responsibilities of Unit Operator, and

(b) the selection shall have been approved by the AO.

If no successor Unit Operator is selected and qualified as herein provided, the AO at his election may declare this unit agreement terminated.

7. ACCOUNTING PROVISIONS AND UNIT OPERATING AGREEMENT. If the Unit Operator is not the sole owner of working interests, costs and expenses incurred by Unit Operator in conducting unit operations hereunder shall be paid and apportioned among and borne by the owners of working interests, all in accordance with the agreement or agreements entered into by and between the Unit Operator and the owners of working interests, whether one or more, separately or collectively. Any agreement or agreements entered into between the working interest owners and the Unit Operator as provided in this section, whether one or more, are herein referred to as the ''unit operating agreement.'' Such unit operating agreement shall also provide the manner in which the working interest owners shall be entitled to receive their respective proportionate and allocated share of the benefits accruing hereto in conformity with their underlying operating agreements, leases, or other independent contracts, and such other rights and obligations as between Unit Operator and the working interest owners as may be agreed upon by Unit Operator and the working interest owners; however, no such unit operating agreement shall be deemed either to modify any of the terms and conditions of this unit agreement or to relieve the Unit Operator of any right or obligation established under this unit agreement, and in case of any inconsistency or conflict between this agreement and the unit operating agreement, this agreement shall govern. Two copies of any unit operating agreement executed pursuant to this section shall be filed in the proper BLM office prior to approval of this unit agreement.

8. RIGHTS AND OBLIGATIONS OF UNIT OPERATOR. Except as otherwise specifically provided herein, the exclusive right, privilege, and duty of exercising any and all rights of the parties hereto which are necessary or convenient for prospecting for, producing, storing, allocating, and distributing the unitized substances are hereby delegated to and shall be exercised by the Unit Operator as herein provided. Acceptable evidence of title to said rights shall be deposited with Unit Operator and, together with this agreement, shall constitute and define the rights, privileges, and obligations of Unit Operator. Nothing herein, however, shall be construed to transfer title to any land or to any lease or operating agreement, it being understood that under this agreement the Unit Operator, in its capacity as Unit Operator, shall exercise the rights of possession and use vested in the parties hereto only for the purposes herein specified.

9. DRILLING TO DISCOVERY. Within 6 months after the effective date hereof, the Unit Operator shall commence to drill an adequate test well at a location approved by the AO, unless on such effective date a well is being drilled in conformity with the terms hereof, and thereafter continue such drilling diligently until the _____ formation has been tested or until at a lesser depth unitized substances shall be discovered which can be produced in paying quantities (to wit: quantities sufficient to repay the costs of drilling, completing, and producing operations, with a reasonable profit) or the Unit Operator shall at any time establish to the satisfaction of the AO that further drilling of said well would be unwarranted or impracticable, provided, however, that Unit Operator shall not in any event be required to drill said well to a depth in excess of ____ feet. Until the discovery of unitized substances capable of being produced in paying quantities, the Unit Operator shall continue drilling one well at a time, allowing not more than 6 months between the completion of one well and the commencement of drilling operations for the next well, until a well capable of producing unitized substances in paying quantities is completed to the satisfaction of the AO or until it is reasonably proved that the unitized land is incapable of producing unitized substances in paying quantities in the formations drilled hereunder. Nothing in this section shall be deemed to limit the right of the Unit Operator to resign as provided in Section 5, hereof, or as

requiring Unit Operator to commence or continue any drilling during the period pending such resignation becoming effective in order to comply with the requirements of this section.

The AO may modify any of the drilling requirements of this section by granting reasonable extensions of time when, in his opinion, such action is warranted.

[2]9a. Multiple well requirements. Notwithstanding anything in this unit agreement to the contrary, except Section 25, UNAVOIDABLE DELAY, ____ wells shall be drilled with not more than 6-months time elapsing between the completion of the first well and commencement of drilling operations for the second well and with not more than 6-months time elapsing between completion of the second well and the commencement of drilling operations for the third well, . . . regardless of whether a discovery has been made in any well drilled under this provision. Both the initial well and the second well must be drilled in compliance with the above specified formation or depth requirements in order to meet the dictates of this section; and the second well must be located a minimum of ____ miles from the initial well in order to be accepted by the AO as the second unit test well, within the meaning of this section. The third test well shall be diligently drilled, at a location approved by the AO, to test the _____ formation or to a depth of ____ feet, whichever is the lesser, and must be located a minimum of ____ miles from both the initial and the second test wells. Nevertheless, in the event of the discovery of unitized substances in paying quantities by any well, this unit agreement shall not terminate for failure to complete the _____ well program, but the unit area shall be contracted automatically, effective the first day of the month following the default, to eliminate by subdivisions (as defined in Section 2(e) hereof) all lands not then entitled to be in a participating area.[2]

Until the establishment of a participating area, the failure to commence a well subsequent to the drilling of the initial obligation well, or in the case of multiple well requirements, if specified, subsequent to the drilling of those multiple wells, as provided for in this (these) section(s), within the time allowed including any extension of time granted by the AO, shall cause this agreement to terminate automatically. Upon failure to continue drilling diligently any well other than the obligation well(s) commenced hereunder, the AO may, after 15 days notice to the Unit Operator, declare this unit agreement terminated. Failure to commence drilling the initial obligation well, or the first of multiple obligation wells, on time and to drill it diligently shall result in the unit agreement approval being declared invalid *ab initio* by the AO. In the case of multiple well requirements, failure to commence drilling the required multiple wells beyond the first well, and to drill them diligently, may result in the unit agreement approval being declared invalid *ab initio* by the AO;

10. PLAN OF FURTHER DEVELOPMENT AND OPERATION. Within 6 months after completion of a well capable of producing unitized substances in paying quantities, the Unit Operator shall submit for the approval of the AO an acceptable plan of development and operation for the unitized land which, when approved by the authorized officier, shall constitute the further drilling and development obligations of the Unit Operator under this agreement for the period specified therein. Thereafter, from time to time before the expiration of any existing plan, the Unit Operator shall submit for the approval of the AO a plan for an additional specified period for the development and operation of the unitized land. Subsequent plans should normally be filed on a calender year basis not later than March 1 each year. Any proposed modification or addition to the existing plan should be filed as a supplement to the plan.

Any plan submitted pursuant to this section shall provide for the timely exploration of the unitized area, and for the diligent drilling necessary for determination of the area or areas capable of producing unitized substances in paying quantities in each and every productive formation. This plan shall

[2]Provisions to be included only when a multiple well obligation is required.

be as complete and adequate as the AO may determine to be necessary for timely development and proper conservation of the oil and gas resources in the unitized area and shall:

(a) Specify the number and locations of any wells to be drilled and the proposed order and time for such drilling; and

(b) Provide a summary of operations and production for the previous year.

Plans shall be modified or supplemented when necessary to meet changed conditions or to protect the interests of all parties to this agreement. Reasonable diligence shall be exercised in complying with the obligations of the approved plan of development and operation. The AO is authorized to grant a reasonable extension of the 6-month period herein prescribed for submission of an initial plan of development and operation where such action is justified because of unusual conditions or circumstances.

After completion of a well capable of producing unitized substances in paying quantities, no further wells, except such as may be necessary to afford protection against operations not under this agreement and such as may be specifically approved by the AO, shall be drilled except in accordance with an approved plan of development and operation.

11. PARTICIPATION AFTER DISCOVERY. Upon completion of a well capable of producing unitized substances in paying quantities, or as soon thereafter as required by the AO, the Unit Operator shall submit for approval by the AO, a schedule, based on subdivisions of the public-land survey or aliquot parts thereof, of all land then regarded as reasonably proved to be productive of unitized substances in paying quantities. These lands shall constitute a participating area on approval of the AO, effective as of the date of completion of such well or the effective date of this unit agreement, whichever is later. The acreages of both Federal and non-Federal lands shall be based upon appropriate computations from the courses and distances shown on the last approved public-land survey as of the effective date of each initial participating area. The schedule shall also set forth the percentage of unitized substances to be allocated, as provided in Section 12, to each committed tract in the participating area so established, and shall govern the allocation of production commencing with the effective date of the participating area. A different participating area shall be established for each separate pool or deposit of unitized substances or for any group thereof which is produced as a single pool or zone, and any two or more participating areas so established may be combined into one, on approval of the AO. When production from two or more participating areas is subsequently found to be from a common pool or deposit, the participating areas shall be combined into one, effective as of such appropriate date as may be approved or prescribed by the AO. The participating area or areas so established shall be revised from time to time, subject to the approval of the AO, to include additional lands then regarded as reasonably proved to be productive of unitized substances in paying quantities or which are necessary for unit operations, or to exclude lands then regarded as reasonably proved not to be productive of unitized substances in paying quantities, and the schedule of allocation percentages shall be revised accordingly. The effective date of any revision shall be the first of the month in which the knowledge or information is obtained on which such revision is predicated; provided, however, that a more appropriate effective date may be used if justified by Unit Operator and approved by the AO. No land shall be excluded from a participating area on account of depletion of its unitized substances, except that any participating area established under the provisions of this unit agreement shall terminate automatically whenever all completions in the formation on which the participating area is based are abandoned.

It is the intent of this section that a participating area shall represent the area known or reasonably proved to be productive of unitized substances in paying quantities or which are necessary for unit operations; but, regardless of any revision of the participating area, nothing herein contained shall be construed as requiring any retroactive

adjustment for production obtained prior to the effective date of the revision of the participating area.

In the absence of agreement at any time between the Unit Operator and the AO as to the proper definition or redefinition of a participating area, or until a participating area has, or areas have, been established, the portion of all payments affected thereby shall, except royalty due the United States, be impounded in a manner mutually acceptable to the owners of committed working interests. Royalties due the United States shall be determined by the AO and the amount thereof shall be deposited, as directed by the AO, until a participating area is finally approved and then adjusted in accordance with a determination of the sum due as Federal royalty on the basis of such approved participating area.

Whenever it is determined, subject to the approval of the AO, that a well drilled under this agreement is not capable of production of unitized substances in paying quantities and inclusion in a participating area of the land on which it is situated is unwarranted, production from such well shall, for the purposes of settlement among all parties other than working interest owners, be allocated to the land on which the well is located, unless such land is already within the participating area established for the pool or deposit from which such production is obtained. Settlement for working interest benefits from such a nonpaying unit well shall be made as provided in the unit operating agreement.

12. ALLOCATION OF PRODUCTION. All unitized substances produced from a participating area established under this agreement, except any part thereof used in conformity with good operating practices within the unitized area for drilling, operating, and other production or development purposes, or for repressuring or recycling in accordance with a plan of development and operations that has been approved by the AO, or unavoidably lost, shall be deemed to be produced equally on an acreage basis from the several tracts of unitized land and unleased Federal land, if any, included in the participating area established for such production. Each such tract shall have allocated to it such percentage of said production as the number of acres of such tract included in said participating area bears to the total acres of unitized land and unleased Federal land, if any, included in said participating area. There shall be allocated to the working interest owner(s) of each tract of unitized land in said participating area, in addition, such percentage of the production attributable to the unleased Federal land within the participating area as the number of acres of such unitized tract included in said participating area bears to the total acres of unitized land in said participating area, for the payment of the compensatory royalty specified in section 17 of this agreement. Allocation of production hereunder for purposes other than for settlement of the royalty, overriding royalty, or payment out of production obligations of the respective working interest owners, including compensatory royalty obligations under section 17, shall be prescribed as set forth in the unit operating agreement or as otherwise mutually agreed by the affected parties. It is hereby agreed that production of unitized substances from a participating area shall be allocated as provided herein, regardless or whether any wells are drilled on any particular part or tract of the participating area. If any gas produced from one participating area is used for repressuring or recycling purposes in another participating area, the first gas withdrawn from the latter participating area for sale during the life of this agreement shall be considered to be the gas so transferred, until an amount equal to that transferred shall be so produced for sale and such gas shall be allocated to the participating area from which initially produced as such area was defined at the time that such transferred gas was finally produced and sold.

13. DEVELOPMENT OR OPERATION OF NONPARTICIPATING LAND OR FORMATIONS. Any operator may with the approval of the AO, at such party's sole risk, costs, and expense, drill a well on the unitized land to test any formation provided the well is outside any participating area established for that formation, unless within 90 days of receipt of notice from said party of

his intention to drill the well, the Unit Operator elects and commences to drill the well in a like manner as other wells are drilled by the Unit Operator under this agreement.

If any well drilled under this section by a non-unit operator results in production of unitized substances in paying quantities such that the land upon which it is situated may properly be included in a participating area, such participating area shall be established or enlarged as provided in this agreement and the well shall thereafter be operated by the Unit Operator in accordance with the terms of this agreement and the unit operating agreement.

If any well drilled under this section by a non-unit operator that obtains production in quantities insufficient to justify the inclusion of the land upon which such well is situated in a participating area, such well may be operated and produced by the party drilling the same, subject to the conservation requirements of this agreement. The royalties in amount or value of production from any such well shall be paid as specified in the underlying lease and agreements affected.

14. ROYALTY SETTLEMENT. The United States and any State and any royalty owner who is entitled to take in kind a share of the substances now unitized hereunder shall be hereafter be entitled to the right to take in kind its share of the unitized substances, and Unit Operator, or the non-unit operator in the case of the operation of a well by a non-unit operator as herein provided for in special cases, shall make deliveries of such royalty share taken in kind in conformity with the applicable contracts, laws, and regulations. Settlement for royalty interest not taken in kind shall be made by an operator responsible therefor under existing contracts, laws and regulations, or by the Unit Operator on or before the last day of each month for unitized substances produced during the preceding calendar month; provided, however, that nothing in this section shall operate to relieve the responsible parties of any land from their respective lease obligations for the payment of any royalties due under their leases.

If gas obtained from lands not subject to this agreement is introduced into any participating area hereunder, for use in repressuring, stimulation of production, or increasing ultimate recovery, in conformity with a plan of development and operation approved by the AO, a like amount of gas, after settlement as herein provided for any gas transferred from any other participating area and with appropriate deduction for loss from any cause, may be withdrawn from the formation into which the gas is introduced, royalty free as to dry gas, but not as to any products which may be extracted therefrom; provided that such withdrawal shall be at such time as may be provided in the approved plan of development and operation or as may otherwise be consented to by the AO as conforming to good petroleum engineering practice; and provided further, that such right of withdrawal shall terminate on the termination of this unit agreement.

Royalty due the United States shall be computed as provided in 30 CFR Group 200 and paid in value or delivered in kind as to all unitized substances on the basis of the amounts thereof allocated to unitized Federal land as provided in Section 12 at the rates specified in the respective Federal leases, or at such other rate or rates as may be authorized by law or regulation and approved by the AO; provided, that for leases on which the royalty rate depends on the daily average production per well, said average production shall be determined in accordance with the operating regulations as though each participating area were a single consolidated lease.

15. RENTAL SETTLEMENT. Rental or minimum royalties due on leases committed hereto shall be paid by the appropriate parties under existing contracts, laws, and regulations, provided that nothing herein contained shall operate to relieve the responsible parties of the land from their respective obligations for the payment of any rental or minimum royalty due under their leases. Rental or minimum royalty for lands of the United States subject to this agreement shall be paid at the rate specified in the respective leases from the United States unless such rental or

minimum royalty is waived, suspended, or reduced by law or by approval of the Secretary or his duly authorized representative.

With respect to any lease on non-Federal land containing provisions which would terminate such lease unless drilling operations are commenced upon the land covered thereby within the time therein specified or rentals are paid for the privilege of deferring such drilling operations, the rentals required thereby shall, notwithstanding any other provision of this agreement, be deemed to accure and become payable during the term thereof as extended by this agreement and until the required drilling operations are commenced upon the land covered thereby, or until some portion of such land is included within a participating area.

16. CONSERVATION. Operations hereunder and production of unitized substances shall be conducted to provide for the most economical and efficient recovery of said substances without waste, as defined by or pursuant to State or Federal law or regulation.

17. DRAINAGE. (a) The Unit Operator shall take such measures as the AO deems appropriate and adequate to prevent drainage of unitized substances from unitized land by wells on land not subject to this agreement, which shall include the drilling of protective wells and which may include the payment of a fair and reasonable compensatory royalty, as determined by the AO.

(b) Whenever a participating area approved under section 11 of this agreement contains unleased Federal lands, the value of 12½ percent of the production that would be allocated to such Federal lands under section 12 of this agreement, if such lands were leased, committed, and entitled to participation, shall be payable as compensatory royalties to the Federal Government. Parties to this agreement holding working interests in committed leases within the applicable participating area shall be responsible for such compensatory royalty payment on the volume of production reallocated from the unleased Federal lands to their unitized tracts under section 12. The value of such production subject to the payment of said royalties shall be determined pursuant to 30 CFR part 206. Payment of compensatory royalties on the production reallocated from unleased Federal land to the committed tracts within the participating area shall fulfill the Federal royalty obligation for such production, and said production shall be subject to no further royalty assessment under section 14 of this agreement. Payment of compensatory royalties as provided herein shall accrue from the date the committed tracts in the participating area that includes unleased Federal lands receive a production allocation, and shall be due and payable monthly by the last day of the calendar month next following the calendar month of actual production. If leased Federal lands receiving a production allocation from the participating area become unleased, compensatory royalties shall accrue from the date the Federal lands become unleased. Payment due under this provision shall end when the unleased Federal tract is leased or when production of unitized substances ceases within the participating area and the participating area is terminated, whichever occurs first.

18. LEASES AND CONTRACTS CONFORMED AND EXTENDED. The terms, conditions, and provisions of all leases, subleases, and other contracts relating to exploration, drilling, development or operation for oil or gas on lands committed to this agreement are hereby expressly modified and amended to the extent necessary to make the same conform to the provisions hereof, but otherwise to remain in full force and effect; and the parties hereto hereby consent that the Secretary shall and by his approval hereof, or by the approval hereof by his duly authorized representative, does hereby establish, alter, change, or revoke the drilling, producing, rental, minimum royalty, and royalty requirements of Federal leases committed hereto and the regulations in respect thereto to conform said requirements to the provisions of this agreement, and, without limiting the generality of the foregoing, all leases, subleases, and contracts are particularly modified in accordance with the following:

(a) The development and operation of lands subject to this agreement under the terms hereof shall be deemed full

performance of all obligations for development and operation with respect to each and every separately owned tract subject to this agreement, regardless of whether there is any development of any particular tract of this unit area.

(b) Drilling and producing operations performed hereunder upon any tract of unitized lands will be accepted and deemed to be performed upon and for the benefit of each and every tract of unitized land, and no lease shall be deemed to expire by reason of failure to drill or produce wells situated on the land therein embraced.

(c) Suspension of drilling or producing operations on all unitized lands pursuant to direction or consent of the AO shall be deemed to constitute such suspension pursuant to such direction or consent as to each and every tract of unitized land. A suspension of drilling or producing operations limited to specified lands shall be applicable only to such lands.

(d) Each lease, sublease, or contract relating to the exploration, drilling, development, or operation for oil or gas of lands other than those of the United States committed to this agreement which, by its terms might expire prior to the termination of this agreement, is hereby extended beyond any such term so provided therein so that it shall be continued in full force and effect for and during the term of this agreement.

(e) Any Federal lease committed hereto shall continue in force beyond the term so provided therein or by law as to the land committed so long as such lease remains subject hereto, provided that production of unitized substances in paying quantities is established under this unit agreement prior to the expiration date of the term of such lease, or in the event actual drilling operations are commenced on unitized land, in accordance with provisions of this agreement, prior to the end of the primary term of such lease and are being diligently prosecuted at that time, such lease shall be extended for 2 years, and so long thereafter as oil or gas is produced in paying quantities in accordance with the provisions of the Mineral Leasing Act, as amended.

(f) Each sublease or contract relating to the operation and development of unitized substances from lands of the United States committed to this agreement, which by its terms would expire prior to the time at which the underlying lease, as extended by the immediately preceding paragraph, will expire is hereby extended beyond any such term so provided therein so that it shall be continued in full force and effect for and during the term of the underlying lease as such term is herein extended.

(g) The segregation of any Federal lease committed to this agreement is governed by the following provision in the fourth paragraph of sec. 17(m) of the Mineral Leasing Act, as amended by the Act of September 2, 1960 (74 Stat. 781–784) (30 U.S.C. 226(m)):

''Any [Federal] lease heretofore or hereafter committed to any such [unit] plan embracing lands that are in part within and in part outside of the area covered by any such plan shall be segregated into separate leases as to the lands committed and the lands not committed as of the effective date of unitization: *Provided*, *however*, That any such lease as to the nonunitized portion shall continue in force and effect for the term thereof but for not less than two years from the date of such segregation and so long thereafter as oil or gas is produced in paying quantities.''

If the public interest requirement is not satisfied, the segregation of a lease and/or extension of a lease pursuant to 43 CFR 3107.3–2 and 43 CFR 3107.4, respectively, shall not be effective.

[3](h) Any lease, other than a Federal lease, having only a portion of its lands committed hereto shall be segregated as to the portion committed and the portion not committed, and the provisions of such lease shall apply separately to such segregated portions commencing as of the effective date hereof. In the event any such lease provides for a lump-sum rental payment, such payment shall be prorated between the portions so segregated in proportion to the acreage of the respective tracts.

[3]Optional paragraph to be used only when applicable.

19. CONVENANTS RUN WITH LAND. The covenants herein shall be construed to be covenants running with the land with respect to the interests of the parties hereto and their successors in interest until this agreement terminates, and any grant, transfer or conveyance of interest in land or leases subject hereto shall be and hereby is conditioned upon the assumption of all privileges and obligations hereunder by the grantee, transferee, or other successor in interest. No assignment or transfer of any working interest, royalty, or other interest subject hereto shall be binding upon Unit Operator until the first day of the calendar month after Unit Operator is furnished with the original, photostatic, or certified copy of the instrument of transfer.

20. EFFECTIVE DATE AND TERM. This agreement shall become effective upon approval by the AO and shall automatically terminate 5 years from said effective date unless:

(a) Upon application by the Unit Operator such date of expiration is extended by the AO, or

(b) It is reasonably determined prior to the expiration of the fixed term or any extension thereof that the unitized land is incapable of production of unitized substances in paying quantities in the formations tested hereunder, and after notice of intention to terminate this agreement on such ground is given by the Unit Operator to all parties in interest at their last known addresses, this agreement is terminated with the approval of the AO, or

(c) A valuable discovery of unitized substances in paying quantities has been made or accepted on unitized land during said initial term or any extension thereof, in which event this agreement shall remain in effect for such term and so long thereafter as unitized substances can be produced in quantities sufficient to pay for the cost of producing same from wells on unitized land within any participating area established hereunder. Should production cease and diligent drilling or reworking operations to restore production or new production are not in progress within 60 days and production is not restored or should new production not be obtained in paying quantities on committed lands within this unit area, this agreement will automatically terminate effective the last day of the month in which the last unitized production occurred, or

(d) It is voluntarily terminated as provided in this agreement. Except as noted herein, this agreement may be terminated at any time prior to the discovery of unitized substances which can be produced in paying quantities by not less than 75 per centum, on an acreage basis, of the working interest owners signatory hereto, with the approval of the AO. The Unit Operator shall give notice of any such approval to all parties herto. If the public interest requirement is not satisfied, the approval of this unit by the AO shall be invalid.

21. RATE OF PROSPECTING, DEVELOPMENT, AND PRODUCTION. The AO is hereby vested with authority to alter or modify from time to time, in his discretion, the quantity and rate of production under this agreement when such quantity and rate are not fixed pursuant to Federal or State law, or do not conform to any Statewide voluntary conservation or allocation program which is established, recognized, and generally adhered to by the majority of operators in such State. The above authority is hereby limited to alteration or modifications which are in the public interest. The public interest to be served and the purpose thereof, must be stated in the order of alteration or modification. Without regard to the foregoing, the AO is also hereby vested with authority to alter or modify from time to time, in his discretion, the rate of prospecting and development and the quantity and rate of production under this agreement when such alteration or modification is in the interest of attaining the conservation objectives stated in this agreement and is not in violation of any applicable Federal or State law.

Powers is the section vested in the AO shall only be exercised after notice to Unit Operator and opportunity for hearing to be held not less than 15 days from notice.

22. APPEARANCES. The Unit Operator shall, after notice to other parties affected, have the right to appear for and on behalf of any and all interests

affected hereby before the Department of the Interior and to appeal from orders issued under the regulations of said Department, or to apply for relief from any of said regulations, or in any proceedings relative to operations before the Department, or any other legally constituted authority; provided, however, that any other interested party shall also have the right at its own expense to be heard in any such proceeding.

23. NOTICES. All notices, demands, or statements required hereunder to be given or rendered to the parties hereto shall be in writing and shall be personally delivered to the party or parties, or sent by postpaid registered or certified mail, to the last-known address of the party or parties.

24. NO WAIVER OF CERTAIN RIGHTS. Nothing contained in this agreement shall be construed as a waiver by any party hereto of the right to assert any legal or constitutional right or defense as to the validity or invalidity of any law of the State where the unitized lands are located, or of the United States, or regulations issued thereunder in any way affecting such party, or as a waiver by any such party of any right beyond his or its authority to waive.

25. UNAVOIDABLE DELAY. All obligations under this agreement requiring the Unit Operator to commence or continue drilling, or to operate on, or produce unitized substances from any of the lands covered by this agreement, shall be suspended while the Unit Operator, despite the exercise of due care and diligence, is prevented from complying with such obligations, in whole or in part, by strikes, acts of God, Federal, State, or municipal law or agencies, unavoidable accidents, uncontrollable delays in transportation, inability to obtain necessary materials or equipment in the open market, or other matters beyond the reasonable control of the Unit Operator, whether similar to matters herein enumerated or not.

26. NONDISCRIMINATION. In connection with the performance of work under this agreement, the Unit Operator agrees to comply with all the provisions of section 202 (1) to (7) inclusive, of Executive Order 11246 (30 FR 12319), as amended, which are hereby incorporated by reference in this agreement.

27. LOSS OF TITLE. In the event title to any tract of unitized land shall fail and the true owner cannot be induced to join in this unit agreement, such tract shall be automatically regarded as not committed hereto, and there shall be such readjustment of future costs and benefits as may be required on account of the loss of such title. In the event of a dispute as to title to any royalty, working interest, or other interests subject thereto, payment or delivery on account thereof may be withheld without liability for interest until the dispute is finally settled; provided, that, as to Federal lands or leases, no payments of funds due the United States shall be withheld, but such funds shall be deposited as directed by the AO, to be held as unearned money pending final settlement of the title dispute, and then applied as earned or returned in accordance with such final settlement.

Unit Operator as such is relieved from any responsibility for any defect or failure of any title hereunder.

28. NONJOINDER AND SUBSEQUENT JOINDER. If the owner of any substantial interest in a tract within the unit area fails or refuses to subscribe or consent to this agreement, the owner of the working interest in that tract may withdraw the tract from this agreement by written notice delivered to the proper BLM office and the Unit Operator prior to the approval of this agreement by the AO. Any oil or gas interests in lands within the unit area not committed hereto prior to final approval may thereafter be committed hereto by the owner or owners thereof subscribing or consenting to this agreement, and, if the interest is a working interest, by the owner of such interest also subscribing to the unit operating agreement. After operations are commenced hereunder, the right of subsequent joinder, as provided in this section, by a working interest owner is subject to such requirements or approval(s), if any, pertaining to such joinder, as may be provided for in the unit operating agreement. After final

approval hereof, joinder by a nonworking interest owner must be consented to in writing by the working interest owner committed hereto and responsible for the payment of any benefits that may accrue hereunder in behalf of such nonworking interest. A nonworking interest may not be committed to this unit agreement unless the corresponding working interest is committed hereto. Joinder to the unit agreement by a working interest owner, at any time, must be accompanied by appropriate joinder to the unit operating agreement, in order for the interest to be regarded as committed to this agreement. Except as may otherwise herein be provided, subsequent joinders to this agreement shall be effective as of the date of the filing with the AO of duly executed counterparts of all or any papers necessary to establish effective commitment of any interest and/or tract to this agreement.

29. COUNTERPARTS. This agreement may be executed in any number of counterparts, no one of which needs to be executed by all parties, or may be ratified or consented to by separate instrument in writing specifically referring hereto and shall be binding upon all those parties who have executed such a counterpart, ratification, or consent hereto with the same force and effect as if all such parties had signed the same document, and regardless of whether or not it is executed by all other parties owning or claiming an interest in the lands within the above-described unit area.

[4]30. SURRENDER. Nothing in this agreement shall prohibit the exercise by any working interest owner of the right to surrender vested in such party by any lease, sublease, or operating agreement as to all or any part of the lands covered thereby, provided that each party who will or might acquire such working interest by such surrender or by forfeiture as hereafter set forth, is bound by the terms of this agreement.

If as a result of any such surrender, the working interest rights as to such lands become vested in any party other than the fee owner of the unitized substances, said party may forfeit such rights and further benefits from operations hereunder as to said land to the party next in the chain of title who shall be and become the owner of such working interest.

If as the result of any such surrender or forfeiture working interest rights become vested in the fee owner of the unitized substances, such owner may:

(a) Accept those working interest rights subject to this agreement and the unit operating agreement; or

(b) Lease the portion of such land as is included in a participating area established hereunder subject to this agreement and the unit operating agreement; or

(c) Provide for the independent operation of any part of such land that is not then included within a participating area established hereunder.

If the fee owner of the unitized substances does not accept the working interest rights subject to this agreement and the unit operating agreement or lease such lands as above provided within 6 months after the surrendered or forfeited, working interest rights become vested in the fee owner; the benefits and obligations of operations accruing to such lands under this agreement and the unit operating agreement shall be shared by the remaining owners of unitized working interests in accordance with their respective working interest ownerships, and such owners of working interests shall compensate the fee owner of unitized substances in such lands by paying sums equal to the rentals, minimum royalties, and royalties applicable to such lands under the lease in effect when the lands were unitized.

An appropriate accounting and settlement shall be made for all benefits accruing to or payments and expenditures made or incurred on behalf of such surrendered or forfeited working interests subsequent to the date of surrender or forfeiture, and payment of any moneys found to be owing by such an accounting shall be made as between the parties within 30 days.

[4]Optional sections and subsection. (Agreements submitted for final approval should not identify section or provision as ''optional.'')

The exercise of any right vested in a working interest owner to reassign such working interest to the party from whom obtained shall be subject to the same conditions as set forth in this section in regard to the exercise of a right to surrender.

[4]31. TAXES. The working interest owners shall render and pay for their account and the account of the royalty owners all valid taxes on or measured by the unitized substances in and under or that may be produced, gathered and sold from the land covered by this agreement after its effective date, or upon the proceeds derived therefrom. The working interest owners on each tract shall and may charge the proper proportion of said taxes to royalty owners having interests in said-tract, and may currently retain and deduct a sufficient amount of the unitized substances or derivative products, or net proceeds thereof, from the allocated share of each royalty owner to secure reimbursement for the taxes so paid. No such taxes shall be charged to the United States or the State of ____ or to any lessor who has a contract with his lessee which requires the lessee to pay such taxes.

[4]32. NO PARTNERSHIP. It is expressly agreed that the relation of the parties hereto is that of independent contractors and nothing contained in this agreement, expressed or implied, nor any operations conducted hereunder, shall create or be deemed to have created a partnership or association between the parties hereto or any of them.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed and have set opposite their respective names the date of execution.

Unit Operator

Working Interest Owners

Other Interest Owners

General Guidelines

1. Executed agreement to be legally complete.

2. Agreement submitted for approval must contain Exhibit A and B in accordance with models shown in §§3186.1–1 and 3186.1–2 of this title.

3. Consents should be identified (in pencil) by tract numbers as listed in Exhibit B and assembled in that order as far as practical. Unit agreements submitted for approval shall include a list of the overriding royalty interest owners who have executed ratifications of the unit agreement. Subsequent joinders by overriding royalty interest owners shall be submitted in the same manner, except each must include or be accompanied by a statement that the corresponding working interest owner has consented in writing to such joinder. Original ratifications of overriding royalty owners will be kept on file by the Unit Operator or his designated agent.

4. All leases held by option should be noted on Exhibit B with an explanation as to the type of option, i.e., whether for operating rights only, for full leasehold record title, or for certain interests to be earned by performance. In all instances, optionee committing such interests is expected to exercise option promptly.

5. All owners of oil and gas interests must be invited to join the unit agreement, and statement to that effect must accompany executed agreement, together with summary of results of such invitations. A written reason for all interest owners who have not joined shall be furnished by the unit operator.

6. In the event fish and wildlife lands are included, add the following as a separate section:

''Wildlife Stipulation. Nothing in this unit agreement shall modify the special Federal lease stipulations applicable to lands under the jurisdiction of the United States Fish and Wildlife Service.''

7. In the event National Forest System lands are included within the unit area, add the following as a separate section:

''Forest Land Stipulation. Notwithstanding any other terms and conditions contained in this agreement, all of the stipulations and conditions of the individual leases between the United States and its lessees or their successors or assigns embracing lands within the unit area included for the protection of lands or functions under the jurisdiction of the Secretary of Agriculture shall remain in full force and effect the same as though this agreement had not been entered into, and no modification thereof is authorized except with the prior consent in writing of the Regional Forester, United States Forest Service, _____,

.''

8. In the event National Forest System lands within the Jackson Hole Area of Wyoming are included within the unit area, additional ''special'' stipulations may be required to be included in the unit agreement

by the U.S. Forest Service, including the Jackson Hole Special Stipulation.

9. In the event reclamation lands are included, add the following as a new separate section:

''Reclamation Lands. Nothing in this agreement shall modify the special, Federal lease stipulations applicable to lands under the jurisdiction of the Bureau of Reclamation.''

10. In the event a powersite is embraced in the proposed unit area, the following section should be added:

''Powersite. Nothing in this agreement shall modify the special, Federal lease stipulations applicable to lands under the jurisdiction of the Federal Energy Regulatory Commission.''

11. In the event special surface stipulations have been attached to any of the Federal oil and gas leases to be included, add the following as a separate section:

''Special surface stipulations. Nothing in this agreement shall modify the special Federal lease stipulations attached to the individual Federal oil leases.''

12. In the event State lands are included in the proposed unit area, add the appropriate State Lands Section as separate section.

(See § 3181.4(a) of this title).

13. In the event restricted Indian lands are involved, consult the AO regarding appropriate requirements under § 3181.4(b) of this title.

CERTIFICATION—DETERMINATION

Pursuant to the authority vested in the Secretary of the Interior, under the Act approved February 25, 1920, 41 Stat. 437, as amended, 30 U.S.C. sec. 181, *et seq.*, and delegated to (the appropriate Name and Title of the authorized officer, BLM) under the authority of 43 CFR part 3180, I do hereby:

A. Approve the attached agreement for the development and operation of the ____, Unit Area, State of _____. This approval shall be invalid *ab initio* if the public interest requirement under § 3183.4(b) of this title is not met.

B. Certify and determine that the unit plan of development and operation contemplated in the attached agreement is necessary and advisable in the public interest for the purpose of more properly conserving the natural resources.

C. Certify and determine that the drilling, producing, rental, minimum royalty, and royalty requirements of all Federal leases committed to said agreement are hereby established altered, changed, or revoked to conform with the terms and conditions of this agreement.

Dated _____.

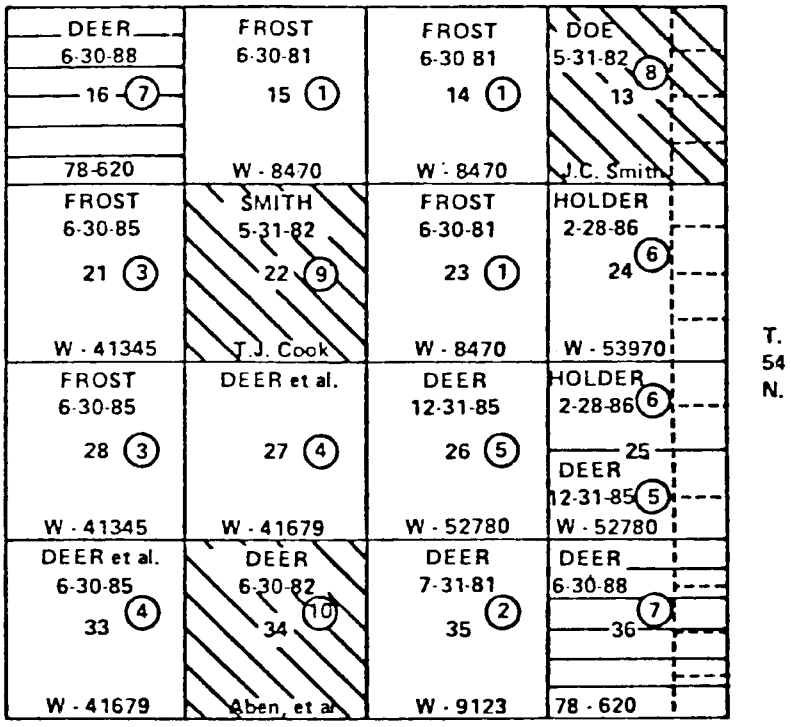
(Name and Title of authorized officer of the Bureau of Land Management)

[48 FR 26766, June 10, 1983. Redesignated and amended at 48 FR 36587, 36588, Aug. 12, 1983; 53 FR 17365, May 16, 1988; 53 FR 31867, 31959, Aug. 22, 1988; 58 FR 58633, Nov. 2, 1993; 59 FR 16999, Apr. 11, 1994]

§ 3186.1–1 Model Exhibit "A".

Company Name
Exhibit A
Swan Unit Area
Campbell County, Wyoming

R. 59 W.



(1) Means tract number as listed on Exhibit B

Public Land

State Land

Patented Land

Scale - Generally 2" = 1 mile.

Include acreage for all irregular sections and lots.

§ 3186.1–2 Model Exhibit "B".

SWAN UNIT AREA, CAMPBELL COUNTY, WYOMING

Tract No.	Description of land	No. of acres	Serial No. and expiration date of lease	Basic royalty and ownership percentage	Lessee of record	Overriding royalty and percentage	Working interest and percentage
	All in the area of T54N–R59W, 6th P.M..						
	Federal Land						
1	Sec. 14: All	1,920.00	W–8470, 6–30–81.	U.S.: All	T.J. Cook 100%.	T.J. Cook 2%	Frost Oil Co. 100%.
	Sec. 15: All						
	Sec. 23: All						
2	Sec. 35: All	640.00	W–9123, 7–31–81.	U.S.: All	O.M. Odom 100%.	O.M. Odom 1%.	Deer Oil Co. 100%.
3	Sec. 21: All	1,280.00	W–41345, 6–30–85.	U.S.: All	Max Pen 50%	Max Pen 1% ..	Frost Oil Co. 100%.
	Sec. 28: All	.....	.....	.....	Sam Small 50%.	Sam Small 1%	
4	Sec. 27: All	1,280.00	W–41679, 6–30–85.	U.S.: All	Al Preen 100%.	Al Preen 2% ..	Deer Oil Co. 50%.
....	.....	.....	.....	.....	.....	.....	Doe Oil Co.,30%
....	.....	.....	.....	.....	.....	.....	Able Drilling Co. 20%.
	Sec. 33: All	.....	.....	.....	.....	.....	Deer Oil Co. 50%.
....	.....	.....	.....	.....	.....	.....	Doe Oil Co., 30%
....	.....	.....	.....	.....	.....	.....	Able Drilling Co. 20%.
5	Sec. 26: All	961.50	W–52780,12–31–85.	U.S.: All	Deer Oil Co. 100%.	J.G. Goodin 2%.	Deer Oil Co. 100%.
	Sec. 25: Lots 3,4, SW¼, W½SE¼.						
6	Sec. 24: Lots 1,2,3,4,W½, W½E½ (All).	965.80	W–53970, 2–28–86.	U.S.: All	T.H. Holder 100%.	.....	T.H. Holder 100%.
	Sec. 25: Lots 1,2,NW¼, W½NE/4.						
	6 Federal tracts totalling 7,047.30 acres or 68.76018% of unit area.						
	State Land						
7	Sec. 16: All	1,280.60	78620, 6–30–88.	State: All	Deer Oil Co. 100%.	T.T. Timo 2%	Deer Oil Co. 100%.
	Sec. 36: Lots 1, 2, 3, 4, W½, W½E½ (All).						
	1 State tract totalling 1,280.60 acres or 12.49476% of unit area..						
	Patented Land						
8	Sec. 13: Lots 1, 2, 3, 4, W½, W½E½ (All).	641.20	5–31–82	J.C. Smith: 100%.	Doe Oil Co. 100%.	.....	Doe Oil Co. 100%.
9	Sec. 22: All	640.00	5–31–82	T.J. Cook: 100%.	W.W. Smith 100%.	Sam Spade 1%.	W.W. Smith 100%.
10	Sec. 34: All	640.00	6–30–82	A.A. Aben: 75%, L.P. Carr: 25%.	Deer Oil Co. 100%.	.....	Deer Oil Co. 100%.
	3 Patented tracts totalling 1,921.20 acres or 18.74506% of unit area.						

Total: 10 tracts 10,249.10 acres in entire unit area.

[48 FR 26766, June 10, 1983. Redesignated at 48 FR 36587, Aug. 12, 1983, and amended at 51 FR 34604, Sept. 30, 1986]

§ 3186.2 Model collective bond.

COLLECTIVE CORPORATE SURETY BOND

Know all men by these presents. That we, _____ (Name of unit operator), signing as Principal, for and on behalf of the record owners of unitized substances now or hereafter covered by the unit agreement for the _____ (Name of unit), approved _____ (Date) _____ (Name and address of Surety), as Surety are jointly and severally held and firmly bound unto the United States of America in the sum of _____ (Amount of bond) Dollars, lawful money of the United States, for the use and benefit of and to be paid to the United States and any entryman or patentee of any portion of the unitized land here-tofore entered or patented with the reservation of the oil or gas deposits to the United States, for which payment, well and truly to be made, we bind ourselves, and each of us, and each of our heirs, executors, administrators, successors, and assigns by these presents.

The condition of the foregoing obligation is such, that, whereas the Secretary of the Interior on _____ (Date) approved under the provisions of the Act of February 25, 1920, 41 Stat. 437, 30 U.S.C. secs. 181 *et seq.*, as amended by the Act of August 8, 1946, 60 Stat. 950, a unit agreement for the development and operation of the _____ (Name of unit and State); and

Whereas said Principal and record owners of unitized substances, pursuant to said unit agreement, have entered into certain covenants and agreements as set forth therein, under which operations are to be conducted; and

Whereas said Principal as Unit Operator has assumed the duties and obligations of the respective owners of unitized substances as defined in said unit agreement; and

Whereas said Principal and Surety agree to remain bound in the full amount of the bond for failure to comply with the terms of the unit agreement, and the payment of rentals, minimum royalties, and royalties due under the Federal leases committed to said unit agreement; and

Whereas the Surety hereby waives any right of notice of and agrees that this bond may remain in force and effect notwithstanding;

(a) Any additions to or change in the ownership of the unitized substances herein described;

(b) Any suspension of the drilling or producing requirements or waiver, suspension, or reduction of rental or minimum royalty payments or reduction of royalties pursuant to applicable laws or regulations thereunder; and

Whereas said Principal and Surety agree to the payment of compensatory royalty under the regulations of the Interior Department in lieu of drilling necessary offset wells in the event of drainage; and

Whereas nothing herein contained shall preclude the United States (from requiring an additional bond at any time when deemed necessary);

Now, therefore, if the said Principal shall faithfully comply with all of the provisions of the above-indentified unit agreement and with the terms of the leases committed thereto, then the above obligation is to be of no effect; otherwise to remain in full force and virtue.

Signed, sealed, and delivered this _____ day of _____, in the presence of:

Witnesses:

_____

(Principal)

_____

_____

_____

(Surety)

§ 3186.3 Model for designation of successor unit operator by working interest owners.

Designation of successor Unit Operator _____ Unit Area, County of _____, State of _____. No. _____.

This indenture, dated as of the __ day of ____, 19__, by and between ____, hereinafter designated as ''First Party,'' and the owners of unitized working interests, hereinafter designated as ''Second Parties,''

Witnesseth: Whereas under the provisions of the Act of February 25, 1920, 41 Stat. 437, 30 U.S.C. secs. 181, *et seq.*, as amended by the Act of August 8, 1946, 60 Stat. 950, the Secretary of the Interior, on the _____ day of _____, 19__, approved a unit agreement _____ Unit Area, wherein _____ is designated as Unit Operator, and

Whereas said _____ has resigned as such Operator[1] and the designation of a successor Unit Operator is now required pursuant to the terms thereof; and

Whereas the First Party has been and hereby is designated by Second Parties as Unit Operator, and said First Party desires to assume all the rights, duties, and obligations of Unit Operator under the said unit agreement:

Now, therefore, in consideration of the premises hereinbefore set forth and the promises hereinafter stated, the First Party hereby covenants and agrees to fulfill the duties and assume the obligations of Unit Operator under and pursuant to all the terms of

[1] Where the designation of a successor Unit Operator is required for any reason other than resignation, such reason shall be substituted for the one stated.

the _____ unit agreement, and the Second Parties covenant and agree that, effective upon approval of this indenture by the (Name and Title of authorized officer, BLM) First Party shall be granted the exclusive right and privilege of exercising any and all rights and privileges as Unit Operator, pursuant to the terms and conditions of said unit agreement; said Unit agreement being hereby incorporated herein by reference and made a part hereof as fully and effectively as though said unit agreement were expressly set forth in this instrument.

In witness whereof, the parties hereto have executed this instrument as of the date hereinabove set forth.

_____

_____

(Witnesses)

_____

_____

(Witnesses)

_____

(First Party)

_____

(Second Party)

I hereby approve the foregoing indenture designating _____ as Unit Operator under the unit agreement for the _____ Unit Area, this __ day of _____, 19__.

_____

Authorized officer of the Bureau of Land Management.

[48 FR 26766, June 10, 1983. Redesignated at 48 FR 36587, Aug. 12, 1983, as amended at 51 FR 34604, Sept. 30, 1986]

§ 3186.4 Model for change in unit operator by assignment.

Change in Unit Operator _____ Unit Area, County of _____, State of _____, No. __. This indenture, dated as of the __ day of _____, 19__, by and between _____ hereinafter designated as ''First Party,'' and _____ hereinafter designated as ''Second Party.''

Witnesseth: Whereas under the provisions of the Act of February 25, 1920, 41 Stat. 437 30 U.S.C. secs. 181, *et seq.*, as amended by the Act of August 8, 1946, 60 Stat. 950, the Department of the Interior, on the __ day of _____, 19__, approved a unit agreement for the _____ Unit Area, wherein the First Party is designated as Unit Operator; and

Whereas the First Party desires to transfer, assign, release, and quitclaim, and the Second Party desires to assume all the rights, duties and obligations of Unit Operator under the unit agreement; and

Whereas for sufficient and valuable consideration, the receipt whereof is hereby acknowledged, the First Party has transferred, conveyed, and assigned all his/its rights under certain operating agreements involving lands within the area set forth in said unit agreement unto the Second Party;

Now, therefore, in consideration of the premises hereinbefore set forth, the First Party does hereby transfer, assign, release, and quitclaim unto Second Party all of First Party's rights, duties, and obligations as Unit Operator under said unit agreement; and

Second Party hereby accepts this assignment and hereby covenants and agrees to fulfill the duties and assume the obligations of Unit Operator under and pursuant to all the terms of said unit agreement to the full extent set forth in this assignment, effective upon approval of this indenture by the (Name and Title of authorized officer, BLM); said unit agreement being hereby incorporated herein by reference and made a part hereof as fully and effectively as though said unit agreement were expressly set forth in this instrument.

In witness whereof, the parties hereto have executed this instrument as of the date hereinabove set forth.

_____

_____

(Witnesses)

_____

_____

(Witnesses)

_____

(First Party)

_____

(Second Party)

I hereby approve the foregoing indenture designating _____ as Unit Operator under the unit agreement for the _____ Unit Area, this __ day of _____, 19__.

Authorized officer of the Bureau of Land Management

PART 3190—DELEGATION OF AUTHORITY, COOPERATIVE AGREEMENTS AND CONTRACTS FOR OIL AND GAS INSPECTION

Subpart 3190—Delegation of Authority, Cooperative Agreements and Contracts for Oil and Gas Inspections: General

Sec.

3190.0–1 Purpose.
3190.0–3 Authority.
3190.0–4 Objective.
3190.0–5 Definitions.
3190.0–7 Cross references.
3190.1 Proprietary data.
3190.2 Recordkeeping, funding and audit.
3190.2–1 Recordkeeping.
3190.2–2 Funding.
3190.2–3 Audit.
3190.3 Sharing of civil penalties.
3190.4 Availability of information.

Subpart 3191—Delegation of Authority

3191.1 Petition for delegation.

Federal restriction against alienation, including mineral resources and mineral estates reserved to an Indian tribe or Indian allottee in the conveyance of a surface or nonmineral estate, except that such term does not include any lands subject to the provisions of section 3 of the Act of June 28, 1906 (34 Stat. 539).

(f) *Proprietary data* means information obtained from a lessee that constitutes trade secrets, or commercial or financial information that is privileged or confidential, or other information that may be withheld under the Freedom of Information Act (5 U.S.C. 552(b)).

§ 3190.0–7 Cross references.

(a) 25 CFR 211.18; 212.24; 213.34.
(b) 30 CFR part 229.
(c) 43 CFR part 3160.

§ 3190.1 Proprietary data.

With regard to any data or information obtained by a State, Indian tribe or individual, whether under a delegation of authority, cooperative agreement or contract, the following applies:

(a) Proprietary data shall be made available to a State or Indian tribe pursuant to a cooperative agreement under the provisions of 30 U.S.C. 1732 if such State or Indian tribe:

(1) Consents in writing to restrict the dissemination of such information to such persons directly involved in an investigation under 30 U.S.C. 1732 who need the information to conduct the investigation;

(2) Agrees in writing to accept liability for wrongful disclosure;

(3) In the case of a State, the State demonstrates that such information is essential to the conduct of an investigation or to litigation under 30 U.S.C. 1734; and

(4) In the case of an Indian tribe, the tribe demonstrates that such information is essential to the conduct of an audit or investigation and waives sovereign immunity by express consent for wrongful disclosure.

(b)(1) Any person or State that obtains proprietary data pursuant to a delegation of authority, cooperative agreement or contract under this part is subject to the same provisions of law with respect to the disclosure of such information as would apply to any officer or employee of the United States.

(2) Disclosure of proprietary data obtained pursuant to a delegation of authority, cooperative agreement, or contract under this part may not be compelled under State law.

§ 3190.2 Recordkeeping, funding and audit.

§ 3190.2–1 Recordkeeping.

(a) Records and accounts relating to activities under delegations of authority, cooperative agreements or contracts shall be identified in the delegation, cooperative agreement or contract.

(b) All records and other materials relating to a delegation of authority, cooperative agreement or contract shall be maintained by the State, Indian Tribe or contractor for a period of 6 years from the date they are generated or such other period as may be specified in the delegation, cooperative agreement or contract.

§ 3190.2–2 Funding.

(a) States and Tribes shall provide adequate funding for administration and execution of activities carried out under a delegation or cooperative agreement.

(b) Reimbursement for allowable costs incurred by a State, Indian tribe or contractor as a result of activities carried out under a delegation of authority, cooperative agreement or contract shall be as negotiated, with the following limitations:

(1) Up to 100 percent for a delegation of authority; or

(2)Up to 100 percent for a cooperative agreement.

(c) Funding shall be subject to the availability of funds.

(d) States, Indian tribes or contractors shall maintain financial records relating to the funds received and expended under a delegation of authority, cooperative agreement or contract as specified in the delegation of authority, cooperative agreement or contract.

(e) Reimbursement shall be at least quarterly and only shall be made upon submission of an invoice or request for

reimbursement to the authorized officer.

[52 FR 27182, July 17, 1987, as amended at 62 FR 49586, Sept. 22, 1997]

§ 3190.2–3 Audit.

In maintaining financial records relating to the funds received and expended under a delegation of authority, cooperative agreement, or contract, States, Indian tribes and contractors shall comply with generally accepted accounting principles and audit requirements established by the Department of the Interior and Bureau of Land Management.

§ 3190.3 Sharing of civil penalties.

Fifty percent of any civil penalty collected by the United States as a result of activities carried out by a State under a delegation of authority or a State or Indian tribe under a cooperative agreement shall be payable to that State or Indian tribe upon receipt by the United States. Such amount shall be deducted from compensation due to the State or Indian tribe by the United States under the delegation of authority or cooperative agreement.

§ 3190.4 Availability of information.

Information in the possession of the Bureau of Land Management that is necessary to carry out activities authorized by delegations of authority, cooperative agreements, or contracts entered into under this part will be provided by the BLM to the States and Indian tribes party to such agreements. Release of proprietary data shall be subject to the provisions of §3190.1 of this part.

[56 FR 2998, Jan. 25, 1991]

Subpart 3191—Delegation of Authority

§ 3191.1 Petition for delegation.

§ 3191.1–1 Petition.

The Governor or other authorized official of any eligible State may request in writing that the Director delegate all or part of his/her authority and responsibility for inspection, enforcement and investigation on oil and gas leases on Federal lands within the State and on Indian lands within the State where the affected Indian tribe or Indian allottee has given written permission for such inspection, enforcement and investigation. Requests by a State for delegation of other activities may be granted by the Director with the approval of the Secretary.

§ 3191.1–2 Eligibility.

Any State with producing oil or gas leases on Federal or Indian lands may request a delegation of authority.

§ 3191.1–3 Action upon petition.

Upon request for a delegation of authority, the Director shall determine if:

(a) The State has proposed an acceptable plan for carrying out the delegated activities and will provide adequate resources to achieve the purposes of 30 U.S.C. 1735. This plan shall, at a minimum:

(1) Identify specific authorities and responsibilities for which the State is requesting a delegation of authority and whether it is applicable to Federal lands only or includes Indian lands;

(2) Provide evidence of written permission of the affected Indian tribe(s) or allottee(s) for such lands;

(3) Include specifics for carrying out the delegated activities;

(4) Indicate the inspector resources for carrying out the delegated activities and documentation of inspector qualifications;

(5) Describe the proposed record keeping for funding purposes;

(6) Detail the frequency and method of payment; and

(7) Include copies of any non-Federal forms that are to be used.

(b) The State has demonstrated that it will effectively and faithfully administer the rules and regulations of the Department of the Interior in accordance with the provisions of 30 U.S.C. 1735.

(c) The delegation will be carried out in coordination with activities retained by the Bureau so that such delegation will not create an unreasonable burden on any lessee.

§ 3191.1–4 Public hearing on petition.

Prior to the granting of any delegation of authority, the notice of proposed delegation shall be published in the FEDERAL REGISTER. The FEDERAL REGISTER notice shall provide an opportunity for a public hearing in the affected State.

§ 3191.2 Terms of delegation.

(a) Delegations shall be continuing, contingent upon available funding, providing that there is an annual finding by the Director that the provisions of the delegation and the mineral leasing laws are still being carried out and that the requirements of § 3191.1–3 (a), (b) and (c) of this title are still in effect.

(b) Authority delegated to a State under this subpart shall not be redelegated.

(c) The State regulatory authority shall maintain sufficient qualified, personnel to comply with the terms and purpose of the delegation.

(d) Inspection identification cards shall be issued by the authorized officer to all certified State inspectors for the purpose of identifying the bearer as an authorized representative of the Secretary. Identification cards remain the property of the United States.

(e) The delegation shall provide for coordination with designated offices of the Bureau of Land Management, the Minerals Management Service, and, where appropriate, the Bureau of Indian Affairs, Forest Service, and other surface management agencies.

(f) The delegation shall provide for annual program review.

(g) The delegation shall provide for annual budget and program reporting in conjunction with the Federal Budget process.

(h) The Director reserves the right to make inspections on Federal and Indian leases inspected by a State under this subpart for the purpose of evaluating the manner in which the delegation is being carried out.

(i) The Director reserves the right to act independently to carry out his/her responsibilities under the law.

§ 3191.3 Termination and reinstatement.

§ 3191.3–1 Termination.

(a) The delegation may be terminated by mutual written consent at any time.

(b) The Director may revoke a delegation if it is determined that the State has failed to meet the minimum standards for complying with the delegated authority.

(c) Prior to any action to revoke a delegation, the Director shall notify the State in writing of the deficiencies in the program leading to such revocation.

(d) Upon notification of intent to revoke a delegation, the State shall have 30 days to respond with a plan to correct the cited deficiencies. If the Director determines that the plan of correction is acceptable, the Director shall then approve the plan and specify the timeframe within which the cited deficiencies shall be corrected.

(e) In the event the Director makes a determination to revoke a delegation of authority, the State shall be provided an opportunity for a hearing prior to final action.

§ 3191.3–2 Reinstatement.

Terminated delegations of authority may be reinstated as set out below:

(a) For a delegation terminated by mutual consent under § 3191.3–1(a) of this title, the State shall apply for reinstatement by filing a petition with the Director, who shall determine whether such reinstatement should be granted.

(b) For a delegation of authority revoked by the Director, the State shall file a petition requesting reinstatement. In applying for reinstatement, the State shall provide written evidence that it has remedied all defects for which the delegation was revoked and that it is fully capable of resuming the activities carried out under the delegation. Upon receipt of the petition, the following actions shall be taken:

(1) The authorized officer, after review of the petition, may recommend approval of the reinstatement but shall provide proof that the deficiencies have been corrected and that the State is

fully capable of carrying out the delegation.

(2) The Director shall review the petition and the recommendation of the authorized officer and may approve the reinstatement of a delegation upon a determination that the findings of the authorized officer are acceptable.

§ 3191.4 Standards of delegation.

(a) The Director shall establish minimum standards to be used by a State in carrying out activities established in the delegation.

(b) The delegation shall identify functions, if any, that are to be carried out jointly.

(c) A delegation shall be made in accordance with the requirements of this section.

(d) Copies of delegations shall be on file in the Washington Office of the Bureau and shall be available for public inspection.

§ 3191.5 Delegation for Indian lands.

§ 3191.5–1 Indian lands included in delegation.

(a) No activity under a delegation made under this subpart may be carried out on Indian lands without the written permission of the affected Indian tribe or allottee.

(b) A State requesting a delegation involving Indian lands shall provide, as evidence of permission, a written agreement signed by an appropriate official(s) of the Indian tribe for tribal lands, or by the individual allottee(s) or their representative(s) for allotted lands. The agreement shall at a minimum specify the type and extent of activities to be carried out by the State under the agreement, and provisions for State access to carry out the specified activities.

(c) Delegations covering Indian lands shall be separate from delegations covering Federal lands.

§ 3191.5–2 Indian lands withdrawn from delegation.

(a) When an Indian tribe or allottee withdraws permission for a State to conduct inspection and related activities on its lands, the Indian tribe or allottee shall provide written notice of its withdrawal of permission to the State.

(b) Immediately upon receipt of a notice of withdrawal of permission, the State shall provide written notification of said notice to the authorized officer, who immediately shall take all necessary action to provide for inspection and enforcement activities on the affected Indian lands.

(c) No later than 120 days after receipt of a notice of withdrawal of permission draw from an Indian tribe or allottee, the delegation on the lands covered by the notice shall terminate.

(d) Upon termination of a delegation covering Indian lands, appropriate changes in funding shall be made by the authorized officer.

Subpart 3192—Cooperative Agreements

SOURCE: 62 FR 49586, Sept. 22, 1997, unless otherwise noted.

§ 3192.1 What is a cooperative agreement?

(a) A cooperative agreement is a contract between the Bureau of Land Management (BLM) and a Tribe or State to conduct inspection, investigation, or enforcement activities on producing Indian Tribal or allotted oil and gas leases.

(b) BLM will enter into a cooperative agreement with a State to inspect oil and gas leases on Indian lands only with the permission of the Tribe with jurisdiction over the lands.

§ 3192.2 Who may apply for a cooperative agreement with BLM to conduct oil and gas inspections?

(a) The Tribal chairperson, or other authorized official, of a Tribe with producing oil or gas leases, or agreements under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 *et seq.*), may apply for a cooperative agreement with BLM for Indian lands under the Tribe's jurisdiction.

(b) Tribes may join together to apply for a multi-tribe cooperative agreement.

(c) The Governor of a State having a Tribal resolution from the Tribe with jurisdiction over the Indian lands, permitting the Governor to enter into a

cooperative agreement, may apply for a cooperative agreement with BLM.

§ 3192.3 What must a Tribe or State include in its application for a cooperative agreement?

(a) To apply for a cooperative agreement you must complete—

(1) Standard Form 424, Application for Federal Assistance;

(2) Standard Form 424A, Budget Information—Non-Construction Programs; and

(3) Standard Form 424B, Assurances—Non-Construction Programs.

(b) You must describe the type and extent of oil and gas inspection, enforcement, and investigative activities proposed under the agreement and the period of time the proposed agreement will be in effect (See section 11 of Standard Form 424).

(c) You may include allotted lands under an agreement with the written consent of all allottees or their heirs. BLM will ask the Bureau of Indian Affairs (BIA) to verify that the Tribe or State has obtained all of the necessary signatures to commit 100 percent of each individual tract of allotted lands to the agreement.

§ 3192.4 What is the term of a cooperative agreement?

Cooperative agreements can be in effect for a period from 1 to 5 years from the effective date of the agreement, as set out in the agreement.

§ 3192.5 How do I modify a cooperative agreement?

You may modify a cooperative agreement by having all parties to the agreement consent to the change in writing. If the agreement is with a State, and the modification would affect the duration or scope of the agreement, then the State must obtain the written consent of the affected Tribe and/or allottee or heir.

§ 3192.6 How will BLM evaluate my request for proprietary data?

BLM will evaluate Tribal or State requests for proprietary data on a case-by-case basis according to the requirements of § 3190.1 of this part.

§ 3192.7 What must I do with Federal assistance I receive?

You must use Federal assistance that you receive only for costs incurred which are directly related to the activities carried out under the cooperative agreement.

§ 3192.8 May I subcontract activities in the agreement?

You must obtain BLM's written approval before you subcontract any activities in the agreement with the exception of financial audits of program funds that are required by the Single Audit Act of 1984 (31 U.S.C. 7501 *et seq.*).

§ 3192.9 What terms must a cooperative agreement contain?

The cooperative agreement must—

(a) State its purpose, objective, and authority;

(b) Define terms used in the agreement;

(c) Describe the Indian lands covered;

(d) Describe the roles and responsibilities of BLM and the Tribe or State;

(e) Describe the activities the Tribe or State will carry out;

(f) Define the minimum performance standards to evaluate Tribal or State performance;

(g) Include provisions to—

(1) Protect proprietary data, as provided in § 3190.1 of this part;

(2) Prevent conflict of interest, as provided in § 3192.14(d);

(3) Share civil penalties, as provided in § 3192.11; and

(4) Terminate the agreement;

(h) List BLM and Tribal or State contacts;

(i) Avoid duplication of effort between BLM and the Tribe or State when conducting inspections;

(j) List schedules for—

(1) Inspection activities;

(2) Training of Tribal or State inspectors;

(3) Periodic reviews and meetings;

(k) Specify the limit on the dollar amount of Federal funding;

(l) Describe procedures for Tribes or States to request payment reimbursement;

(m) Describe allowable costs subject to reimbursement; and

(n) Describe plans for BLM oversight of the cooperative agreement.

§ 3192.10 What costs will BLM pay?

(a) BLM will pay expenses allowed under part 12, subpart A, Administrative and Audit Requirements and Cost Principles for Assistance Programs, of this title.

(b) BLM will fund the agreements up to 100 percent of allowable costs.

(c) Funding is subject to the availability of BLM funds.

(d) Funding for cooperative agreements is subject to the shared civil penalties requirement of § 3192.11.

§ 3192.11 How are civil penalties shared?

(a) Civil penalties that the Federal Government collects resulting from an activity carried out by a Tribe or State under a cooperative agreement are shared equally between the inspecting Tribe or State and BLM.

(b) BLM must deduct the amount of the civil penalty paid to the Tribe or State from the funding paid to the Tribe or State for the cooperative agreement.

§ 3192.12 What activities may Tribes or States perform under cooperative agreements?

Activities carried out under the cooperative agreement must be in accordance with the policies of the appropriate BLM State or field office and as specified in the agreement, and may include—

(a) Inspecting Tribal or allotted oil and gas leases for compliance with BLM regulations;

(b) Issuing initial Notices of Incidents of Non-Compliance, Form 3160–9, and Notices to Shut Down Operations, Form 3160–12;

(c) Conducting investigations; or

(d) Conducting oil transporter inspections.

§ 3192.13 What responsibilities must BLM keep?

(a) Under cooperative agreements, BLM continues to—

(1) Issue Notices of Incidents of Noncompliance that impose monetary assessments and penalties;

(2) Collect assessments and penalties;

(3) Calculate and distribute shared civil penalties;

(4) Train and certify Tribal or State inspectors;

(5) Issue and regulate inspector identification cards; and

(6) Identify leases to be inspected, taking into account the priorities of the Tribe. Priorities for allotted lands will be established through consultation with the BIA office with jurisdiction over the lands in the agreement.

(b) If BLM enters into a cooperative agreement, that agreement does not affect BLM's right to enter lease sites to conduct inspections, enforcement, investigations or other activities necessary to supervise lease operations.

§ 3192.14 What are the requirements for Tribal or State inspectors?

(a) Tribal or State inspectors must be certified by BLM before they conduct independent inspections on Indian oil and gas leases.

(b) The standards for certifying Tribal or State inspectors must be the same as the standards BLM uses for certifying BLM inspectors.

(c) Tribal and State inspectors must satisfactorily complete on-the-job and classroom training in order to qualify for certification.

(d) Tribal or State inspectors must not—

(1) Inspect the operations of companies in which they, a member of their immediate family, or their immediate supervisor, have a direct financial interest; or

(2) Use for personal gain, or gain by another person, information he or she acquires as a result of his or her participating in the cooperative agreement.

§ 3192.15 May cooperative agreements be terminated?

(a) Cooperative agreements may be terminated at any time if all parties agree to the termination in writing.

(b) BLM may terminate an agreement without Tribal or State agreement if the—

(1) Tribe or State fails to carry out the terms of the agreement; or

(2) Agreement is no longer needed.

(c) A Tribe may unilaterally terminate an agreement after notifying BLM. For a unilateral termination, the

agreement terminates 60 days after the Tribe notifies BLM.

§ 3192.16 How will I know if BLM intends to terminate my agreement?

(a) If BLM intends to terminate your agreement because you did not carry out the terms of the agreement, BLM must send you a notice that lists the reason(s) why BLM intends to terminate the agreement.

(b) Within 30 days after receiving the notice, you must send BLM a plan to correct the problem(s) BLM listed in the notice. BLM has 30 days to approve or disapprove the plan, in writing.

(c) If BLM approves the plan, you have 30 days after you receive notice of the approval to correct the problem(s).

(d) If you have not corrected the problem within 30 days, BLM will send you a second written termination notice that will give you another opportunity to correct the problem.

(e) If the problem is not corrected within 60 days after you receive the second notice, BLM will terminate the agreement.

§ 3192.17 Can BLM reinstate cooperative agreements that have been terminated?

(a) If your cooperative agreement was terminated by consent, you may request that BLM reinstate the agreement at any time.

(b) If BLM terminated an agreement because you did not carry out the terms of the agreement, you must prove that you have corrected the problem(s) and are able to carry out the terms of the agreement.

(c) For any reinstatement request BLM will decide whether or not your cooperative agreement may be reinstated and, if so, whether you must make any changes to the agreement before it can be reinstated.

§ 3192.18 Can I appeal a BLM decision?

Any party adversely affected by a BLM decision made under this subpart may appeal the decision in accordance with parts 4 and 1840 of this title.

PART 3195—HELIUM CONTRACTS

GENERAL INFORMATION

Sec.

3195.10 What is the purpose of these regulations?
3195.11 What terms do I need to know to understand this subpart?
3195.12 What is an In-Kind Crude Helium Sales Contract?
3195.13 If I am a Federal helium supplier or buyer, what reports must I submit to BLM?
3195.14 How should I submit reports?

FEDERAL AGENCY REQUIREMENTS

3195.20 Who must purchase major helium requirements from Federal helium suppliers?
3195.21 When must I use an authorized Federal helium supplier?
3195.22 When must my contractors or subcontractors use an authorized Federal helium supplier?
3195.23 How do I get a list of authorized Federal helium suppliers?
3195.24 What must I do before contacting a non-Federal helium supplier for my helium needs?
3195.25 What information must be in my purchase order/contract for a major helium requirement?
3195.26 What information must I report to BLM?
3195.27 What do I do if my helium requirement becomes a major helium requirement after the initial determination has been made?

FEDERAL HELIUM SUPPLIER REQUIREMENTS

3195.30 How do I apply to become a Federal helium supplier?
3195.31 What are the general terms of an In-Kind Crude Helium Sales Contract?
3195.32 Where can I find a list of Federal agencies that use helium?
3195.33 What information must I report to BLM?
3195.34 What happens to my Helium Distribution Contracts?
3195.35 What happens if I have an outstanding obligation to purchase refined helium under a Helium Distribution Contract?
3195.36 What happens if there is a shortage of helium?
3195.37 Under what circumstances can BLM terminate me as an authorized Federal helium supplier?

AUTHORITY: 50 U.S.C. 167a.

SOURCE: 63 FR 40178, July 28, 1998, unless otherwise noted.

GENERAL INFORMATION

§ 3195.10 What is the purpose of these regulations?

The purpose of these regulations is to establish procedures governing the sale

3276.12 What information must I give BLM in the monthly report for facility operations?
3276.13 What extra information must I give BLM in the monthly report for flash and dry steam facilities?
3276.14 What information must I give BLM in the monthly report for direct use facilities?
3276.15 Must I notify BLM of accidents occurring at my utilization facility?

Subpart 3277—Inspections, Enforcement, and Noncompliance

3277.10 Will BLM inspect my operations?
3277.11 What records must I keep available for inspection?
3277.12 What will BLM do if I do not comply with all BLM requirements?

Subpart 3278—Confidential, Proprietary Information

3278.10 Will BLM disclose information I submit under these regulations?
3278.11 When I submit confidential, proprietary information, how can I help ensure it is not available to the public?
3278.12 How long will information I give BLM remain confidential or proprietary?

Subpart 3279—Utilization Relief and Appeals

3279.10 May I request a variance from any BLM requirements?
3279.11 How may I appeal a BLM decision regarding my utilization operations?

AUTHORITY: 5 U.S.C. 552; 25 U.S.C. 396d, 2107; 30 U.S.C. 1023.

SOURCE: 63 FR 52364, Sept. 30, 1998, unless otherwise noted.

Subpart 3200—Geothermal Resource Leasing

§ 3200.1 Definitions.

Acquired lands means lands or mineral estates that the United States obtained by deed through purchase, gift, condemnation or other legal process.

Act means the Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001 *et seq.*).

Additional term means the period of years beyond the primary and any extended term of a producing lease granted when geothermal resources are produced or utilized in commercial quantities within the primary term or extended term. The additional term may not exceed 40 years beyond the end of the primary term, even if BLM grants later extensions.

Byproducts are minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with geothermal steam, and which no person would extract and produce by themselves because they are worth less than 75 percent of the value of the geothermal steam or because extraction and production would be too difficult.

Casual use means activities that ordinarily lead to no significant disturbance of Federal lands, resources, or improvements.

Commercial operation means delivering Federal geothermal resources, or electricity or other benefits derived from those resources, for sale. This term also includes delivering resources to the utilization point, if you are utilizing Federal geothermal resources for your own benefit and not selling energy to another entity.

Commercial quantities means either:

(1) For production from a lease, a sufficient volume (in terms of flow and temperature) of the resource to provide a reasonable return after you meet all costs of production; or

(2) For production from a unit, a sufficient volume of the resource to provide a reasonable return after you meet all costs of drilling and production.

Commercial Use Permit means BLM authorization for commercially operating a utilization facility and/or utilizing Federal geothermal resources.

Cooperative agreement means an agreement to produce and utilize separately-owned interests in the geothermal resources together as a whole, where the individual interests cannot be independently operated.

Development contract means a BLM-approved agreement between one or more lessees and one or more entities which makes resource exploration more efficient and protects the public interest.

Exploration operations means any activity relating to the search for evidence of geothermal resources, where you are physically present on the land and your activities may cause damage to those lands. Exploration operations

include, but are not limited to, geophysical operations, drilling temperature gradient wells, drilling holes used for explosive charges for seismic exploration, core drilling or any other drilling method, provided the well is not used for geothermal resource production. It also includes related construction of roads and trails, and cross-country transit by vehicles over public land. Exploration operations do not include the direct testing of geothermal resources or the production or utilization of geothermal resources.

Extended term means an initial, and any successive, 5-year period beyond the primary term of a lease during which BLM will grant the lessee the right to continue activities under the existing lease.

Facility Construction Permit means BLM permission to build and test a utilization facility.

Facility operator means the person receiving BLM authorization to site, construct, test and/or operate a utilization facility. A facility operator may be a lessee, a unit operator, or a third party.

Geothermal Drilling Permit means BLM permission to drill for and test Federal geothermal resources.

Geothermal Exploration Permit means BLM permission to conduct only geothermal exploration operations and associated surface disturbance activities.

Geothermal Resources Operational Order means a formal, numbered order, issued by BLM that implements or enforces the regulations in this part.

Geothermal steam and associated geothermal resources are products of geothermal steam or hot water and hot brines, including those resulting from water, gas, or other fluids artificially introduced into geothermal formations; heat or other associated energy found in geothermal formations; and associated byproducts.

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

Known geothermal resource area (KGRA) means an area where BLM determines that persons knowledgeable in geothermal development would spend money to develop geothermal resources.

Lessee means a person holding record title interest in a geothermal lease issued by the BLM.

MMS means the Minerals Management Service of the Department of the Interior.

Notice to Lessees (NTL) means a written notice issued by BLM that implements the regulations in this part or geothermal resource operational orders, and provides more specific instructions on geothermal issues within a state, district or resource area. Notices to Lessees may be obtained by contacting the BLM state office which issued the NTL.

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. A lessee is an operating rights owners if he/she did not transfer all of his/her operating rights. An operator may or may not own operating rights.

Operations Plan, or plan of operations, means a plan which fully describes the location of proposed drill pad, access roads and other facilities related to the drilling and testing of Federal geothermal resources, and includes measures for environmental and other resources protection and mitigation.

Operator means any person who has taken formal responsibility for the operations conducted on the leased lands.

Pay instead of produce in commercial quantities means payment in lieu of commercial quantities production, as used in section 6(g)(1)(A) of the Act.

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

Primary term means the first 10 years of a lease, not including any periods of suspension.

Produced or utilized in commercial quantities means a well producing geothermal resources in commercial quantities, or the completion of a well capable of producing geothermal resources in commercial quantities when BLM determines the lessee is diligently attempting to utilize the geothermal resources.

Public lands means the general public domain lands or minerals, and acquired lands or minerals, that the United States may lease for geothermal resources.

Record title means legal ownership of a geothermal lease established in BLM's records.

Relinquishment means the lessee's action to voluntarily end the lease in whole or in part.

Secretary means the Secretary of the Interior or the Secretary's delegate.

Site license means BLM authorization to site a utilization facility on leased Federal lands.

Stipulation means additional conditions BLM attaches to a lease or permit.

Sublease means the lessee's conveyance of its interests in a lease to an operating rights owner. A sublessee is responsible for complying with all terms, conditions and stipulations of the lease.

Subsequent well operations are those operations done to a well after it has been drilled. Examples of subsequent well operations include: cleaning the well out, surveying it, performing well tests, chemical stimulation, running a liner or another casing string, repairing existing casing, or converting the well from a producer to an injector or vice versa.

Sundry notice is your written request to perform work not covered by another type of permit, or to change operations in your previously approved permit.

Surface management agency means any Federal agency, other than BLM, which is responsible for managing the surface overlying Federally-owned minerals.

Temperature gradient well means a well authorized under a geothermal exploration permit drilled in order to obtain information on the change in temperature over the depth of the well.

Transfer means any conveyance of an interest in a lease by assignment, sublease or otherwise.

Unit agreement means an agreement to explore for, produce and utilize separately owned interests in geothermal resources as a single consolidated unit. A unit agreement defines how costs and benefits will be allocated among the holders of interest in the unit area.

Unit area means all tracts committed to an approved unit agreement.

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 of the unit area.

Unitized substances means geothermal resources recovered from lands committed to a unit agreement.

Utilization Plan, or plan of utilization, means a plan which fully describes the utilization facility, including measures for environmental protection and mitigation.

Waste means:

(1) Physical waste, including refuse; and/or

(2) Improper use or unnecessary dissipation of geothermal resources through inefficient drilling, production, transmission, or utilization.

§ 3200.2 Information collection.

(a) The Office of Management and Budget approved the information collection contained in this part under 44 U.S.C. 3501 *et seq.*, and assigned clearance numbers 1004–0034, 1004–0074, 1004–0132 and 1004–0160. BLM will use this information to maintain an orderly program for leasing, development and production of Federal geothermal resources, to evaluate technical feasibility and environmental impacts of geothermal operations on Federal and Indian lands, and to determine whether exploration expenditures meet the requirements for diligence credit under 43 CFR 3210.14. The public must respond to the requests for information in order to obtain a benefit.

(b) Public reporting burden for this information is estimated to average 1.6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimates or any other aspects of this collection of information, including suggestions for reducing the burden, to Administrative Record, Bureau of Land Management, Room 401 LS, 1849 C Street, NW., Washington, DC 20240; and the Paperwork Reduction

Project (1004–0160), Office of Management and Budget, Washington, DC 20503.

§ 3200.3 Changes in agency duties.

There are many leases and agreements currently in effect, and which will remain in effect, involving Federal geothermal resources leases that specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements may also specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager, and Deputy Minerals Manager. Those references must now be read to mean either the Bureau of Land Management or the Minerals Management Service, as appropriate. In addition, many leases and agreements specifically refer to 30 CFR part 270 or a specific section of that part. Effective December 3, 1982, references in such leases and agreements to 30 CFR part 270 should be read as references to this part 3200, which is the successor regulation to 30 CFR part 270.

§ 3200.4 What requirements must I comply with when taking any actions or conducting any operations under this part?

When you are taking any actions or conducting any operations under this part, you must comply with:

(a) The Act and the regulations of this part;

(b) Geothermal resource operational orders;

(c) Notices to lessees;

(d) Lease terms and stipulations;

(e) Approved plans and permits;

(f) Conditions of approval;

(g) Verbal orders from BLM which will be confirmed in writing;

(h) Other instructions from BLM; and

(i) Any other applicable laws and regulations.

§ 3200.5 What are my rights of appeal?

(a) If you are adversely affected by a BLM decision under this part, you may appeal that decision under parts 4 and 1840 of this title.

(b) All BLM decisions or approvals under this part are immediately effective and remain in effect while appeals are pending unless a stay is granted in accordance with 43 CFR 4.21(b).

Subpart 3201—Available Lands

§ 3201.10 What lands are available for geothermal leasing?

(a) BLM may issue leases on:

(1) Lands administered by the Department of the Interior, including public, withdrawn and acquired lands;

(2) Lands administered by the Department of Agriculture with its concurrence;

(3) Lands conveyed by the United States where the geothermal resources were reserved to the United States; and

(4) Lands subject to section 24 of the Federal Power Act, as amended (16 U.S.C. 818), with concurrence from the Secretary of Energy.

(b) If your activities under your lease or permit might adversely affect a significant thermal feature of a National Park System unit, BLM will include stipulations to protect this thermal feature in your lease or permit. This includes when your lease or permit is issued, extended, renewed or modified.

§ 3201.11 What lands are not available for geothermal leasing?

BLM will not issue leases for:

(a) Lands where the Secretary has determined that issuing the lease would cause unnecessary or undue degradation to public lands and resources;

(b) Lands contained within a unit of the National Park System, or are otherwise administered by the National Park Service;

(c) Lands within a National Recreation Area;

(d) Lands where the Secretary determines after notice and comment that geothermal operations, including exploration, development or utilization of lands, are reasonably likely to result in a significant adverse effect on a significant thermal feature within a unit of the National Park System;

(e) Fish hatcheries or wildlife management areas administered by the Secretary;

(f) Indian trust or restricted lands within or outside the boundaries of Indian reservations;

Project (1004–0160), Office of Management and Budget, Washington, DC 20503.

§ 3200.3 Changes in agency duties.

There are many leases and agreements currently in effect, and which will remain in effect, involving Federal geothermal resources leases that specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements may also specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager, and Deputy Minerals Manager. Those references must now be read to mean either the Bureau of Land Management or the Minerals Management Service, as appropriate. In addition, many leases and agreements specifically refer to 30 CFR part 270 or a specific section of that part. Effective December 3, 1982, references in such leases and agreements to 30 CFR part 270 should be read as references to this part 3200, which is the successor regulation to 30 CFR part 270.

§ 3200.4 What requirements must I comply with when taking any actions or conducting any operations under this part?

When you are taking any actions or conducting any operations under this part, you must comply with:

(a) The Act and the regulations of this part;

(b) Geothermal resource operational orders;

(c) Notices to lessees;

(d) Lease terms and stipulations;

(e) Approved plans and permits;

(f) Conditions of approval;

(g) Verbal orders from BLM which will be confirmed in writing;

(h) Other instructions from BLM; and

(i) Any other applicable laws and regulations.

§ 3200.5 What are my rights of appeal?

(a) If you are adversely affected by a BLM decision under this part, you may appeal that decision under parts 4 and 1840 of this title.

(b) All BLM decisions or approvals under this part are immediately effective and remain in effect while appeals are pending unless a stay is granted in accordance with 43 CFR 4.21(b).

Subpart 3201—Available Lands

§ 3201.10 What lands are available for geothermal leasing?

(a) BLM may issue leases on:

(1) Lands administered by the Department of the Interior, including public, withdrawn and acquired lands;

(2) Lands administered by the Department of Agriculture with its concurrence;

(3) Lands conveyed by the United States where the geothermal resources were reserved to the United States; and

(4) Lands subject to section 24 of the Federal Power Act, as amended (16 U.S.C. 818), with concurrence from the Secretary of Energy.

(b) If your activities under your lease or permit might adversely affect a significant thermal feature of a National Park System unit, BLM will include stipulations to protect this thermal feature in your lease or permit. This includes when your lease or permit is issued, extended, renewed or modified.

§ 3201.11 What lands are not available for geothermal leasing?

BLM will not issue leases for:

(a) Lands where the Secretary has determined that issuing the lease would cause unnecessary or undue degradation to public lands and resources;

(b) Lands contained within a unit of the National Park System, or are otherwise administered by the National Park Service;

(c) Lands within a National Recreation Area;

(d) Lands where the Secretary determines after notice and comment that geothermal operations, including exploration, development or utilization of lands, are reasonably likely to result in a significant adverse effect on a significant thermal feature within a unit of the National Park System;

(e) Fish hatcheries or wildlife management areas administered by the Secretary;

(f) Indian trust or restricted lands within or outside the boundaries of Indian reservations;

(g) The Island Park Geothermal Area; and

(h) Lands where section 43 of the Mineral Leasing Act (30 U.S.C. 226–3) prohibits geothermal leasing, including:

(1) Wilderness areas or wilderness study areas administered by BLM or other surface management agencies;

(2) Lands designated by Congress as wilderness study areas, except where the statute designating the study area specifically allows leasing to continue; and

(3) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document 96–119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or are released to uses other than wilderness by an act of Congress.

Subpart 3202—Lessee Qualifications

§ 3202.10 Who may hold a geothermal lease?

You may hold a geothermal lease if you are:

(a) A United States citizen who is at least 18 years old;

(b) An association of United States citizens, including a partnership;

(c) A corporation organized under the laws of the United States, any state or the District of Columbia; or

(d) A domestic governmental unit.

§ 3202.11 Must I prove I am qualified to hold a lease when filing an offer to lease?

You do not need to submit proof that you are qualified to hold a lease under 43 CFR 3202.10 at the same time you submit an offer to lease, but BLM may ask you for information about your qualifications at any time. If BLM requests additional information, you have 30 days from when you receive the request to submit the information.

§ 3202.12 Are other persons allowed to act on my behalf to file an offer to lease?

Another person may act on your behalf to file an offer to lease. The person acting for you must be qualified to hold a lease under 43 CFR 3202.10, and must do the following:

(a) Sign the document;

(b) State his or her title;

(c) Identify you as the person he or she is acting for; and

(d) Provide written proof of his or her qualifications and authority to take such action, if BLM requests it.

§ 3202.13 What happens if the offeror dies before the lease is issued?

If the offeror dies before the lease is issued, BLM will issue the lease to either the administrator or executor of the estate or the heirs. If the heirs are minors, BLM will issue the lease to either a legal guardian or trustee, provided that the legal guardian or trustee is qualified to hold a lease under 43 CFR 3202.10.

Subpart 3203—Obtaining a Lease

§ 3203.10 How can I obtain a geothermal lease?

(a) If the lands are located in a known geothermal resource area (KGRA), BLM leases those lands through a competitive sale. To obtain a lease, follow the procedures for submitting a bid set out in subpart 3205 of this part. BLM will issue a competitive lease to the person who submits the highest qualified bid.

(b) If the lands are located outside a KGRA, you may obtain a noncompetitive lease. Follow the procedures in subpart 3204 of this part. BLM issues noncompetitive leases to the first qualified offeror. BLM may issue a lease for a fractional interest if it serves the public interest.

§ 3203.11 How is a KGRA determined?

BLM determines the boundaries of a KGRA based on:

(a) Geologic and technical evidence. BLM will designate a KGRA if this evidence would cause a person who understands geothermal resource development to spend money developing the area;

(b) Proximity to wells capable of production in commercial quantities. BLM will designate a KGRA if the lands are:

(1) Within 5 miles of a well which is capable of producing steam in commercial quantities, or

(2) In the same geologic structure as a well capable of producing steam in commercial quantities; and

(c) Existence of competitive interest. A competitive interest exists where two or more people apply to lease some or all of the same lands for geothermal resources. BLM will not designate a KGRA based on competitive interest alone; we will also review the other factors discussed in this section to decide whether a KGRA designation is warranted.

Subpart 3204—Noncompetitive Leasing

§ 3204.10 How do I file a lease offer?

Submit two (2) executed copies of Form 3200–24 to BLM. At least one form must have an original signature. We will accept only exact copies of the form on one two-sided page. You must accurately describe the lands covered by your offer on the form or BLM may reject of all or part of your offer. To obtain this form (and other BLM forms), contact the nearest BLM Office.

§ 3204.11 How do I describe the lands in my lease offer?

Describe the lands as follows:

(a) For lands surveyed under the public land rectangular survey system, describe the lands by legal subdivision, section, township, and range;

(b) For unsurveyed lands, describe the lands by metes and bounds, giving courses and distances, and tie this information to an official corner of the public land surveys, or to a prominent topographic feature;

(c) For approved protracted surveys, include an entire section, township, and range. Do not divide protracted sections into aliquot parts;

(d) For unsurveyed lands in Louisiana and Alaska that have water boundaries, discuss the description with BLM before submission; and

(e) For fractional interest lands, identify the United States mineral ownership by percentage.

§ 3204.12 What fees must I pay with my lease offer?

Submit a non-refundable filing fee of $75 for each lease offer, and an advance rent in the amount of $1 per acre (or fraction of an acre). BLM will refund the advance rent if we reject the lease offer, or if you withdraw the lease offer before BLM accepts it. If the advance rental payment you send is more than 10 percent below the correct amount, BLM will reject the lease offer.

§ 3204.13 May I combine acquired and public domain lands on the same lease offer?

Yes, you may combine acquired and public domain lands on the same lease offer if you clearly identify both the acquired lands and the public domain lands.

§ 3204.14 What is the largest and smallest lease I can apply for?

Lease offers must cover all lands available for leasing in a section. The smallest lease you can apply for is 640 acres, or all lands available for leasing in the section, whichever is less. You may not apply for a lease which is larger than 2,560 acres, although BLM will make an exception to this requirement when your lease offer includes an irregular subdivision. Leases must not extend outside a 6 square mile area. If your offer does not meet these requirements, we will reject it.

§ 3204.15 What happens when two or more offerors apply for a noncompetitive lease for the same land?

BLM begins processing offers as soon as we receive them. If more than one person makes a lease offer for the same lands, BLM will give priority to the qualified offer which we received first. Once BLM approves a noncompetitive lease offer, we will reject any later offers received for the same land. However, if BLM receives additional offers for the same land while the original offer is still pending, BLM must determine if the overlapping offers warrant converting the land at issue to a KGRA:

(a) If BLM determines that the land should be considered a KGRA, then we reject all noncompetitive offers, and offerors must follow the competitive bidding procedures to lease the lands.

(b) If BLM determines that KGRA status is not warranted despite the

multiple offers, then we will award the lease to the first qualified offeror.

§ 3204.16 How does BLM determine the first qualified offeror?

BLM determines the first qualified offeror based on when we received the offer and whether the offeror is qualified to hold a lease. We will issue a noncompetitive lease to the offeror who is first to file a lease offer that meets all the requirements.

§ 3204.17 May I withdraw my lease offer?

You may withdraw your lease offer in whole or in part before we issue you a lease. If you withdraw only part of your offer, the lands remaining must meet the acreage requirements of 43 CFR 3204.14. If a partial withdrawal causes your lease offer to contain less than the minimum acreage required under 43 CFR 3204.14, we will reject the lease offer.

§ 3204.18 May I amend my lease offer?

You may amend your lease offer before we issue the lease, provided your amended lease offer meets all the lease offer requirements in this subpart. BLM will determine your priority based on the date we receive your amended lease offer, not the date of the original lease offer.

Subpart 3205—Competitive Leasing

§ 3205.10 How does BLM lease lands competitively?

(a) We lease some Federal lands through competitive sales using sealed bids. Those lands which we lease competitively include lands from terminated, expired, or relinquished leases, and lands within a KGRA (see 43 CFR 3203.11). BLM may also use a competitive lease sale if there is public interest.

(b) BLM lists these parcels, with any stipulations, in a sale notice. This sale notice will tell you where and when to submit your bids. We will post the sale notice in appropriate BLM offices, and may take other measures such as:

(1) Publishing news releases;

(2) Notifying interested parties of the lease sale;

(3) Publishing the notice in newspapers; or

(4) Posting the list on the Internet.

§ 3205.11 How do I get information about competitive lease terms and conditions?

See our notice posted in the BLM office conducting the sale, and otherwise publicized as described in 43 CFR 3205.10. This notice will include the terms and conditions of the lease(s), including the rental and royalty rates, and will also tell you where you may obtain a form on which to submit your bid.

§ 3205.12 How do I bid for a parcel?

(a) Submit your bid during the time period and to the BLM office specified in the sale notice;

(b) Submit your bid on Form 3000–2 (or exact copy on one two-sided page);

(c) Submit your bid in a separate, sealed envelope for each full parcel;

(d) Include in each bid a certified or cashier's check, bank draft, or money order equal to one-fifth of the bid amount, payable to the ''Department of the Interior, Bureau of Land Management;''

(e) Label each envelope with the parcel number and the statement ''Not to be opened before (date posted in the sale notice);'' and

(f) Be aware that unlawful combination or intimidation of bidders is prohibited by 18 U.S.C. 1860.

§ 3205.13 What is the minimum acceptable bid?

BLM will not accept bids which do not meet or exceed the fair market value, which BLM determines using generally acceptable appraisal methods. BLM determines the fair market value prior to the sale, but does not disclose it to the public.

§ 3205.14 How does BLM conduct the sale?

We will open, announce and record bids on the date, and at the place and time set out in the sale notice. We will not accept or reject any bid at that time. You do not need to attend the sale in order to bid.

§ 3205.15 To whom does BLM issue the lease?

We will issue the lease to the highest bidder who qualifies for a lease. All other bids are rejected. If we determine that the highest bid is too low, we will also reject that bid. BLM reserves the right to reject any and all bids.

§ 3205.16 How will I know whether my bid is accepted?

(a) If BLM accepts your bid, we will send you a notice informing you of our decision within 30 days after the sale. We will also include 3 copies of the lease. When you receive the notice and lease forms, you have 15 days in which to send BLM:

(1) Signed lease forms;

(2) The remaining four-fifths of the bonus bid;

(3) The first year's advance rent; and

(4) Signed stipulations, if applicable.

(b) If you do not meet the requirements of this section after we have accepted your bid, BLM will then revoke acceptance of your bid and keep one-fifth of your bonus bid.

(c) If BLM rejects your bid, we will send you a notice informing you of our decision. At that time, we will return the one-fifth of the bonus bid that you sent with your bid offer.

Subpart 3206—Lease Issuance

§ 3206.10 What must I do for BLM to issue my lease?

Before BLM issues you a lease, you must:

(a) Accept all lease stipulations;

(b) Sign a unit joinder or waiver, if applicable; and,

(c) Not exceed the maximum limit on acreage holdings (see 43 CFR 3206.12).

§ 3206.11 What must BLM do before issuing my lease?

BLM must:

(a) Determine that the land is available; and

(b) Determine that your lease development will not significantly impact any significant thermal feature within any of the following units of the National Park System:

(1) Mount Rainier National Park;

(2) Crater Lake National Park;

(3) Yellowstone National Park;

(4) John D. Rockefeller, Jr. Memorial Parkway;

(5) Bering Land Bridge National Preserve;

(6) Gates of the Arctic National Park and Preserve;

(7) Katmai National Park;

(8) Aniakchak National Monument and Preserve;

(9) Wrangell-St. Elias National Park and Preserve;

(10) Lake Clark National Park and Preserve;

(11) Hot Springs National Park;

(12) Big Bend National Park (including that portion of the Rio Grande National Wild Scenic River within the boundaries of Big Bend National Park);

(13) Lassen Volcanic National Park;

(14) Hawaii Volcanoes National Park;

(15) Haleakala National Park;

(16) Lake Mead National Recreation Area; and

(17) Any other significant thermal features within National Park System Units which the Secretary may add to the list of these features, in accordance with 30 U.S.C. 1026(a)(3).

§ 3206.12 What is the maximum acreage I may hold?

You may not directly or indirectly hold more than 51,200 acres in any one state. This includes any leases you acquire under sections 4(a)–4(f) of the Act. You also may not convert mineral leases, permits, applications for permits, or mining claims acquired under the Act into geothermal leases totaling more than 10,240 acres.

§ 3206.13 How does BLM compute acreage holdings?

BLM will compute acreage holdings as follows:

(a) If you own an undivided lease interest, your acreage holdings will include the total lease acreage.

(b) If you own stock in a corporation or a beneficial interest in an association which holds a geothermal lease, your acreage holdings will include your proportionate part of the corporation's or association's share of the total lease acreage. This paragraph applies only if you own more than 10 percent of the corporate stock or beneficial interest of the association.

(c) If you own a lease interest, you will be charged with the proportionate share of the total lease acreage based on your share of the lease ownership. You will not be charged twice for the same acreage where you own both record title and operating rights for the lease. For example, if you own 50% record title interest in a 640 acre lease and 25% operating rights, you are charged with 320 acres.

§ 3206.14 How will BLM charge acreage holdings if the United States owns only a fractional interest in the geothermal resources?

Where the United States owns only a fractional interest in the geothermal resources of the lands, BLM will only charge you with the part owned by the United States as acreage holdings. For example, if you own 100 percent of record title in a 100 acre lease, and the United States owns 50 percent of the mineral estate, you are charged with 50 acres.

§ 3206.15 Is there any acreage which is not chargeable?

BLM does not count leased acreage included in any approved unit or cooperative agreement or development contract as part of your total acreage holdings.

§ 3206.16 What will BLM do if my holdings exceed the maximum acreage limits?

BLM will notify you in writing if your acreage holdings exceed the limit in 43 CFR 3206.12. You have 90 days from the date you receive the notice to reduce your holdings to within the limit. If you do not comply, BLM will cancel your leases, beginning with the lease most recently issued, until your holdings are within the limit.

§ 3206.17 What is the primary term of my lease?

Leases have a primary term of 10 years.

§ 3206.18 When will BLM issue my lease?

BLM issues your lease the day we sign it. Your lease goes into effect the first day of the next month after the issue date.

Subpart 3207—Additional Lease Term

§ 3207.10 When may I get an additional lease term beyond the primary term?

(a) If you produce or use geothermal resources in commercial quantities during the primary term, your lease will continue in additional term for as long as you produce or use geothermal resources in commercial quantities for up to forty years beyond the primary term. Section 3207.11 explains how to continue your lease beyond the additional term.

(b) If, before the primary or extended term ends, you have a well capable of producing geothermal resources in commercial quantities, BLM may continue your lease for up to forty years beyond the primary term. To continue your lease in an additional term, we must determine that you are diligently trying to begin production. We may ask you to describe in writing your efforts to begin production during the lease term, and the efforts you plan for future lease years. You should also describe negotiations for sales contracts, marketing arrangements, and electrical generating and transmission agreements, and any other information you believe shows diligent efforts.

§ 3207.11 May I renew my lease at the end of its additional term?

If BLM does not need the lands for another purpose at the end of the forty-year additional term, and if you are producing geothermal resources in commercial quantities, you will have a preferential right to renew the lease for an additional 40-year period under terms and conditions BLM determines. If your lease is located on lands administered by the Department of Agriculture, they must concur with the use of the surface and any terms and conditions before we may grant your renewal. If another Federal agency manages the surface, we will consult with them before granting your renewal.

Subpart 3208—Extending the Primary Lease Term

§ 3208.10 When may I extend my lease beyond the primary term?

(a) You have four opportunities to extend your lease beyond the primary term: by drilling, diligent efforts, production of byproducts, and unit commitment.

(1) For a drilling extension, we will extend your lease for five years if you:

(i) Are drilling when the primary term ends; and

(ii) Diligently drill to a reasonable target, based on the local geology and type of development you propose. BLM will determine if your target is adequate to extend the lease.

(2) For a diligent efforts extension, if you have not produced geothermal resources in commercial quantities before the primary or extended term ends, or before your lease is eliminated from a unit agreement, BLM may still approve up to two successive five-year extensions for your lease. You must have made a good faith effort to produce. To obtain a diligent efforts extension, follow the procedures at 43 CFR 3208.11(a)(2).

(3) For a byproducts extension, if your lease is in an additional term, and we determine that it can no longer produce commercial quantities, we may still extend your lease for five years. However, we will only do so if you are producing one or more valuable byproducts in commercial quantities. You should consult 43 CFR 3209.10 if you wish to convert your geothermal lease to a mineral lease for the byproduct.

(4) For a unit commitment extension, if your lease is committed to a unit agreement and its term would expire before the unit term would, BLM may extend your lease to match the term of the unit. We will do this if you have diligently pursued unit development while your lease is committed to the unit.

(b) During any extension period, if you use or produce geothermal resources in commercial quantities, or if you complete a well capable of producing geothermal resources in commercial quantities on the lease, BLM will place the lease into an additional term.

§ 3208.11 What must I do to have my lease extended?

(a) You must take the following steps:

(1) For a drilling extension, notify BLM prior to the end of the primary term of your drilling activities so we may determine that you are diligently drilling beyond the end of the primary term and have met your well completion requirements.

(2) For a diligent efforts extension:

(i) Send BLM a written extension request at least 60 days before the primary or first extended term ends, or 60 days before your lease is eliminated from a unit agreement;

(ii) Include a report showing that you have made a good faith effort to produce or use geothermal resources in commercial quantities given the current economic conditions for marketing geothermal resources; and

(iii) Say whether you choose to pay instead of produce in commercial quantities under 43 CFR 3208.13 or to make significant expenditures under 43 CFR 3208.14 during the period of extension.

(3) For a byproducts extension, send us a request justifying an extension.

(4) For a unit commitment extension, send us a request at least 60 days before your lease ends which shows that you have diligently pursued unit development.

(b) Within 30 days after receiving your extension request, BLM will notify you whether we approve. BLM may request additional information from you.

§ 3208.12 What information must I give BLM to show that I have made bona fide efforts to produce or utilize geothermal resources in commercial quantities?

Send us a report which describes:

(a) Your efforts to identify and define the geothermal resource on your lease which you are making now or which you made during the primary term of the lease;

(b) The results of your efforts to identify and define the geothermal resource;

(c) Other actions taken to support your efforts, such as obtaining permits,

conducting environmental studies, and meeting permit requirements;

(d) Your efforts during the primary term and ongoing efforts to negotiate marketing arrangements, sales contracts, drilling agreements, financing for electrical generation and transmission projects, or other related actions; and,

(e) Current economic factors and conditions which affect your efforts to produce or utilize geothermal resources in commercial quantities on your lease.

§ 3208.13 Will BLM extend my lease if I choose to pay instead of produce in commercial quantities?

If you choose to pay instead of produce in commercial quantities under 43 CFR 3208.11(a)(2) and BLM approves the extension, we will modify the lease to require you to make an annual payment. We will specify the amount, which will not be less than $3.00 per acre or fraction of an acre of the lands under lease during an initial extension, or $6.00 per acre or fraction of an acre for a subsequent extension. The actual payment per acre is fixed for the period of the extension. If you request it, we will tell you the rate before you submit your petition for extension. You must make these payments to MMS at the same time you pay the lease rent. BLM may cancel your lease if you do not make these payments.

§ 3208.14 What will BLM do if I choose to make significant expenditures?

(a) If you choose to make significant expenditures under 43 CFR 3208.11(a)(2), and BLM approves the lease extension, we will modify your lease to require you to make annual expenditures of at least $15.00 per acre or fraction of an acre for lands under lease during your first extension. You must make expenditures of $18.00 per acre or fraction of an acre during any subsequent extension. If you spend more than the minimum required in a year, you may apply the excess toward the significant expenditures requirement in subsequent years of the same extension period.

(b) To give you credit for your significant expenditures, we must receive your report no later than 60 days after the end of the lease year in which you made the expenditures. Describe your operations by type, location, date(s) conducted, and amount spent on those operations. Include all geologic information obtained from your operations in your report.

(c) After we review your report, we will notify you in writing whether you have met the diligent expenditure requirement. We must approve the type of work done and the expenditures claimed in your report before we can credit them toward your diligent exploration requirements.

(d) We will cancel your lease if you fail to make the significant expenditures under a modified lease.

§ 3208.15 What actions may I take which will count as significant expenditures?

Significant expenditures only include:

(a) Actual drilling operations on the lease;

(b) Geochemical or geophysical surveys for exploratory or development wells;

(c) Road or generating facility construction on the lease;

(d) Architectural or engineering services procured for the design of generating facilities located on the lease; and

(e) Environmental studies required by State or Federal law.

§ 3208.16 During the extension, may I switch my choice to either pay instead of produce in commercial quantities or make significant expenditures?

No, you may not make this change during an extension period. If you request a second extension, you may change your election for the second five year period when you submit your request.

§ 3208.17 If I begin production, do I get a credit for payments made instead of production in commercial quantities or significant expenditures?

No, if you begin production, you will not get a credit against royalties for either payments instead of production or significant expenditures made for that year.

Subpart 3209—Conversion of Lease Producing Byproducts

§ 3209.10 May I convert my geothermal lease to a mineral lease?

You may convert your geothermal lease to a mineral lease, effective the first day of the month following the date BLM determines you have met the terms of conversion, if:

(a) Your lease is in an extended term;

(b) The byproducts you are producing in commercial quantities are leasable under the Mineral Leasing Act (30 U.S.C. 181 *et seq.*), or under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–358); and

(c) The lease is primarily valuable for the production of just that mineral.

§ 3209.11 May I convert my geothermal lease to a mining claim?

If the minerals are not leasable but are locatable and would be considered a byproduct if geothermal steam production were to continue, you are entitled to locate these minerals under the mining laws. To acquire these rights, you must complete the mining claim location within 90 days after the geothermal lease terminates. Also, there must have been no intervening location and the lands must be open to entry under the mining laws.

§ 3209.12 May BLM include additional terms and conditions to my converted lease?

If leases converted under either 43 CFR 3209.10 or 3209.11 affect lands withdrawn or acquired to aid some purpose of a Federal department or agency, including the Department of the Interior, BLM may include additional terms and conditions in your lease as prescribed by the appropriate agency.

§ 3209.13 How do I convert my geothermal lease to a mineral lease or a mining claim?

Just send us a request.

Subpart 3210—Additional Lease Information

§ 3210.10 When does lease segregation occur?

(a) Lease segregation occurs when:

(1) A portion of a lease is committed to a unit agreement while other portions are not committed; or

(2) Only a portion of a lease is located in a participating area and the unit contracts. The portion of the lease outside the participating area would be eliminated from the unit agreement and segregated as of the effective date of the unit contraction.

(b) BLM will assign the original lease serial number to the portion within the plan or agreement. We will give the lease portion outside the plan or agreement a new serial number with the same lease terms as the original lease.

§ 3210.11 Does a lease segregated from an agreement or plan receive any benefits from unitization of the committed portion of the original lease?

The new segregated lease stands alone and does not receive any of the benefits provided to the portion committed to the unit. We will not give you an extension for the eliminated portion of the lease based on status of the lands committed to the unit, including production in commercial quantities or the existence of a producible well.

§ 3210.12 May I consolidate leases?

BLM may approve your consolidation of two or more adjacent leases that have the same ownership and same lease terms, including expiration dates, if the combined leases do not exceed 2,560 acres in size. We may consolidate leases that have different stipulations if all other lease terms are the same.

§ 3210.13 What is the diligent exploration requirement?

(a) During your lease's primary period, you must perform diligent exploration activities to yield new geologic information about the lease or related lands, until either:

(1) Your approved expenditures on your lease total at least $40 per acre, or

(2) BLM places your lease in an additional term.

(b) You must begin diligent exploration by the sixth year of the primary term and continue until there is a well capable of production in commercial quantities. Some examples of activities

that would qualify as diligent exploration are geochemical surveys, heat flow measurement, core drilling or drilling of test wells.

§ 3210.14 How do I meet the diligent exploration requirement?

(a) During the first five years of the primary term, you only need to pay your rents. If you make efforts during these first five years that would qualify as diligent exploration expenditures, and we approve them as such during those five years, we will count them toward the requirements of future years.

(b) To qualify as diligent exploration expenditures in lease years six through ten, you must make expenditures equal to the minimum amounts listed in the following table. We will apply approved expenditures which exceed the minimum in any one year to subsequent years.

Lease year	Expenditure per acre
6	$4
7	6
8	8
9	10
10	12

(c) To give you credit for your expenditures, we must receive your report no later than 60 days after the end of the lease year in which you made the expenditures. You must include the following information in your report:

(1) The types of operations conducted;

(2) The location of the operations;

(3) When the operations occurred;

(4) The amount of money spent conducting those operations; and

(5) all geologic information obtained from your operations.

§ 3210.15 Can I do something instead of performing diligent exploration?

If you choose not to conduct diligent exploration, or if your total expenditures do not fully meet the requirement for any lease year, you may still meet the diligent exploration requirement for that year by paying an additional rent of $3 per acre or fraction of an acre. If you choose this option, you must send your payment to MMS before the end of the lease year.

§ 3210.16 What happens if I do not meet the diligent exploration requirement or pay the additional rent?

BLM will cancel your lease.

§ 3210.17 Can someone lease or locate other minerals on the same lands as my geothermal lease?

Yes. The United States reserves the ownership of and the right to extract helium, oil and hydrocarbon gas from all geothermal steam and associated geothermal resources. In addition, BLM allows mineral leasing or location on the same lands that are leased for geothermal resources, provided that operations under the mineral leasing or mining laws do not unreasonably interfere with or endanger your geothermal operations.

§ 3210.18 May BLM readjust the terms and conditions in my lease?

Yes, we may readjust the terms and conditions of your lease regarding stipulations and surface disturbance requirements. We may do this 10 years after you begin production from your lease, and at not less than 10-year intervals thereafter. If another Federal agency manages the lands' surface, we will ask that agency to review the related terms and conditions and propose any readjustments. Once BLM and the surface managing agency reach agreement, we will apply the readjustments to your lease.

§ 3210.19 How will BLM readjust the terms and conditions in my lease?

(a) We will give you a written proposal to adjust the terms and conditions of your lease. You will have 30 days after you receive the proposal to object in writing to the new terms or relinquish your lease. If you do not do this, these new terms will become part of your lease. If you do object in writing, we will issue a final decision on the new terms and conditions.

(b) BLM will set the date that your new terms and conditions become effective.

§ 3210.20 May BLM readjust the rental and royalty rates in my lease?

(a) We may readjust your lease rental and royalty rates at not less than 20-

year intervals beginning 35 years after we determine that your lease is producing in commercial quantities. We will not increase your rental and royalty rates by more than 50 percent of what you paid before BLM adjusted the rate. Also, we will not raise the royalty rate above 22.5 percent.

(b) BLM will notify you in writing of the proposed adjustments. You have 30 days after the date you receive the notice to object to the new rate. If we do not receive your written objection within 30 days, the new rate will become a part of your lease. If you do object in writing, we will issue a final decision on the new rental and royalty rate.

(c) We will set the date that your new terms and conditions become effective.

§ 3210.21 What if I appeal BLM's decision to adjust my lease terms?

If you appeal our decision to adjust your lease terms and conditions, rental or royalty rate, the decision is effective during the appeal. If you win your appeal and we must change our decision, you will receive a refund or credit for any overpaid rents or royalties.

§ 3210.22 Must I prevent drainage of geothermal resources from my lease?

Yes, you must prevent the drainage of geothermal resources from your lease by diligently drilling and producing wells which will protect the Federal geothermal resource from loss caused by production from other properties.

§ 3210.23 What will BLM do if I do not protect my lease from drainage?

We will determine the amount of geothermal resources drained from your lease. MMS will bill you for a compensatory royalty based on our findings. This royalty will equal the amount you would have paid for producing those resources. All interest owners in a lease are jointly and severally liable for drainage protection and any compensatory royalties.

Subpart 3211—Fees, Rent, and Royalties

§ 3211.10 What are the filing fees, rent, and minimum royalties for leases?

(a) BLM calculates rents and minimum royalties based on the amount of acreage covered by your lease. First, round up any partial acreage to the next whole acre. For example, rent on a 2,456.39 acre lease is calculated based on 2,457 acres. Then multiply the total number of acres covered by your lease by the appropriate amount set out in the chart in paragraph (b) of this section to determine the amount you owe.

(b) Use the following table to determine the filing fees, rents and minimum royalties owed for your lease.

FILING FEES, RENT, AND ROYALTIES

Type	Competitive leases	Non-competitive leases
(1) Lease Filing Fee	N/A	$75.00.
(2) Lease Rent.	$2.00 per acre	$1.00 per acre.
(3) Lease Assignment Filing Fee	$50.00	$50.00.
(4) Steam, heat, or energy royalties	Between 10% and 15	Between 10% and 15%.
(5) Demineralized water royalties	5%	5%.
(6) Byproduct royalties	5%	5%.
(7) Minimum royalty	$2.00 per acre	$2.00 per acre.
(8) Additional rent/Instead of diligent exploration	$3.00 per acre in addition to regular lease rent	$3.00 per acre in addition to regular lease rent.
(9) Additional rent/Instead of commercial quantities production.	$3.00/year, first 5 years $6.00/year, second 5 yrs	$3.00/year, first 5 years $6.00/year, second 5 years.

Note the exception stated in 43 CFR 3211.16(b).

§ 3211.11 When is my annual rental payment due?

MMS must receive your annual rental payment by the anniversary date of each lease year. There is no grace period for rental payments. If the rent for your lease is not paid on time, the lease will automatically terminate by operation of law, unless you meet the conditions of 43 CFR 3213.15. See the MMS regulations in 30 CFR part 218

which explain when MMS considers a payment as received. If less than a full year remains on a lease, you still must pay a full year's rent by the anniversary date of the lease.

§ 3211.12 How and where do I pay my rent?

(a) Pay BLM the first year's advance rent according to the instructions at 43 CFR 3204.12 or 3205.16. You may use a personal or cashier's check or money order made payable to the Department of the Interior—Bureau of Land Management. You may also make payments by credit card or electronic funds transfer with our prior approval.

(b) For all subsequent years make your rental payments to MMS. See MMS regulations at 30 CFR part 218.

§ 3211.13 Is there a different rental or minimum royalty amount for a fractional interest lease?

Yes, BLM will prorate rents and minimum royalties payable under leases for lands in which the United States owns only a fractional mineral interest. For example, if the United States owns 50% of a 640 acre lease, you pay rent based on 320 acres.

§ 3211.14 Will I always pay rent on my lease?

You are required to pay rent only until you achieve production in commercial quantities. At that time you begin paying royalties instead.

§ 3211.15 Must I pay rent if my lease is committed to an approved cooperative or unit plan?

(a) Before you begin production, if your lease is committed to an approved cooperative or unit plan, you must pay rent in accordance with 43 CFR 3211.10.

(b) Once you begin production, you do not have to pay rent if the lands included in an approved cooperative or unit plan are within the participating area. These lands are subject to royalties instead, under 43 CFR 3211.16. The only exception is for unitized lands outside the participating area, which remain subject to rent under 43 CFR 3211.10.

§ 3211.16 What is the royalty rate for production from or attributable to my lease?

The royalty rate for production from or attributable to your lease is prescribed in your lease form. The chart at 43 CFR 3211.10 shows the minimum royalty rates. We will determine the royalty rate to include in your lease form based on the following:

(a) The royalty rate for heat or energy derived from lease production may range from 10 to 15 percent of the heat or energy value;

(b) Except for minerals discussed in paragraph (c) of this section, the royalty rate for the value of byproducts may not exceed five percent:

(1) If derived from production under the lease; and

(2) If sold or utilized or reasonably susceptible to sale or utilization.

(c) The royalty rate for minerals listed in section 1 of the Mineral Leasing Act will be the same as the royalty rate for those minerals provided under BLM regulations in this Title.

(d) The royalty rate for commercially demineralized water produced on a lease may not exceed 5 percent, except that BLM will not charge a royalty for water used in the operations of a utilization facility.

§ 3211.17 When do I owe minimum royalty?

You owe minimum royalty when BLM determines you have a well capable of commercial production but you have not begun actual production. You also owe minimum royalty when the value of actual production is so low that royalty you would pay under the scheduled rate is less than $2.00 per acre. You should make your minimum royalty payment to MMS under the regulations in 30 CFR part 218.

Subpart 3212—Lease Suspensions and Royalty Rate Reductions

§ 3212.10 What is the difference between a suspension of operations and production and a suspension of operations?

A suspension of operations and production is a temporary relief from production obligations which you may request from BLM because economic conditions make it unjustifiable for you to continue operating. A suspension of operations is when we order you, on our own initiative, to temporarily stop production in order to protect the resource.

§ 3212.11 How do I obtain a suspension of operations or operations and production on my lease?

(a) If you are the operator, you may request in writing that BLM suspend your operations and production for a producing lease. Your request must fully describe why you need the suspension. We will determine if your suspension is approved.

(b) We may act on our own and suspend your operations on any lease in the interest of conservation.

(c) A suspension under this section may include leases committed to an approved unit agreement. Even if leases committed to the unit are suspended, the unit operator must still meet unit obligations.

§ 3212.12 How long does a suspension of operations or operations and production last?

(a) BLM will state in your suspension notice how long your suspension of operations or operations and production is effective.

(b) During a suspension, you may ask BLM in writing to terminate your suspension. The suspension will terminate when you resume production or drilling operations. If we terminate the suspension, you must resume paying rents and minimum royalty. See 43 CFR 3212.14.

(c) If we get information showing that you must resume operations to protect the interests of the United States, we will terminate your suspension and order you to resume production.

§ 3212.13 How does a suspension affect my lease terms?

If BLM approves your suspension of operations and production,

(a) Your lease term is extended by the length of time the suspension is in effect.

(b) You do not have to drill, produce geothermal resources, or pay rents or royalties during the suspension. We will suspend your obligation to pay lease rents or royalties beginning with the first day of the month following the date the suspension is effective. For a suspension of operations, we will not suspend your lease rental or royalty obligations.

§ 3212.14 What happens when the suspension ends?

You must resume rental or minimum royalty payments beginning on the first day of the lease month after BLM terminates the suspension. You must pay the full rental or minimum royalty amount due on or before the next lease anniversary date. If you do not, we will refund your balance and cancel the lease.

§ 3212.15 May BLM reduce or suspend the royalty or rental rate of my lease?

Yes. If you apply for a waiver, suspension or reduction of your rent or royalty, BLM may grant your request if we determine that:

(a) It promotes conservation;

(b) Doing so will encourage the greatest ultimate recovery of resources;

(c) It is necessary to promote development; or

(d) You cannot successfully operate the lease under its current terms.

§ 3212.16 What information must I submit when I request that BLM suspend, reduce or waive my royalty or rental rate?

(a) Your request for suspension, reduction or waiver of the royalty or rental rate must include all information BLM needs to determine if the lease can be operated under its current terms. We may ask you for:

(1) The type of reduction you seek;

(2) The serial number of your lease;

(3) The names of the lessee and operator;

(4) The location and status of wells;

(5) A summary of monthly production from your lease; and

(6) A detailed statement of expenses and costs.

(b) If you are applying for a royalty reduction, suspension or waiver, you must also give us a list of names and amounts of royalties or payments out of production paid to each individual, and every effort you have made to reduce these payments. We will not approve a royalty reduction, suspension or waiver unless other royalty interest owners accept a similar reduction, suspension or waiver.

Subpart 3213—Relinquishment, Termination, Cancellation, and Expiration

§ 3213.10 Who may relinquish a lease?

The record title owner may relinquish a lease in full or in part. If there is more than one record title owner for a lease, all record title owners must sign the relinquishment.

§ 3213.11 What must I do to relinquish a lease?

Send BLM a written request that includes the serial number of each lease you are relinquishing. If you are relinquishing the entire lease, no legal description of the land is required. If you are relinquishing part of the lease, you must describe the lands relinquished.

§ 3213.12 May BLM accept a partial relinquishment if it will reduce my lease to less than 640 acres?

Your lease must remain at least 640 acres, or all of your leased lands in a section, whichever is less. Otherwise, we will not accept your partial relinquishment. We may only allow an exception if it will further development of the resource.

§ 3213.13 When does my relinquishment take effect?

If BLM determines you have submitted a complete relinquishment request which meets the requirements of 43 CFR 3213.11 and 3213.12, your relinquishment is effective the day we receive it. However, you and your surety must still:

(a) Pay all rents and royalties due before relinquishment;

(b) Plug and abandon all wells on the relinquished land;

(c) Restore the surface and other resources; and,

(d) Comply with the requirements of 43 CFR 3200.4.

§ 3213.14 How can my lease automatically terminate?

If you do not pay the rent on or before the anniversary date, your lease automatically terminates by operation of law.

§ 3213.15 Will my lease automatically terminate if my rental payment is on time but for the wrong amount?

(a) If MMS receives your rental payment on time, but it is deficient by a nominal amount, your lease will not automatically terminate. A nominal amount is not more than $100 or five percent of the total payment due, whichever is less. MMS will notify you if your payment is deficient, and will set a date by which a further payment must be made. If you do not send this further payment in the time allowed, we will terminate your lease as of the anniversary date of the lease.

(b) If your rental payment is deficient by more than a nominal amount, your lease will automatically terminate on the anniversary date of the lease.

§ 3213.16 Will BLM notify me if my lease terminates?

Yes, we will send you a notice of the termination by certified mail, return receipt requested.

§ 3213.17 May BLM reinstate my lease?

Yes, if your lease was terminated for failure to pay your rents on time. You have 30 days from when you receive the termination notice to petition us for reinstatement.

§ 3213.18 Who may petition to reinstate a lease?

All record title owners must sign the petition, though any one record owner can submit it.

§ 3213.19 What must I do to have my lease reinstated?

Send BLM a petition requesting reinstatement. Your petition must include the serial number for each lease and an explanation of why the delay in payment was justifiable, rather than due to a lack of diligence. In addition to your petition, you must also include any past rent owed and any rent which has accrued from the termination date.

§ 3213.20 Are there reasons why BLM would not reinstate my lease?

We will not reinstate your lease if:

(a) You do not prove that your failure to pay rent on time was justifiable or was not due to your lack of diligence;

(b) We issued a valid lease for any of the lands before you filed your petition for reinstatement; or

(c) The land is no longer available for leasing.

§ 3213.21 When will my lease expire?

Your lease expires at the end of its primary term or extended term if you do not either begin production before the primary term ends or extend your lease under subpart 3208. BLM will not notify you when your lease expires at the end of the primary term.

§ 3213.22 Will BLM notify me when my lease's extended term expires?

No, if you have extended your lease term, we will not notify you when your lease expires at the end of that extended term.

§ 3213.23 May BLM cancel my lease?

(a) Yes, we may cancel your lease, after giving you 30 days notice, if we determine that you violated the requirements of 43 CFR 3200.4. We will also cancel your lease if it was issued in error.

(b) See the following Subparts for information related to Inspection and Enforcement procedures:

(1) Subpart 3254—Exploration operations;

(2) Subpart 3266—Drilling operations; and

(3) Subpart 3277—Utilization operations.

§ 3213.24 When is a cancellation effective?

(a) If BLM cancels your lease because it was issued in error, the cancellation is effective when you receive it.

(b) If BLM cancels your lease because you violated the requirements of 43 CFR 3200.4, the cancellation takes effect 30 days from the date you receive notice of the violation.

§ 3213.25 What can I do if BLM notifies me that my lease is being canceled due to violations of the laws, regulations or lease terms?

(a) You can prevent us from canceling your lease following this notice if:

(1) You correct the violation within 30 days; or

(2) You show us that you cannot correct the violation during the 30-day period but that you are making a good faith attempt to timely correct the violation.

(b) You may request a hearing on the record about the violation or proposed lease cancellation. You have 30 days from the date you receive the violation notice to request a hearing. See 43 CFR parts 4 and 1840. We will suspend canceling your lease while your appeal is pending. If a hearing occurs and the administrative law judge decides you committed a violation, you will have 30 days from receiving the decision to correct the violation under paragraph (a) of this section.

Subpart 3214—Personal and Surety Bonds

§ 3214.10 Who must post a geothermal bond?

The lessee or operator must post a bond with BLM before exploration, drilling or utilization operations begin. Before we approve a lease transfer or recognize a new designated operator, the lessee or operator must file a new bond or a rider to the existing bond, unless all previous operations on the land have already been reclaimed.

§ 3214.11 Who must my bond cover?

Your bond must cover all record title owners, operating rights owners, operators and any person who conducts operations on your lease.

§ 3214.12 What activities must my bond cover?

Your bond must cover:

(a) Any activities related to exploration, drilling, utilization or associated operations on a Federal lease;

(b) Reclamation of the surface and other resources;

(c) Royalty payments; and,

(d) Compliance with the requirements of 43 CFR 3200.4.

§ 3214.13 What is the minimum dollar amount required for a bond?

The minimum bond amount differs depending on the type of activity you are proposing and whether your bond will cover individual, statewide or nationwide activities. The minimum dollar amounts and bonding options for each type of activity are found in the following regulations:

(a) Exploration operations—see 43 CFR 3251.15;

(b) Drilling operations—see 43 CFR 3261.18; and,

(c) Utilization operations—see 43 CFR 3271.12 and 43 CFR 3273.19.

§ 3214.14 May BLM increase the bond amount above the minimum?

(a) We may increase the bond amount beyond the minimums referenced in 43 CFR 3214.13 when:

(1) We determine the operator has a history of noncompliance;

(2) We previously had to make a claim against a surety because any one person who is covered by the new bond failed to timely plug and abandon a well and reclaim the surface;

(3) MMS has notified BLM that a person covered by the bond owes uncollected royalties; or

(4) Our inspection of the property determines that the bond amount is too low to cover the estimated reclamation cost.

(b) We may increase bond amounts to any level, but we will not set that amount higher than the total estimated costs of plugging wells, removing structures, and reclaiming the surface, plus any uncollected royalties due MMS or monies owed to BLM due to previous violations.

§ 3214.15 What kind of financial guarantee will BLM accept to back my bond?

We will not accept cash to back a bond. We will only accept:

(a) Corporate surety bonds, provided that the surety company is approved by the Department of Treasury (see Department of the Treasury Circular No. 570 which is published in the FEDERAL REGISTER every year on or about July 1); and

(b) Personal bonds, which are secured by a cashier's check, certified check, certificate of deposit, negotiable securities such as Treasury notes, or an irrevocable letter of credit (see 43 CFR 3214.21 and 3214.22).

§ 3214.16 Is there a special bond form I must use?

Use a BLM-approved bond form (Form 3000–4, or Form 3000–4a, June 1988 or later editions) for either a corporate surety bond or a personal bond.

§ 3214.17 Where must I submit my bond?

File personal or corporate surety bonds and statewide bonds in the BLM State Office which oversees your lease or operations. You may file nationwide bonds in any BLM State Office. File bond riders in the BLM State Office where your underlying bond is located. For personal or corporate surety bonds, file one originally signed copy of the bond.

§ 3214.18 Who will BLM hold liable under the bond and what are they liable for?

We will hold all interest owners in a lease jointly and severally liable for compliance with the requirements of 43 CFR 3200.4 for obligations that accrue while they hold their interest. Among other things, all interest owners are jointly and severally liable for:

(a) Plugging and abandoning wells;

(b) Reclaiming the surface;

(c) Paying compensatory royalties assessed for drainage; and

(d) Paying rent.

§ 3214.19 What are my bonding requirements when a lease interest is transferred to me?

(a) Except as otherwise provided in this section, if the lands transferred to you contain a well or any other surface disturbance which the original lessee did not reclaim, you must post a bond under this subpart.

(b) If the original lessee does not transfer all interest in the lease to you, you may become a co-principal on the original bond, rather than posting a new bond.

(c) You do not need to post an additional bond if:

(1) You previously furnished a statewide or nationwide bond; or

(2) The operator provided the original bond, and the operator does not change.

§ 3214.20 How do I modify or extend the terms and conditions of my bond?

You may modify your bond by submitting a rider to the BLM State Office where your bond is held. There is no special form required.

§ 3214.21 What must I do if I want to use a certificate of deposit to back my bond?

Your certificate of deposit must:

(a) Be issued by a Federally-insured financial institution authorized to do business in the United States;

(b) Include on its face the statement, ''[t]he Secretary of the Interior or his delegatee must approve redemption of this certificate by any party;'' and

(c) Be payable to the Department of the Interior, Bureau of Land Management.

§ 3214.22 What must I do if I want to use a letter of credit to back my bond?

Your letter of credit must:

(a) Be issued by a Federally-insured financial institution authorized to do business in the United States;

(b) Be payable to the Department of the Interior, Bureau of Land Management;

(c) Be irrevocable during its term and have an initial expiration date of no sooner than one year after the date we receive it;

(d) Be automatically renewable for a period of at least one year, unless the issuing financial institution gives us written notice, at least 90 days before the letter of credit expires, that it will no longer renew the letter of credit; and

(e) Include a clause that authorizes the Secretary of the Interior to demand immediate payment, in part or in full, if you do not meet your obligations under the requirements of 43 CFR 3200.4 or provide substitute security for a letter of credit which the issuer has stated it will not renew before the letter of credit expires.

Subpart 3215—Bond Collection After Default

§ 3215.10 When may BLM collect against my bond?

Unless you comply with the requirements listed at 43 CFR 3200.4, we may collect money from the bond to correct your noncompliance. This amount can be as large as the face amount of the bond. Some examples of when we will collect against your bond are when you do not:

(a) Properly plug and abandon a well;

(b) Reclaim the lease area;

(c) Pay outstanding royalties; or

(d) Pay assessed royalties to compensate for drainage.

§ 3215.11 Must I replace my bond after BLM collects against it?

Yes. If we collect against your bond, before you conduct any further operations you must either:

(a) Post a new bond equal to the value of the original bond; or

(b) Restore your existing bond to the original amount.

§ 3215.12 What will BLM do if I do not restore the face amount or file a new bond?

If we collect against your bond and you do not restore it to the original amount, we may shut-in any well(s) or utilization facilities and begin canceling all of your leases covered by that bond.

§ 3215.13 Will BLM cancel or terminate my bond?

No, we do not cancel or terminate bonds. However, we may:

(a) Terminate the period of liability of a surety or other bond provider at any time. The bond provider must give you and BLM 30 days notice when they terminate your bond. Once your bond is terminated, do not conduct any operations until you provide a new bond which meets our requirements. We will also release an old bond once you file a new bond with a rider covering existing liabilities and we accept it; or

(b) Release your bond after a reasonable period of time, if we determine that you have paid all royalties, rents, penalties, and assessments, satisfied all permit or lease obligations and reclaimed the site according to your operations plan.

§ 3215.14 When BLM releases my bond, does that end my responsibilities?

No, when we release your bond, we relinquish the security but we continue to hold the lessee or operator responsible for noncompliance. Specifically, we do not waive any legal claim we may have against any person under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*), or other laws and regulations.

Subpart 3216—Transfers

§ 3216.10 What types of lease interests may I transfer?

You may transfer record title or operating rights, but you need our approval before your transfer is effective. See 43 CFR 3216.21.

§ 3216.11 Where must I file a transfer request?

File your transfer in the BLM State Office that handles your lease.

§ 3216.12 When does a transferee take responsibility for lease obligations?

Once we approve your transfer, the transferee becomes responsible for performing all lease obligations accrued after the date of the transfer, and for plugging and abandoning wells which exist and are not plugged at the time of the transfer.

§ 3216.13 What are my responsibilities after I transfer my interest?

You will still be responsible for rents, royalties, compensatory royalties and other obligations accrued before your transfer became effective. You must also plug and abandon any wells drilled or existing on the lease while you held your interest.

§ 3216.14 What filing fees and forms does a transfer require?

With each transfer request you must send us the correct form and pay the transfer fee. When you calculate your fee, make sure it covers the full amount. For example, if you are transferring record title for three leases, submit $150 with the application. Use the following chart to determine forms and fees:

Type of form	Required?	Form No.	Number of copies	Filing transfer fee (per lease)
(a) Record Title	Yes	3000–3	2 executed copies	$50.00
(b) Operating Rights	Yes	3000–3(a)	2 executed copies	$50.00
(c) Estate Transfers	No	N/A	1 List of Leases	None
(d) Corporate Mergers	No	N/A	1 List of Leases	None
(e) Name Changes	No	N/A	1 List of Leases	None

§ 3216.15 When must I file my transfer request?

(a) File a transfer request to transfer record title or operating rights within 90 days after you sign an agreement with the transferee. If we receive your request more than 90 days after signing, we may require you to re-certify that you still intend to complete the transfer.

(b) There is no specific time deadline for filing estate transfers, corporate

mergers, and name changes. Just file them within a reasonable time.

§ 3216.16 Must I file separate transfer requests for each lease?

File two copies of separate requests for each lease for which you are transferring record title or operating rights. The only exception is, if you are transferring more than one lease to the same transferee, just file two copies of one transfer application.

§ 3216.17 Where must I file estate transfers, corporate mergers and name changes?

(a) If you have posted a bond for any Federal lease, file estate transfers, corporate mergers, and name changes in the BLM State Office that maintains your bond.

(b) If you have not posted a bond, file estate transfer, corporate merger and name change documents in each State Office having jurisdiction over the lease(s).

§ 3216.18 How do I describe the lands in my lease transfer?

(a) If you are transferring an interest in your entire lease, you do not need to give BLM a legal description of the land.

(b) If you are transferring an interest in a portion of your lease, describe the lands the same way they are described in the lease.

§ 3216.19 May I transfer record title interest for less than 640 acres?

Only when your transfer includes an irregular subdivision or all your lease in a section. We may make an exception to the minimum acreage requirements if needed to conserve the resource.

§ 3216.20 When does a transfer segregate a lease?

If you transfer 100 percent of the record title interest in a portion of your lease, BLM will segregate the transferred portion from the original lease and give it a new serial number with the same terms and conditions as those in the original lease.

§ 3216.21 When is my transfer effective?

Your transfer is effective the first day of the month after we approve it.

§ 3216.22 Does BLM grant all transfer requests?

No, we will not approve a transfer if:

(a) The lease account is not in good standing;

(b) The transferee does not qualify to hold a lease under this part; or

(c) An adequate bond has not been provided.

Subpart 3217—Cooperative Conservation Provisions

§ 3217.10 What are unit agreements and cooperative plans?

Lessees enter into a unit agreement or a cooperative plan to conserve the resources of any geothermal field or area. By operating together, lessees can work more efficiently and promote better development. BLM will only approve unit agreements which we determine are in the public interest. Unit agreement application procedures are provided in 43 CFR part 3280.

§ 3217.11 What are communitization agreements?

Communitization agreements (also called drilling agreements) help operators who cannot independently develop separate tracts due to problems with well spacing or well development programs. Lessees may ask BLM to approve a communitization agreement or, in some cases, we may require the lessees to enter into such an agreement.

§ 3217.12 What does BLM need to approve my communitization agreement?

Give us the following information:

(a) The location of the separate tracts comprising the drilling or spacing unit;

(b) How you will prorate production or royalties to each separate tract based on total acres involved;

(c) The name of each tract operator; and

(d) Provisions for protecting the interests of all parties, including the United States.

§ 3217.13 When does my communitization agreement go into effect?

When BLM signs it. Before we approve the agreement, all parties must sign the agreement, and we must determine that the tracts cannot be independently developed.

§ 3217.14 When will BLM approve my operating, drilling or development contract?

We may approve an operating, drilling or development contract when:

(a) One or more geothermal lessees enter into the contract with one or more persons or partnerships;

(b) Lessees need the contract for large scale operations and financing of the discovery, development, production, transmission, transportation or utilization of geothermal resources; and

(c) We determine that the contract is needed to conserve the resource, or it will serve the public interest.

§ 3217.15 What does BLM need to approve my operating, drilling or development contract?

Send us:

(a) The contract and a statement of why you need it;

(b) A statement of all interests held by the contracting parties in that geothermal area or field;

(c) The type of operations and schedule set by the contract;

(d) A statement that the contract will not violate Federal antitrust laws by concentrating control over the production or sale of geothermal resources;

(e) Any other information we may require to make a decision about the contract or to attach conditions of approval.

Subpart 3250—Exploration Operations—General

§ 3250.10 When do the exploration operations regulations apply?

(a) The exploration operations regulations, contained in 43 CFR subparts 3250 through 3256, apply to geothermal exploration operations:

(1) On BLM-administered public lands, whether or not they are leased for geothermal resources; and

(2) On lands whose surface is managed by another Federal agency, where BLM has leased the subsurface geothermal resources and the lease operator will conduct exploration. In this case, we will consult with the surface managing agency regarding surface use and reclamation requirements before we approve the exploration permit.

(b) These regulations do not apply to:

(1) Unleased land administered by another Federal agency;

(2) Unleased geothermal resources whose surface land is managed by another Federal agency;

(3) Privately owned land; or

(4) Casual use activities.

§ 3250.11 What types of operations may I propose when I send BLM my exploration permit application?

(a) You may propose any activity fitting the definition of ''exploration operations'' in 43 CFR 3200.1. Submit Form 3200–9, Notice of Intent to Conduct Geothermal Resource Exploration Operations, together with the information required under 43 CFR 3251.12, and BLM will review your proposal.

(b) The exploration operations regulations do not address drilling wells intended for production or injection, which are covered in subpart 3260 of this part, or geothermal resources utilization, which is covered in subpart 3270 of this part.

§ 3250.12 What general standards apply to my exploration operations?

Your exploration operations must:

(a) Meet all operational and environmental standards;

(b) Protect public health, safety and property;

(c) Prevent unnecessary impacts to surface and subsurface resources; and;

(d) Be conducted in a manner consistent with the principles of multiple use; and

(e) Comply with the requirements of 43 CFR 3200.4.

§ 3250.13 What orders or instructions may BLM issue me?

(a) Geothermal resource operational orders, for detailed requirements that apply nationwide;

(b) Notices to lessees, for detailed requirements on a statewide or regional basis;

(c) Other orders and instructions specific to a field or area;

(d) Permit conditions of approval; and

(e) Verbal orders which will be confirmed in writing.

Subpart 3251—Exploration Operations: Getting a Permit

§ 3251.10 Do I need a permit before I start my exploration operations?

Yes, do not start any exploration operations before we have approved your exploration permit.

§ 3251.11 May I conduct exploration operations on my lease, someone else's lease or unleased land?

You may request a permit to explore any BLM-managed public lands open to geothermal leasing, even if we already leased the lands to another person. Your exploration will not give you exclusive rights. If you wish to conduct operations on your lease, you may do so after we have approved your exploration permit. If the lands are already leased, your operations may not unreasonably interfere with or endanger those other operations or other authorized uses, or cause unnecessary or undue degradation of the lands.

§ 3251.12 What does BLM need to approve my exploration permit?

To conduct exploration operations on BLM-managed lands, your application must:

(a) Include a complete and signed exploration permit which describes the lands you wish to explore;

(b) For operations other than temperature gradient wells, describe your exploration plans and procedures, including the approximate starting and ending dates for each phase of operations;

(c) For temperature gradient wells, describe your drilling and completion procedures, and include, for each well or for several wells you propose to drill in an area of geologic and environmental similarity:

(1) A detailed description of the equipment, materials, and procedures you will use;

(2) The depth of the well;

(3) The casing and cementing program;

(4) The circulation media (mud, air, foam, etc.);

(5) A description of the logs that you will run;

(6) A description and diagram of the blowout prevention equipment you will use during each phase of drilling;

(7) The expected depth and thickness of fresh water zones;

(8) Anticipated lost circulation zones;

(9) Anticipated temperature gradient in the area;

(10) Well site layout and design;

(11) Existing and planned access roads or ancillary facilities; and

(12) Source of drill pad and road building material and water supply.

(d) Show evidence of bond coverage (See 43 CFR 3251.15);

(e) Estimate how much surface disturbance your exploration may cause;

(f) Describe the proposed measures you will take to protect the environment and other resources;

(g) Describe methods to reclaim the surface; and

(h) Include all other information we may require.

§ 3251.13 What action will BLM take on my permit?

(a) When we receive your exploration permit, we will make sure it is complete and signed, and review it for compliance with the requirements of 43 CFR 3200.4.

(b) If the proposed operations are located on lands described under 43 CFR 3250.10(a)(2), we will consult with the federal surface management agency before we approve your permit.

(c) We will check your exploration permit for technical adequacy and we may require additional procedures.

(d) We will notify you if we need more information to process your permit. We will suspend the review of your permit until we receive the information.

(e) After our review, we will notify you whether we approved or denied your permit, as well as any conditions we require for conducting operations.

§ 3251.14 Once I have a permit, how can I change my exploration operations?

Send BLM a complete and signed sundry notice, form 3260–3, which fully describes the requested changes. Do not proceed with the change until you receive written approval from BLM.

§ 3251.15 Do I need a bond for conducting exploration operations?

Yes, do not start any exploration operations on BLM-managed lands until we approve your bond. You may meet the requirement for an exploration bond in two ways.

(a) If you have an existing nationwide or statewide oil and gas exploration bond, provide a rider to include geothermal resources exploration operations, in an amount we have specified.

(b) If you must file a new bond, the minimum amounts are:

(1) $5,000 for a single operation;

(2) $25,000 for all of your operations within a state;

(3) $50,000 for all of your operations nationwide.

(c) See 43 CFR subparts 3214 and 3215 for additional details on bonding procedures.

§ 3251.16 When will BLM release my bond?

We will release your bond after you request it and we determine that you have:

(a) Plugged and abandoned all wells;

(b) Reclaimed the land; and

(c) Complied with the requirements of 43 CFR 3200.4.

Subpart 3252—Conducting Exploration Operations

§ 3252.10 What operational standards apply to my exploration operations?

You must:

(a) Keep exploration operations under control at all times;

(b) Conduct training during your operation which ensures your personnel are capable of performing emergency procedures quickly and effectively;

(c) Use properly maintained equipment; and

(d) Use operational practices which allow for quick and effective emergency response.

§ 3252.11 What environmental requirements must I meet when conducting exploration operations?

(a) You must conduct your exploration operations to:

(1) Protect the quality of surface and subsurface waters, air, and other natural resources, including wildlife, soil, vegetation, and natural history;

(2) Protect the quality of cultural, scenic and recreational resources;

(3) Accommodate other land uses, as we deem necessary; and

(4) Protect people and wildlife from unacceptable noise levels.

(b) You must remove or, with our permission, properly store all equipment and materials not in use.

(c) You must provide and use pits, tanks and sumps of adequate capacity. They must be designed to retain all materials and fluids resulting from drilling temperature gradient wells or other operations, unless we have specified otherwise in writing. When no longer needed, you must properly abandon pits and sumps in accordance with your permit.

(d) We may require you to submit a contingency plan describing procedures to protect public health, safety, property and the environment.

§ 3252.12 How deep may I drill a temperature gradient well?

You may drill a temperature gradient well to any depth we approve in your exploration permit or sundry notice. In all cases, you may not flow test the well or perform injection tests of the well unless you follow the procedures for geothermal drilling operations in 43 CFR subparts 3260 through 3267. BLM may modify your permitted depth at any time before or during drilling, if we determine the bottom hole temperature or other information indicates that drilling to the original permitted depth could directly encounter the geothermal resource or create risks to public health, safety, property, the environment or other resources.

§ 3252.13 How long may I collect information from my temperature gradient well?

You may collect information from your temperature gradient well for as long as we approve.

§ 3252.14 How must I complete a temperature gradient well?

Complete temperature gradient wells in a way that allows for proper abandonment and prevents interzonal migration of fluids. Cap all tubing when not in use.

§ 3252.15 When must I abandon a temperature gradient well?

When you no longer need it, or when we require you to.

§ 3252.16 How must I abandon a temperature gradient well?

(a) Before abandoning your well, submit a complete and signed sundry notice describing how you plan to abandon wells and reclaim the surface. Do not begin abandoning wells or reclaiming the surface until we approve your sundry notice.

(b) You must plug and abandon your well to permanently prevent interzonal migration of fluids and migration of fluids to the surface. You must reclaim your well location to our satisfaction.

Subpart 3253—Reports: Exploration Operations

§ 3253.10 Must I share the data I collect through exploration operations with BLM?

(a) For exploration operations on your geothermal lease, you must submit all data you obtain as a result of the operations with a signed notice of completion of exploration operations form under 43 CFR 3253.11, unless we approve a later submission.

(b) For exploration operations on unleased lands or on leased lands where you are not the lessee or unit operator, you do not need to submit data. However, if you want your exploration operations to count toward your diligent exploration expenditure requirement (43 CFR 3210.13), or if you are making significant expenditures to extend your lease (43 CFR 3208.14), you must send BLM the resulting data under the rules of those sections.

§ 3253.11 Must I notify BLM when I have completed my exploration operations?

Yes. Send us a complete and signed notice of completion of exploration operations form, describing the exploration operations, well history, completion and abandonment procedures, or site reclamation measures. You must send this within 30 days after you:

(a) Complete any geophysical exploration operations;

(b) Complete the drilling of temperature gradient well(s) approved under your exploration permit;

(c) Plug and abandon a temperature gradient well; or

(d) Plug shot holes and reclaim all exploration sites.

Subpart 3254—Inspection, Enforcement, and Noncompliance for Exploration Operations

§ 3254.10 May BLM inspect my exploration operations?

Yes, we may inspect your exploration operations to ensure compliance with the requirements of 43 CFR 3200.4.

§ 3254.11 What will BLM do if my exploration operations do not meet all requirements?

(a) We will issue you a written incident of noncompliance and direct you to correct the problem within a set time. If the noncompliance continues or is serious in nature, we will take one or more of the following actions:

(1) Correct the problem at your expense;

(2) Direct you to modify or shut down your operations;

(3) Collect all or part of your bond.

(b) We may also require you to take actions to prevent unnecessary impacts to the lands. If so, we will notify you of the nature and extent of any required measures and the time you have to complete them.

(c) Noncompliance may result in BLM canceling your lease, if applicable. See 43 CFR 3213.23 through 3213.25.

Subpart 3255—Confidential, Proprietary Information

§ 3255.10 Will BLM disclose information I submit under these regulations?

All Federal and Indian data and information submitted to the BLM are subject to part 2 of this title. Part 2 includes the regulations of the Department of the Interior covering public disclosure of data and information contained in Department of Interior records. Certain mineral information not protected from disclosure under part 2 may be made available for inspection without a Freedom Of Information Act (FOIA) request.

§ 3255.11 When I submit confidential, proprietary information, how can I help ensure it is not available to the public?

When you submit data and information that you believe to be exempt from disclosure by 43 CFR part 2, you must clearly mark each page that you believe contains confidential information. BLM will keep all data and information confidential to the extent allowed by 43 CFR 2.13(c).

§ 3255.12 How long will information I give BLM remain confidential or proprietary?

The FOIA does not provide a finite period of time for which information may be exempt from disclosure to public. Each situation will need to be reviewed individually and in accordance with guidance provided by 43 CFR part 2.

§ 3255.13 How will BLM treat Indian information submitted under the Indian Mineral Development Act?

Under the Indian Mineral Development Act of 1982 (IMDA) (25 U.S.C. 2101 *et seq.*), the Department of the Interior will hold as privileged proprietary information of the affected Indian or Indian tribe—

(a) All findings forming the basis of the Secretary's intent to approve or disapprove any Minerals Agreement under IMDA; and

(b) All projections, studies, data, or other information concerning a Minerals Agreement under IMDA, regardless of the date received, related to—

(1) The terms, conditions, or financial return to the Indian parties;

(2) The extent, nature, value, or disposition of the Indian mineral resources; or

(3) The production, products, or proceeds thereof.

11. Section 3255.14 is added to read as follows:

[63 FR 52953, Oct. 1, 1998]

§ 3255.14 How will BLM administer information concerning other Indian minerals?

For information concerning Indian minerals not covered by § 3255.13, BLM will withhold such records as may be withheld under an exemption to the Freedom of Information Act (FOIA) (5 U.S.C. 552) when it receives a request for information related to tribal or Indian minerals held in trust or subject to restrictions on alienation.

12. Section 3255.15 is added to read as follows:

[63 FR 52953, Oct. 1, 1998]

§ 3255.15 When will BLM consult with Indian mineral owners when information concerning their minerals is the subject of a FOIA request?

BLM will notify the Indian mineral owner(s) identified in the records of the Bureau of Indian Affairs (BIA), and BIA, and give them a reasonable period of time to state objections to disclosure, using the standards and procedures of § 2.15(d) of this title, before making a decision about the applicability of FOIA exemption 4 to:

(a) Information obtained from a person outside the United States Government; when

(b) Following consultation with a submitter under § 2.15(d) of this title, BLM determines that the submitter does not have an interest in withholding the records that can be protected under FOIA; but

(c) BLM has reason to believe that disclosure of the information may result in commercial or financial injury to the Indian mineral owner(s), but is uncertain that such is the case.

[63 FR 52953, Oct. 1, 1998]

Subpart 3256—Exploration Operations Relief and Appeals

§ 3256.10 May I request a variance from any BLM requirements?

(a) Yes, you may request a variance for your exploration operations from the requirements of 43 CFR 3200.4. Your request must include enough information to explain:

(1) Why you cannot comply; and

(2) Why you need the variance to control your well, conserve natural resources, protect public health and safety, property, or the environment.

(b) We may approve your request verbally or in writing. If we give you a verbal approval, we will follow up with written confirmation.

§ 3256.11 How may I appeal a BLM decision regarding my exploration operations?

You may appeal a BLM decision regarding your exploration operations in accordance with 43 CFR 3200.5.

Subpart 3260—Geothermal Drilling Operations—General

§ 3260.10 What types of geothermal operations are covered by these regulations?

(a) The regulations in 43 CFR subparts 3260 through 3267 establish permitting and operating procedures for drilling wells and conducting related activities for the purpose of performing flow tests, producing geothermal fluids, or injecting fluids into a geothermal reservoir. These subparts also address redrilling, deepening, plugging back, and other subsequent well operations.

(b) The operations regulations in subparts 3260 through 3267 do not address conducting exploration operations, which are covered in subpart 3250 of this part, or geothermal resources utilization, which is covered in subpart 3270 of this part.

§ 3260.11 What general standards apply to my drilling operations?

Your drilling operations must:

(a) Meet all environmental and operational standards;

(b) Prevent unnecessary impacts to surface and subsurface resources;

(c) Conserve geothermal resources and minimize waste;

(d) Protect public health, safety and property; and,

(e) Comply with the requirements of 43 CFR 3200.4.

§ 3260.12 What other orders or instructions may BLM issue me?

We may issue:

(a) Geothermal resource operational orders, for detailed requirements that apply nationwide;

(b) Notices to lessees, for detailed requirements on a statewide or regional basis;

(c) Other orders and instructions specific to a field or area;

(d) Permit conditions of approval; and

(e) Verbal orders which will be confirmed in writing.

Subpart 3261—Drilling Operations: Getting a Permit

§ 3261.10 How do I get approval to begin well pad construction?

(a) If you do not have an approved geothermal drilling permit, form 3260–2, apply using a complete and signed sundry notice, form 3260–3, to build well pads and access roads. Send us a complete operations plan (see 43 CFR 3261.12) and an acceptable bond with your sundry notice. You may start well pad construction once we approve your sundry notice.

(b) If you already have an approved drilling permit and you have provided an acceptable bond, you do not need any further permission from BLM to start well pad construction unless you intend to change something from the approved permit. Send us a complete and signed sundry notice so we may review your proposed change. Do not proceed with the change until we approve your sundry notice.

§ 3261.11 How do I get approval for drilling operations and well pad construction?

(a) Send us:

(1) A completed and signed drilling permit application;

(2) A complete operations plan (43 CFR 3261.12);

(3) A complete drilling program (43 CFR 3261.13); and
(4) An acceptable bond (43 CFR 3261.18).
(b) Do not start any drilling operations until we have approved the permit.

§ 3261.12 What is an operations plan?

An operations plan describes how you will drill for and test the geothermal resources covered by your lease. Your plan must tell BLM enough about your proposal to allow us to assess the environmental impacts of your operations. This information should generally include:
(a) Well pad layout and design;
(b) A description of existing and planned access roads;
(c) A description of any ancillary facilities;
(d) The source of drill pad and road building material;
(e) The water source;
(f) A statement describing surface ownership;
(g) Plans for surface reclamation;
(h) A description of procedures to protect the environment and other resources; and
(i) Any other information we may require.

§ 3261.13 What is a drilling program?

A drilling program describes all the operational aspects of your proposal to drill, complete and test a well. Send us:
(a) A detailed description of the equipment, materials, and procedures you will use;
(b) The proposed/anticipated depth of the well;
(c) If you plan to directionally drill your well, also send us:
(1) The proposed bottom hole location and distances from the nearest section or tract lines;
(2) The kick-off point;
(3) The direction of deviation;
(4) The angle of build-up and maximum angle; and
(5) Plan and cross section maps indicating the surface and bottom hole locations;
(d) The casing and cementing program;
(e) The circulation media (mud, air, foam, etc.);
(f) A description of the logs that you will run;
(g) A description and diagram of the blowout prevention equipment you will use during each phase of drilling;
(h) The expected depth and thickness of fresh water zones;
(i) Anticipated lost circulation zones;
(j) Anticipated reservoir temperature and pressure;
(k) Anticipated temperature gradient in the area;
(l) A plat certified by a licensed surveyor showing the surveyed surface location and distances from the nearest section or tract lines;
(m) Procedures and durations of well testing; and
(n) Any other information we may require.

§ 3261.14 When must I give BLM my operations plan?

Send us a complete operations plan before you begin any surface disturbance on a lease. You do not need to submit an operations plan for subsequent well operations or altering existing production equipment, unless these activities will cause more surface disturbance or we notify you that you must submit an operations plan. Do not start any activities which will result in surface disturbance until we approve your permit or sundry notice.

§ 3261.15 Must I give BLM my drilling permit application, drilling program and operations plan at the same time?

No, you may submit your complete and signed drilling permit application and complete drilling program and operations plan either together or separately.
(a) If you submit them together and we approve your drilling permit, the approved drilling permit will authorize both the pad construction and the drilling and testing of the well.
(b) If you submit the operations plan separately from the drilling permit and program, you must:
(1) Submit the operations plan before the drilling permit application and drilling program to allow BLM time to comply with NEPA; and
(2) Submit a complete and signed sundry notice for well pad and access

road construction. Do not begin construction until we approve your sundry notice.

§ 3261.16 Can my operations plan, drilling permit and drilling program apply to more than one well?

Your operations plan and drilling program can sometimes be combined to cover several wells, but your drilling permit cannot. To combine your operations plan, give us adequate information for all well sites, and we will combine your plan to cover those well sites that are in areas of similar geology and environment. Your drilling program may also apply to more than one well, provided you will drill the wells in the same manner, and you expect to encounter similar geologic and reservoir conditions. You must submit a separate geothermal drilling permit application for each well.

§ 3261.17 How do I amend my operations plan or drilling permit?

If BLM has not yet approved your operations plan or drilling permit, send us your amended plan and complete and signed permit application. To amend an approved operations plan or drilling permit, submit a complete and signed sundry notice describing your proposed change. Do not start any amended operations until we have approved your drilling permit or sundry notice.

§ 3261.18 Do I need a bond before I build a well pad or drill a well?

Yes, before starting any operation, you must:

(a) Send us either a surety or personal bond in the following minimum amount:

(1) $10,000 for a single lease;

(2) $50,000 for all of your operations within a state; or

(3) $150,000 for all of your operations nationwide.

(b) Get our approval of your surety or personal bond; and

(c) To cover any drilling operations on all leases committed a unit, either submit a bond for that unit in an amount we specify, or provide a rider to a statewide or nationwide bond which specifically covers the unit in an amount we specify.

(d) See subparts 3214 and 3215 for additional details on bonding procedures.

[63 FR 52364, Sept. 30, 1998; 66 FR 27040, May 16, 2001]

§ 3261.19 When will BLM release my bond?

We will release your bond after you request it and we determine that you have:

(a) Plugged and abandoned all wells;

(b) Reclaimed the surface and other resources; and

(c) Met all the requirements of 43 CFR 3200.4.

§ 3261.20 How will BLM review my application documents and notify me of their decision?

(a) When we receive your operations plan, we will make sure it is complete and review it for compliance with the requirements of 43 CFR 3200.4.

(b) If another Federal agency manages the surface of your lease, we will consult with them before we approve your drilling permit.

(c) We will review your drilling permit and drilling program or your sundry notice for well pad construction, to make sure they conform with your operations plan and any mitigation measures we developed while reviewing your plan.

(d) We will check your drilling permit and drilling program for technical adequacy and we may require additional procedures.

(e) We will check your drilling permit for compliance with the requirements of 43 CFR 3200.4.

(f) If we need any further information to complete our review, we will contact you in writing and suspend our review until we receive the information.

(g) After our review, we will notify you whether your permit has been approved or denied, as well as any conditions we require for conducting operations.

§ 3261.21 How do I get approval to change an approved drilling operation?

(a) Send us a sundry notice, form 3260–3, describing the proposed changes. Do not proceed with the changes until we have approved them in writing, except as provided in paragraph (c) of

this section. If your operations such as redrilling, deepening, drilling a new directional leg, or plugging back a well would significantly change your approved permit, BLM may require you to send us a new drilling permit (see 43 CFR 3261.13). A significant change would be, for example, redrilling the well to a completely different target, especially a target in an unknown area.

(b) If your changed drilling operation would cause additional surface disturbance, we may also require you to submit an amended operations plan.

(c) If immediate action is required to properly continue drilling operations, or to protect public health, safety, property or the environment, you only need BLM's verbal approval to change an approved drilling operation. However, you must submit a written sundry notice within 48 hours after we verbally approve your change.

§ 3261.22 How do I get approval for subsequent well operations?

Send us a sundry notice describing your proposed operation. For some routine work, such as cleanouts, surveys, or general maintenance (see 43 CFR 3264.11(b)), we may waive the sundry notice requirement. Contact your local BLM office to ask about waivers. Unless you receive a waiver, you must submit a sundry notice. Do not start your operations until we grant a waiver or approve the sundry notice.

Subpart 3262—Conducting Drilling Operations

§ 3262.10 What operational requirements must I meet when drilling a well?

(a) When drilling a well, you must:

(1) Keep the well under control at all times;

(2) Conduct training during your operation which ensures your personnel are capable of performing emergency procedures quickly and effectively;

(3) Use properly maintained equipment; and

(4) Use operational practices which allow for quick and effective emergency response.

(b) You must use sound engineering principles and take into account all pertinent data when:

(1) Selecting drilling fluid types and weights;

(2) Designing a system to control fluid temperatures;

(3) Designing blowout prevention equipment; and

(4) Designing a casing and cementing program.

(c) Your operation must always comply with the requirements of 43 CFR 3200.4.

§ 3262.11 What environmental requirements must I meet when drilling a well?

(a) You must conduct your operations to:

(1) Protect the quality of surface and subsurface water, air, natural resources, wildlife, soil, vegetation, and natural history;

(2) Protect the quality of cultural, scenic, and recreational resources;

(3) Accommodate, as necessary, other land uses;

(4) Minimize noise; and

(5) Prevent property damage and unnecessary or undue degradation of the lands.

(b) You must remove or, with BLM's approval, properly store all equipment and materials that are not in use.

(c) You must retain all fluids from drilling and testing the well in properly designed pits, sumps, or tanks.

(d) When you no longer need a pit or sump, you must abandon it and restore the site as we direct you to.

(e) We may require you to give us a contingency plan showing how you will protect public health and safety, property, and the environment.

§ 3262.12 Must I post a sign at every well?

Yes. Before you begin drilling a well, you must post a sign in a conspicuous place and keep it there throughout operations until the well site is reclaimed. Put the following information on the sign:

(a) The lessee or operator's name;

(b) Lease serial number;

(c) Well number; and

(d) Well location described by section, township, range, and quarter-quarter-section.

§ 3262.13 May BLM require me to follow a well spacing program?

Yes, if we determine that it is necessary for proper development. If we require well spacing, we will consider the following factors when we set well spacing:

(a) Hydrologic, geologic, and reservoir characteristics of the field minimizing well interference;

(b) Topography;

(c) Interference with multiple use of land; and

(d) Environmental protection, including ground water.

§ 3262.14 May BLM require me to take samples or perform tests and surveys?

(a) Yes, we may require you to take samples or to test or survey the well to determine:

(1) The well's mechanical integrity;

(2) The identity and characteristics of formations, fluids or gases;

(3) Presence of geothermal resources, water, or reservoir energy;

(4) Quality and quantity of geothermal resources;

(5) Well bore angle and direction of deviation;

(6) Formation, casing, or tubing pressures;

(7) Temperatures;

(8) Rate of heat or fluid flow; and

(9) Any other necessary well information.

(b) See 3264.11 for information reporting requirements.

Subpart 3263—Well Abandonment

§ 3263.10 May I abandon a well without BLM's approval?

No, you must have an approved sundry notice which documents your plugging and abandonment program before you start abandoning any well. You must also notify the local BLM office before you begin abandonment, so we may witness the work. Contact your local BLM office before starting to abandon your well to find out what notification we need.

§ 3263.11 What must I give BLM to approve my sundry notice for abandoning a well?

Send us a sundry notice with:

(a) All the information required in the well completion report (see 43 CFR 3264.10), unless we already have that information;

(b) A detailed description of the proposed work, including:

(1) Type, depth, length, and interval of plugs;

(2) Methods you will use to verify the plugs (tagging, pressure testing, etc.);

(3) Weight and viscosity of mud that you will use in the uncemented portions;

(4) Perforating or removing casing; and

(5) Restoring the surface; and

(c) Any other information that we may require.

§ 3263.12 How will BLM review my sundry notice to abandon my well and notify me of their decision?

(a) When we receive your sundry notice, we will make sure it is complete and review it for compliance with the requirements of 43 CFR 3200.4. We will notify you if we need more information or require additional procedures. If we need any further information to complete our review, we will contact you in writing and suspend our review until we receive the information. If we approve your sundry notice, we will send you an approved copy once our review is complete. Do not start abandonment of the well until we approve your sundry notice.

(b) We may verbally approve plugging procedures for a well which requires immediate action. If we do, you must submit the information required in 43 CFR 3263.11 within 48 hours after we give verbal approval.

§ 3263.13 What must I do to restore the site?

You must remove all equipment and materials and restore the site to BLM's satisfaction.

§ 3263.14 May BLM require me to abandon a well?

Yes, if we determine your well is no longer needed for geothermal resource production, injection, or monitoring, or if we determine that the well is not mechanically sound. In either case, if you disagree you may explain to us why the well should not be abandoned.

We will consider your reasons before we issue any final order.

§ 3263.15 May I abandon a producible well?

Only if you receive BLM's approval. To abandon a producing well, send us the information listed in 43 CFR 3263.11. We may also require you to explain why you want to abandon the well. We may deny your request if we determine the well is needed to protect a Federal lease from drainage, or to protect the environment or other resources of the United States.

Subpart 3264—Reports—Drilling Operations

§ 3264.10 What must I give BLM after I complete a well?

You must submit a geothermal well completion report, form 3260–4, within 30 days after you complete a well. Your report must include the following:

(a) A complete, chronological well history;

(b) A copy of all logs;

(c) Copies of all directional surveys; and

(d) Copies of all mechanical, flow, reservoir, and other test data.

§ 3264.11 What must I give BLM after I finish subsequent well operations?

(a) Send us a subsequent well operations report within 30 days after completing operations. At a minimum, this report must include:

(1) A complete, chronological history of the work done;

(2) A copy of all logs;

(3) Copies of all directional surveys;

(4) All samples, tests or surveys we require you to make (see § 3262.14);

(4) Copies of all mechanical, flow, reservoir, and other test data; and

(5) A statement of whether you achieved your goals. For example, if the well was acidized to increase production, state whether the production rate increased when you put the well back on line.

(b) We may waive this reporting requirement for work we determine is routine such as cleanouts, surveys, or general maintenance. To request a waiver, contact BLM. If you do not have a waiver, you must submit the report.

§ 3264.12 What must I give BLM after I abandon a well?

Send us a well abandonment report within 30 days after you abandon a well. If you plan to restore the site at a later date, you may submit a separate report within 30 days after completing site restoration. The well abandonment report must contain:

(a) A complete chronology of all work done;

(b) A description of each plug, including:

(1) Amount of cement used;

(2) Type of cement used;

(3) Depth that the drill pipe or tubing was run to set the plug;

(4) Depth to top of plug; and

(5) If the plug was verified, whether it was done by tagging or pressure testing; and

(c) A description of surface restoration procedures.

§ 3264.13 What drilling and operational records must I maintain for each well?

You must keep the following information for each well and make it available for BLM to inspect it:

(a) A complete and accurate drilling log, in chronological order;

(b) All logs;

(c) Water or steam analyses;

(d) Hydrologic or heat flow tests;

(e) Directional surveys;

(f) A complete log of all subsequent well operations such as cementing, perforating, acidizing, and well cleanouts; and

(g) Any other information regarding the well that could affect its status.

§ 3264.14 Must I notify BLM of accidents occurring on my lease?

Yes, you must verbally inform us of all accidents that affect operations or create environmental hazards within 24 hours of the accident. When you contact us, we may require you to submit a report fully describing the incident.

Subpart 3265—Inspection, Enforcement, and Noncompliance for Drilling Operations

§ 3265.10 What part of my drilling operations may BLM inspect?

(a) We may inspect all of your drilling operations regardless of surface ownership. We will inspect your operations for compliance with the requirements of 43 CFR 3200.4.

(b) We may also inspect all of your maps, well logs, surveys, records, books, and accounts related to your drilling operation. You must keep this information available for our inspection.

§ 3265.11 What records must I keep available for inspection?

You must keep a complete record of all aspects of your activities related to your drilling operation available for our inspection. Store these records in a place which makes them conveniently available to us. Examples of records which we will inspect include:

(a) Well logs;

(b) Directional surveys;

(c) Casing type and setting;

(d) Formations penetrated;

(e) Well test results;

(f) Characteristics of the geothermal resource;

(g) Emergency procedure training; and

(h) Operational problems.

§ 3265.12 What will BLM do if my operations do not comply with all requirements?

(a) We will issue you a written Incident of Noncompliance, directing you to take required corrective action within a specific time period. If the noncompliance continues or is of a serious nature, we will take one or more of the following actions:

(1) Enter your lease, and correct any deficiencies at your expense;

(2) Collect all or part of your bond;

(3) Direct modification or shutdown of your operations; and

(4) Take action against a lessee who is ultimately responsible for noncompliance.

(b) Noncompliance may result in BLM canceling your lease. See 43 CFR 3213.23 through 3213.25.

Subpart 3266—Confidential, Proprietary Information

§ 3266.10 Will BLM disclose information I submit under these regulations?

All Federal and Indian data and information submitted to the BLM are subject to part 2 of this title. Part 2 includes the regulations of the Department of the Interior covering public disclosure of data and information contained in Department of Interior records. Certain mineral information not protected from disclosure under part 2 may be made available for inspection without a Freedom Of Information Act (FOIA) request. BLM will not treat surface location, surface elevation, or well status information as confidential.

§ 3266.11 When I submit confidential, proprietary information, how can I help ensure it is not available to the public?

When you submit data and information that you believe to be exempt from disclosure by 43 CFR part 2, you must clearly mark each page that you believe contains confidential information. BLM will keep all data and information confidential to the extent allowed by 43 CFR 2.13(c).

§ 3266.12 How long will information I give BLM remain confidential or proprietary?

The FOIA does not provide a finite period of time for which information may be exempt from disclosure to public. Each situation will need to be reviewed individually and in accordance with guidance provided by 43 CFR part 2.

Subpart 3267—Geothermal Drilling Operations Relief and Appeals

§ 3267.10 May I request a variance from any BLM requirements which apply to my drilling operations?

(a) Yes, you may request a variance regarding your approved drilling operations from the requirements of 43 CFR 3200.4. Your request must include enough information to explain:

(1) Why you cannot comply; and

(2) Why you need the variance to control your well, conserve natural resources, protect public health and safety, property, or the environment.

(b) We may approve your request verbally or in writing. If BLM gives you a verbal approval, we will follow up with written confirmation.

§ 3267.11 How may I appeal a BLM decision regarding my drilling operations?

You may appeal our decisions regarding your drilling operations in accordance with 43 CFR 3200.5.

Subpart 3270—Utilization of Geothermal Resources—General

§ 3270.10 What types of geothermal operations are governed by the utilization regulations?

(a) The regulations in 43 CFR subparts 3270 through 3279 cover the permitting and operating procedures for the utilization of geothermal resources. This includes:

(1) Electrical generation facilities;

(2) Direct use facilities;

(3) Related utilization facility operations;

(4) Actual and allocated well field production and injection; and

(5) Related well field operations.

(b) The utilization regulations in subparts 3270 through 3279 do not address conducting exploration operations, which are covered in subpart 3250 of this part, or drilling wells intended for production or injection, which are covered in subpart 3260 of this part.

§ 3270.11 What general standards apply to my utilization operations?

Your utilization operations must:

(a) Meet all operational and environmental standards;

(b) Prevent unnecessary impacts to surface and subsurface resources;

(c) Result in the maximum ultimate recovery;

(d) Result in the beneficial use of geothermal resources with minimum waste;

(e) Protect public health, safety and property; and,

(f) Comply with the requirements of 43 CFR 3200.4.

§ 3270.12 What other orders or instructions may BLM issue me?

(a) Geothermal resource operational orders, for detailed requirements that apply nationwide;

(b) Notices to lessees, for detailed requirements on a statewide or regional basis;

(c) Other orders and instructions specific to a field or area;

(d) Permit conditions of approval; and

(e) Verbal orders which will be confirmed in writing.

Subpart 3271— Utilization Operations: Getting a Permit

§ 3271.10 What do I need to start preparing a site and building and testing a utilization facility on Federal land leased for geothermal resources?

If you want to use Federal land to produce geothermal power, you have to get a site license and construction permit before you even start preparing the site. Send BLM a plan that shows what you want to do and write up a proposed site license agreement that you think is fair and reasonable. We will review it and decide whether or not to give you a permit and license to proceed with work on the site. Until and unless we do, don't even think about it.

§ 3271.11 Who may apply for a permit to build a utilization facility?

The lessee, the facility operator, or the unit operator may apply to build a utilization facility.

§ 3271.12 What do I need to start preliminary site investigations which may disturb the surface?

(a) You must:

(1) Fully describe your proposed operations in a sundry notice; and,

(2) File a bond meeting the requirements of either 43 CFR 3251.15 or 3273.19. See Subparts 3214 and 3215 for additional details on bonding procedures.

(b) Do not begin the site investigation or surface disturbing activity until BLM approves your sundry notice and bond.

§ 3271.13 What do I need to start building and testing a utilization facility which is not located on Federal lands leased for geothermal resources, but the pipelines and facilities connecting the well field are?

(a) Before constructing pipelines and well field facilities on Federal lands leased for geothermal resources, the lessee, unit operator or facility operator must submit your utilization plan and facility construction permit addressing any pipelines or facilities. Do not start construction of your pipelines or facilities until BLM approves your utilization plan and facility construction permit.

(b) Before testing a utilization facility which is not located on Federal lands leased for geothermal resources with Federal geothermal resources, send us a sundry notice which describes the testing schedule and the amount of Federal resources you expect to be delivered to the facility during the testing. Do not start delivering Federal geothermal resources to the facility until we approve your sundry notice.

(c) You do not need a BLM permit to construct a facility located on either:

(1) Private land; or

(2) Lands where the surface is privately owned and BLM has leased the underlying Federal geothermal resources, when the facility will utilize Federal geothermal resources.

§ 3271.14 How do I get a permit to begin commercial operations?

Before using Federal geothermal resources, the lessee, operator, or facility operator must send us a complete commercial use permit (43 CFR 3274.11). This also applies when you use Federal resources allocated through any form of agreement. Do not start any commercial use operations until BLM approves your commercial use permit.

Subpart 3272—What is in a Utilization Plan and Facility Construction Permit?

§ 3272.10 What must I give BLM in my utilization plan?

Describe the proposed facilities as set out in 43 CFR 3272.11, and the anticipated environmental impacts and how you propose to mitigate those impacts, as set out at 3272.12.

§ 3272.11 How should I describe the proposed utilization facility?

Your description must include:

(a) A generalized description of all proposed structures and facilities, including their size, location, and function;

(b) A generalized description of proposed facility operations, including estimated total production and injection rates; estimated well flow rates, pressures, and temperatures; facility net and gross electrical generation; and, if applicable, interconnection with other utilization facilities. If it is a direct use facility, send us the information we need to determine the amount of resource utilized;

(c) A contour map of the entire utilization site, showing production and injection well pads, pipeline routes, facility locations, drainage structures, and existing and planned access and lateral roads;

(d) A description of site preparation and associated surface disturbance, including the source for site or road building materials, amounts of cut and fill, drainage structures, analysis of all site evaluation studies prepared for the site(s), and a description of any additional tests, studies, or surveys which are planned to assess the geologic suitability of the site(s);

(e) The source, quality, and proposed consumption rate of water used during facility operations, and the source and quantity of water used during facility construction;

(f) The methods for meeting air quality standards during facility construction and operation, especially standards concerning noncondensible gases;

(g) An estimated number of personnel needed during construction and operation of the facility;

(h) A construction schedule;

(i) A schedule for testing of the facility and/or well equipment, and for the start of commercial operations;

(j) A description of architectural landscaping or other measures to minimize visual impacts; and (k) Any additional information or data which we may require.

§ 3272.12 How do I describe the environmental protection measures I intend to take?

(a) Describe, at a minimum, your proposed measures to:

(1) Prevent or control fires;

(2) Prevent soil erosion;

(3) Protect surface or ground water;

(4) Protect fish and wildlife;

(5) Protect cultural, visual, and other natural resources;

(6) Minimize air and noise pollution; and

(7) Minimize hazards to public health and safety during normal operations.

(b) If we require, you must also describe how you will monitor your facility operations to ensure they comply with the requirements of 43 CFR 3200.4, and noise, air, and water quality standards at all times. We will consult with another involved surface management agency regarding monitoring requirements. You must also include provisions for monitoring other environmental parameters we may require.

(c) Based on what level of impacts your operations may cause, we may require you to collect data concerning existing air and water quality, noise, seismicity, subsidence, ecological systems, or other environmental information for up to one year before you begin operating. We must approve your data collection methodologies, and will consult with any other surface managing agency involved.

(d) You must also describe how you will abandon utilization facilities and restore the site, to comply with the requirements of 43 CFR 3200.4.

(e) Finally, submit any additional information or data which we may require.

§ 3272.13 How will BLM review my utilization plan and notify me of their decision?

(a) When BLM receives your utilization plan, we will make sure it is complete and review it for compliance with 43 CFR 3200.4.

(b) If another Federal agency manages the surface of your lease, we will consult with them as part of the plan review.

(c) If we need any further information to complete our review, we will contact you in writing and suspend our review until we receive the information.

§ 3272.14 How do I get a permit to construct or test my facility?

(a) Before constructing or testing a utilization facility, you must submit to BLM a:

(1) Utilization plan;

(2) Complete and signed facility construction permit; and,

(3) Complete and signed site licence. (See subpart 3273.)

(b) Do not start constructing or testing your utilization facility until we have approved both your facility construction permit and your site license.

(c) After our review, we will notify you whether we have approved or denied your permit, as well as any conditions we require for conducting operations.

Subpart 3273—How to Apply for a Site License

§ 3273.10 When do I need a site license for a utilization facility?

You must obtain a site license approved by BLM unless your facility will be located on lands leased described under 43 CFR 3273.11. Do not start building or testing your utilization facility on lands leased by BLM for geothermal resources until we have approved both your facility construction permit (See 3272.14) and your site license. The facility operator must apply for the license.

§ 3273.11 Are there any situations where I do not need a site license?

Yes, you do not need one if your facility will be located:

(a) On private lands or on split estate land where the United States does not own the surface; or

(b) On Federal lands not leased for geothermal resources. In these cases, the Federal surface management agency will issue you the permit you need.

§ 3273.12 How will BLM review my site license application?

(a) When we receive your site license application, we will make sure it is complete. If we need more information for our review, we will contact you for

that information and stop our review until we receive the information.

(b) If your site license is located on leased lands managed by the Department of Agriculture, we will consult with the agency and obtain concurrence before we approve your application. The agency may require additional license terms and conditions.

(c) If the land is subject to section 24 of the Federal Power Act, we will issue the site license with the terms and conditions requested by the Federal Energy Regulatory Commission.

(d) If another Federal agency manages the surface, we will consult with them to determine if they recommend additional license terms and conditions.

(e) After our review, we will notify you whether we approved or denied your license, as well as any additional conditions we require.

§ 3273.13 Are any lands not available for geothermal site licenses?

Yes. BLM will not issue site licenses for lands that are not leased or not available for geothermal leasing. See 43 CFR 3201.11.

§ 3273.14 What area does a site license cover?

The site license covers a reasonably compact tract of Federal land, limited to as much of the surface as is necessary to adequately utilize geothermal resources. That means the site license area will only include the utilization facility itself and other necessary structures, such as substations and processing, repair, or storage facilities areas.

§ 3273.15 What must I give BLM in my site license application?

(a) A description of the boundaries of the land applied for, as determined by a certified licensed surveyor. Describe the land by legal subdivision, section, township and range, or by approved protraction surveys, if applicable;

(b) The affected acreage;

(c) A non-refundable fee of $50;

(d) A site license bond (See 43 CFR 3273.19);

(e) The first year's rent, if applicable (see 43 CFR 3273.18); and (f) Documentation that the lessee or unit operator accepts the siting of the facility, if the facility operator is neither the lessee nor unit operator.

§ 3273.16 What is the annual rent for a site license?

We will specify the amount in your license, if you are required to pay rent. (See 43 CFR 3273.18.) Your rent will be at least $100 per acre or fraction thereof for an electrical generation facility, and at least $10 per acre or fraction thereof for a direct use facility. Send the first year's rent to BLM, and all subsequent rental payments to MMS under 30 CFR part 218.

§ 3273.17 May BLM reassess the annual rent for my site license?

Yes, we may reassess the rent for lands covered by the license beginning with the tenth year and every ten years after that.

§ 3273.18 Must all facility operators pay the annual site license rent?

No, if you are a lessee siting a utilization facility on your own lease, or a unit operator siting a utilization facility on leases committed to the unit, you do not need to pay rent. Only a facility operator who is not also a lessee or unit operator must pay rent.

§ 3273.19 What are the bonding requirements for a site license?

(a) For an electrical generation facility, the facility operator must submit a surety or personal bond for at least $100,000, and which meets the requirements of subpart 3214. BLM may increase the required bond amount. See subparts 3214 and 3215 for additional details on bonding procedures.

(b) For a direct use facility, the facility operator must furnish BLM with a surety or personal bond that meets the requirements of subpart 3214 in an amount BLM will specify.

(c) The bond's terms must cover compliance with the requirements of 43 CFR 3200.4.

(d) Until you provide a bond and BLM approves it, do not start construction, testing, or anything else that would disturb the surface.

§ 3273.20 When will BLM release my bond?

We will release your bond after you request it and we determine that you have:

(a) Reclaimed the land; including removing the utilization facility and all associated equipment; and

(b) Met all the requirements of 43 CFR 3200.4.

§ 3273.21 What are my obligations under the site license?

As the facility operator, you:

(a) Must comply with the requirements of 43 CFR 3200.4;

(b) Are liable for all damages to the lands, property or resources of the United States caused by yourself, your employees, contractors or the contractors' employees;

(c) Must indemnify the United States against any liability for damages or injury to persons or property arising from the occupancy or use of the lands authorized under the site license; and

(d) Must remove all structures and restore any disturbed surface, when no longer needed for facility construction or operation. This applies to the utilization facility if you cannot operate the facility and you are not diligent in your efforts to return the facility to operation.

§ 3273.22 How long will my site license remain in effect?

(a) The primary term is 30 years, with a preferential right to renew the license under terms and conditions set by BLM.

(b) If your lease on which the site license is located ends, you may apply for a facility permit under section 501 of FLPMA, 43 U.S.C. 1761, if your facility is on BLM-managed lands. Otherwise, you must get permission to continue using the surface for your facility from the surface management agency.

§ 3273.23 May I renew my site license?

(a) You have a preferential right to renew your site license under terms and conditions we determine.

(b) If your site license is located on leased lands managed by the Department of Agriculture, we will consult with the Federal surface management agency and obtain concurrence prior to renewing your license. The agency may require additional license terms and conditions. If another federal agency manages the surface, we will consult with them before granting your renewal.

§ 3273.24 May BLM terminate my site license?

Yes, by written order. To prevent termination, you will have 30 days after you receive the order to correct the violation, unless we determine the violation cannot be corrected within 30 days and you are diligently attempting to correct it. We may terminate your site license if you:

(a) Do not comply with the requirements of 43 CFR 3270.11; or

(b) Do not comply with the requirements of 43 CFR 3200.4.

§ 3273.25 May I relinquish my site license?

Yes. Send us a written notice for review and approval. We will not approve the relinquishment until you comply with 43 CFR 3273.21.

§ 3273.26 May I assign or transfer my site license?

Yes, you may transfer your site license in whole or in part. Send us your complete and signed transfer application and a $50 filing fee. Your application must include a written statement that the transferee will comply with all license terms and conditions, and that the lessee accepts the transfer. The transferee must submit a bond meeting the requirements of 43 CFR 3273.19. The transfer is not effective until we approve the bond and site license transfer.

Subpart 3274—Applying for and Obtaining a Commercial Use Permit

§ 3274.10 Do I need a commercial use permit to start commercial operations?

You need your commercial use permit approved by BLM before you begin commercial operations from a Federal lease, a Federal unit, or your utilization facility.

§ 3274.11 What must I give BLM to approve my commercial use permit application?

Submit a complete and signed commercial permit form with the following information:

(a) The design, specifications, inspection, and calibration schedule of production, injection, and royalty meters;

(b) A schematic diagram of the utilization site or individual well showing the location of each production and royalty meter. If the sales point is located off the utilization site, give us a generalized schematic diagram of the electrical transmission or pipeline system, including meter locations;

(c) A copy of the sales contract for the sale and/or utilization of geothermal resources;

(d) A description and analysis of reservoir, production, and injection characteristics, including the flow rates, temperatures, and pressures of each production and injection well;

(e) A schematic diagram of each production or injection well showing the wellhead configuration, including meters;

(f) A schematic flow diagram of the utilization facility, including interconnections with other facilities, if applicable;

(g) A description of the utilization process in sufficient detail to enable BLM to determine if the resource will be utilized in an acceptable manner;

(h) The planned safety provisions for emergency shutdown to protect public health, safety, property and the environment. This should include a schedule for the testing and maintenance of safety devices;

(i) The environmental and operational parameters that will be monitored during the operation of the facility and/or well(s); and

(j) Any additional information or data that we may require.

§ 3274.12 How will BLM review my commercial use permit application?

(a) When we receive your complete and signed commercial use permit, we will make sure it is complete and review it for compliance with the requirements of 43 CFR 3200.4.

(b) If another Federal agency manages the surface of your lease, we will consult with them before we approve your commercial use permit.

(c) We will review your commercial use permit to make sure it conforms with your utilization plan and any mitigation measures we developed while reviewing your plan.

(d) We will check your commercial use permit for technical adequacy and will ensure that your meters meet the accuracy standards. See 43 CFR 3275.14 and 3275.15.

(e) If we need any further information to complete our review, we will contact you in writing and suspend our review until we receive the information.

(f) After our review, we will notify you whether your permit has been approved or denied, as well as any conditions we require for conducting operations.

§ 3274.13 May I get a permit even if I cannot currently demonstrate I can operate within required standards?

Yes, but we may limit your operations to a set period of time, during which we will give you a chance to show you can operate within environmental and operational standards, based on actual facility and well data you collect. Send us a sundry notice to get BLM approval for extending your permit. If during this set time period you still cannot demonstrate your ability to operate within the required standards, we will terminate your authorization. You must then stop all operations and restore the surface to the standards we set in the termination notice.

Subpart 3275—Conducting Utilization Operations

§ 3275.10 How do I change my operations if I have an approved facility construction or commercial use permit?

Send us a complete and signed sundry notice describing your proposed change. Until we approve your sundry notice, you must continue to comply with the original permit terms.

§ 3275.11 What are a facility operator's obligations?

(a) Your obligations are to:

(1) Keep the facility in proper operating condition at all times;

(2) Conduct training during your operation which ensure your personnel are capable of performing emergency procedures quickly and effectively;

(3) Use properly maintained equipment; and

(4) Use operational practices which allow for quick and effective emergency response.

(b) Base the design of the utilization facility siting and operation on sound engineering principles and other pertinent geologic and engineering data; and,

(c) Prevent waste of, or damage to, geothermal and other energy and minerals resources.

(d) Comply with the requirements of 43 CFR 3200.4.

§ 3275.12 What environmental and safety requirements apply to facility operations?

(a) You must perform all utilization facility operations to:

(1) Protect the quality of surface and subsurface waters, air, and other natural resources, including wildlife, soil, vegetation, and natural history;

(2) Prevent unnecessary or undue degradation of the lands;

(3) Protect the quality of cultural, scenic and recreational resources;

(4) Accommodate other land uses as much as possible;

(5) Protect people and wildlife from unacceptable levels of noise;

(6) Prevent injury; and

(7) Prevent damage to property.

(b) You must monitor facility operations to identify and address local environmental resources and concerns associated with your facility or lease operations.

(c) You must remove or, with BLM approval, properly store all equipment and materials not in use.

(d) You must properly abandon and reclaim any disturbed surface to standards approved or prescribed by us, when the land is no longer needed for facility construction or operation.

(e) When we require, you must submit a contingency plan describing procedures to protect public health and safety, property, and the environment.

(f) You must comply with the requirements of 43 CFR 3200.4.

§ 3275.13 Does the facility operator have to measure the geothermal resources?

Yes, the facility operator must:

(a) Measure all production, injection and utilization in accordance with methods and standards we approve (see 43 CFR 3275.15); and

(b) Maintain and test all metering equipment. If your equipment is defective or out of tolerance, you must promptly recalibrate, repair, or replace it. Determine the amount of production and/or utilization in accordance with the methods and procedures we approve (See 43 CFR 3275.17).

§ 3275.14 What aspects of my geothermal operations must I measure?

(a) For all well operations, you must measure wellhead flow, wellhead temperature, and wellhead pressure.

(b) For all electrical generation facilities, you must measure:

(1) Steam and/or hot water flow into the facility;

(2) Temperature of the water and/or steam into the facility;

(3) Pressure of the water and/or steam into the facility;

(4) Gross electricity generated;

(5) Net electricity at the facility tailgate;

(6) Electricity delivered to the sales point; and

(7) Temperature of the steam and/or hot water exiting the facility.

(c) For direct use facilities, you must measure:

(1) Flow of steam and/or hot water;

(2) Temperature into the facility; and

(3) Temperature out of the facility.

(d) We may also require additional measurements depending on the type of facility, the type and quality of the resource, and the terms of the sales contract.

§ 3275.15 How accurately must I measure my production and utilization?

It depends on whether you use the meter in calculating Federal production or royalty, and what quantity of resource you are measuring.

(a) For meters that you use to calculate Federal royalty:

(1) If the meter measures electricity, it must have an accuracy of ±0.25% or better of reading;

(2) If the meter measures steam flowing more than 100,000 lbs/hr on a monthly basis, it must have an accuracy of ±2 percent or better of reading;

(3) If the meter measures steam flowing less than 100,000 lbs/hr on a monthly basis, it must have an accuracy of ±4 percent or better of reading;

(4) If the meter measures water flowing more than 500,000 lbs/hr on a monthly basis, it must have an accuracy of ±2 percent or better of reading;

(5) If the meter measures water flowing 500,000 lbs/hr or less on a monthly basis, it must have an accuracy of ±4 percent or better of reading;

(6) If the meter measures heat content, it must have an accuracy of ±4 percent or better; or

(7) If the meter measures two phase flow at any rate, we will determine meter accuracy requirements. You must obtain our prior written approval before installing and using meters for two phase flow.

(b) Any meters that you do not use to calculate Federal royalty are considered production meters, which must maintain an accuracy of ±5 percent or better of reading.

(c) We may modify these requirements as necessary to protect the interests of the United States.

§ 3275.16 What standards apply to installing and maintaining my meters?

(a) You must install and maintain all meters we require according to the manufacturer's recommendations and specifications or paragraphs (b) through (e) of this section, whichever is more restrictive.

(b) If you use an orifice plate to calculate Federal royalty, the orifice plate installation must comply with ''API Manual of Petroleum Standards, Chapter 14, Section 3, part 2, Third Edition, February, 1991.''

(c) For meters used to calculate Federal royalty, you must calibrate the meter against a known standard as follows:

(1) You must calibrate meters measuring electricity annually;

(2) You must calibrate meters measuring steam or hot water flow with a turbine, vortex, ultrasonics, or other linear devices, every six months, or as recommended by the manufacturer, whichever is more frequent; and

(3) You must calibrate meters measuring steam or hot water flow with an orifice plate, venturi, pitot tube, or other differential device, every month and you must inspect and repair the primary device (orifice plate, venturi, pitot tube) annually.

(d) You must use calibration equipment that is more accurate than the equipment you are calibrating.

(e) BLM may modify any of these requirements as necessary to protect the resources of the United States.

§ 3275.17 What must I do if I find an error in a meter?

(a) If you find an error in a meter used to calculate Federal royalty, you must correct the error immediately and notify BLM by the next working day of its discovery.

(b) If the meter is not used to calculate Federal royalty, you must correct the error and notify us within three days of its discovery.

(c) If correcting the error will cause a change in the sales quantity of more than 2% for the month(s) in which the error occurred, you must adjust the sales quantity for that month(s) and submit an amended facility report to us within three working days.

§ 3275.18 May BLM require me to test for byproducts associated with geothermal resource production?

Yes, you must conduct any tests we require, including tests for byproducts.

§ 3275.19 May I commingle production?

To request approval to commingle production, send us a complete and signed sundry notice. We will review your request to commingle production from wells on your lease with production from your other leases or from leases where you do not have an interest. Do not commingle production until we have approved your sundry notice.

§ 3275.20 What will BLM do if I waste geothermal resources?

We will determine the amount of any resources you have lost through waste. If you did not take all reasonable precautions to prevent waste, we will require you to pay compensation based on the value of the lost production. If you do not adequately correct the situation, we will follow the noncompliance procedures identified at 43 CFR 3277.12.

§ 3275.21 May BLM order me to drill and produce wells on my lease?

Yes, when necessary to protect Federal interests, prevent drainage and to ensure that lease development and production occur in accordance with sound operating practices.

Subpart 3276—Reports: Utilization Operations

§ 3276.10 What are my reporting requirements for facility and lease operations involving Federal geothermal resources?

(a) When you begin commercial production and operation, you must notify us in writing within five business days.

(b) Submit complete and signed monthly reports to BLM as follows:

(1) If you are a lessee or unit operator supplying Federal geothermal resources to a utilization facility on Federal land leased for geothermal resources, submit a monthly report of well operations for all wells on your lease or unit.

(2) If you are the operator of a utilization facility on Federal land leased for geothermal resources, submit a monthly report of facility operations.

(3) If you are both a lessee or unit operator and the operator of a utilization facility on Federal land leased for geothermal resources, you may combine the requirements of paragraphs (b)(1) and (b)(2) of this section into one report.

(4) If you are a lessee or unit operator supplying Federal geothermal resources to a utilization facility not located on Federal land leased for geothermal resources, and the sales point for the resource utilized is at the facility tailgate, submit all the requirements of paragraphs (b)(1) and (b)(2) of this section. You may combine these into one report.

(c) Unless BLM grants a variance, your reports are due by the end of the month following the month that the report covers. For example, the report covering the month of July is due by August 31.

§ 3276.11 What information must I include for each well in the monthly report of well operations?

(a) Any drilling operations or changes made to a well;

(b) Total production or injection in thousands of pounds (klbs);

(c) Production or injection temperature in degrees Fahrenheit (deg.F);

(d) Production or injection pressure in pounds per square inch (psi). You must also specify whether this is gauge pressure (psig) or absolute pressure (psia);

(e) The number of days the well was producing or injecting;

(f) The well status at the end of the month;

(g) The amount of steam or hot water lost to venting or leakage, if the amount is greater than 0.5 percent of total lease production. We may modify this standard by a written order describing the change;

(h) The lease number or unit name where the well is located;

(i) The month and year the report applies to;

(j) Your name, title, signature, and a phone number where BLM may contact you; and

(k) Any other information that we may require.

§ 3276.12 What information must I give BLM in the monthly report for facility operations?

(a) For all electrical generation facilities, include in your monthly report of facility operations:

(1) Mass of steam and/or hot water used or brought into the facility, in klbs. For facilities using both steam and hot water, you must report the mass of each;

(2) The temperature of the steam or hot water in deg.F;

(3) The pressure of the steam or hot water in psi. You must also specify whether this is psig or psia;

(4) Gross generation in kiloWatt hours (kWh);

(5) Net generation at the tailgate of the facility in kWh;

(6) Temperature in deg.F and volume of the steam or hot water exiting the facility;

(7) The number of hours the plant was on line;

(8) A brief description of any outages; and

(9) Any other information we may require.

(b) For electrical generation facilities where Federal royalty is based on the sale of electricity to a utility, you must include the following additional information in your monthly report of facility operations:

(1) Amount of electricity delivered to the sales point in kWh, if the sales point is different from the tailgate of the facility;

(2) Amount of electricity lost to transmission;

(3) A report from the utility purchasing the electricity which documents the total number of kWhs delivered to the sales point during the month, or monthly reporting period if it is not a calendar month, and the number of kWhs delivered during diurnal and seasonal pricing periods; and

(4) Any other information we may require.

§ 3276.13 What extra information must I give BLM in the monthly report for flash and dry steam facilities?

In addition to the regular monthly report information, send us:

(a) Steam flow into the turbine in klbs; for dual flash facilities, you must separate the steam flow into high pressure steam and low pressure steam;

(b) Condenser pressure in psia;

(c) Condenser temperature in deg.F;

(d) Auxiliary steam flow used for gas ejectors, steam seals, pumps, etc., in klbs;

(e) Flow of condensate out of the plant (after the cooling towers) in klbs; and

(f) Any other information we may require.

§ 3276.14 What information must I give BLM in the monthly report for direct use facilities?

(a) A daily breakdown of flow, average temperature in, and average temperature out, in deg.F;

(b) Total monthly flow through the facility in thousands of gallons (kgal) or klbs;

(c) Monthly average temperature in, in deg.F;

(d) Monthly average temperature out, in deg.F;

(e) Total heat used in millions of BTU's (MMBTU);

(f) Number of hours that geothermal heat was used; and

(g) Any other information we may require.

§ 3276.15 Must I notify BLM of accidents occurring at my utilization facility?

Yes, you must verbally inform us of all accidents that affect operations or create environmental hazards within 24 hours after the accident. When you contact us, we may require you to submit a report fully describing the incident.

Subpart 3277—Inspections, Enforcement, and Noncompliance

§ 3277.10 Will BLM inspect my operations?

(a) Yes, we may inspect all operations to ensure compliance with the requirements of 43 CFR 3200.4. You must give us access to inspect all facilities utilizing Federal geothermal resources during normal operating hours.

§ 3277.11 What records must I keep available for inspection?

The operator or facility operator must keep all records and information pertaining to the operation of your utilization facility, royalty and production meters, and safety training available for BLM inspection for a period of six years from the time the records or information is created. This includes records and information from meters located off your lease or unit, when BLM needs them to determine resource production to a utilization facility or

the allocation of resource production to your lease or unit. Store these records in a place which make them conveniently available.

§ 3277.12 What will BLM do if I do not comply with all BLM requirements?

(a) We will issue you a written Incident of Noncompliance, directing you to take required corrective action within a specific time period. If the noncompliance continues or is serious in nature, BLM will take one or more of the following actions:

(1) Enter the lease, and correct any deficiencies at your expense;

(2) Collect all or part of your bond;

(3) Order modification or shutdown of your operations; and

(4) Take action against a lessee who is ultimately responsible for noncompliance.

(b) Noncompliance may result in BLM canceling your lease. See 43 CFR 3213.23 through 3213.25.

Subpart 3278—Confidential, Proprietary Information

§ 3278.10 Will BLM disclose information I submit under these regulations?

All Federal and Indian data and information submitted to the BLM are subject to part 2 of this title. Part 2 includes the regulations of the Department of the Interior covering public disclosure of data and information contained in Department of Interior records. Certain mineral information not protected from disclosure under part 2 may be made available for inspection without a Freedom of Information Act (FOIA) request. Examples of information we will not treat information as confidential include:

(a) Facility location;

(b) Facility generation capacity; or

(c) To whom you are selling electricity or produced resources.

§ 3278.11 When I submit confidential, proprietary information, how can I help ensure it is not available to the public?

When you submit data and information that you believe to be exempt from disclosure by 43 CFR part 2, you must clearly mark each page that you believe contains confidential information. BLM will keep all data and information confidential to the extent allowed by 43 CFR 2.13(c).

§ 3278.12 How long will information I give BLM remain confidential or proprietary?

The FOIA does not provide a finite period of time for which information may be exempt from disclosure to public. Each situation will need to be reviewed individually and in accordance with guidance provided by 43 CFR part 2.

Subpart 3279—Utilization Relief and Appeals

§ 3279.10 May I request a variance from any BLM requirements?

(a) Yes, you may request a variance regarding your approved utilization operations from the requirements of 43 CFR 3200.4. Your request must include enough information to explain:

(1) Why you cannot comply; and

(2) Why you need the variance to operate your facility, conserve natural resources, protect public health and safety, property, or the environment.

(b) We may approve your request verbally or in writing. If we give you a verbal approval, we will follow up with written confirmation.

§ 3279.11 How may I appeal a BLM decision regarding my utilization operations?

You may appeal our decision regarding your utilization operations in accordance with 43 CFR 3200.5.

PART 3280—GEOTHERMAL RESOURCES UNIT AGREEMENTS: UNPROVEN AREAS

NOTE: Many existing unit agreements specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager and Deputy Minerals Manager in the body of the agreements, as well as reference to title 30 CFR part 270 or specific sections thereof. Those references must now be read in the context of the provisions of Secretarial Order 3087 and now mean the Bureau of Land Management or the Minerals Management Service as appropriate.

Subpart 3280—Geothermal Resources Unit Agreements: General

Sec.
3280.0–1 Purpose.
3280.0–2 Policy.
3280.0–3 Authority.
3280.0–5 Definitions.

Subpart 3281—Application for Unit Agreement

3281.1 Preliminary consideration of agreements.
3281.2 Designation of area.
3281.3 Parties to unit or cooperative agreement.
3281.4 State land.

Subpart 3282—Qualification of Unit Operator

3282.1 Qualifications of unit operator.

Subpart 3283—Filing and Approval of Documents

3283.1 Filing of documents and number of counterparts.
3283.2 Executed agreement.
3283.2–1 Approval of executed agreement.
3283.2–2 Review of executed agreement.
3283.3 Participating area.
3283.4 Plan of development.
3283.5 Return of approved documents.

Subpart 3284 [Reserved]

Subpart 3285—Appeals

3285.1 Appeals.

Subpart 3286—Model Forms

3286.1 Model unit agreement: Unproven areas.
3286.1–1 Model Exhibit ''A''.
3286.1–2 Model Exhibit ''B''.
3286.2 Model unit bond.
3286.3 Model designation of successor operator.
3286.4 Model change of operator by assignment.

AUTHORITY: Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001–1025).

SOURCE: 38 FR 35073, Dec. 21, 1973, unless otherwise noted. Redesignated at 48 FR 44792, Sept. 30, 1983.

Subpart 3280—Geothermal Resources Unit Agreements: General

§ 3280.0–1 Purpose.

The regulations in this part prescribe the procedure to be followed and the requirements to be met by holders of Federal geothermal leases and their representatives who wish to unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan for the development of any geothermal resources pool, field or like area, or any part thereof.

[48 FR 44792, Sept. 30, 1983]

§ 3280.0–2 Policy.

Cooperative or unit agreements for the development of any geothermal resources pool, field or like area, or any part thereof, may be initiated by lessees, or where such agreements are deemed necessary in the interest of conserving natural resources, they may be required by the Director.

[48 FR 44792, Sept. 30, 1983]

§ 3280.0–3 Authority.

These regulations are issued under the authority of the Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001–1025) and Order Number 3087, dated December 3, 1982, as amended February 7, 1983 (48 FR 8983), under which the Secretary consolidated and transferred the onshore minerals management functions of the Department, except mineral revenue functions and the leasing of restricted Indian lands, to the Bureau of Land Management.

[48 FR 44792, Sept. 30, 1983]

§ 3280.0–5 Definitions.

The following terms, as used in this part or in any agreement approved under the regulations in this part, shall have the meanings here indicated unless otherwise defined in such agreement:

(a) *Unit agreement.* An agreement or plan of development and operation for

the production and utilization of separately owned interests in the geothermal resources made subject thereto as a single consolidated unit without regard to separate ownerships and which provides for the allocation of costs and benefits on a basis defined in the agreement or plan.

(b) *Cooperative agreement.* An agreement or plan of development and operations for the production and utilization of geothermal resources made subject thereto in which separate ownership units are independently operated without allocation of production.

(c) *Agreement.* For convenience, the term ''agreement'' as used in the regulations in this part refers to either a unit or a cooperative agreement as defined in paragraphs (a) and (b) of this section unless otherwise indicated.

(d) *Unit area.* The area described in a unit agreement as constituting the land logically subject to development under such agreement.

(e) *Unitized land.* The part of a unit area committed to a unit agreement.

(f) *Unitized substances.* Deposits of geothermal resources recovered from unitized land by operation under and pursuant to a unit agreement.

(g) *Unit operator.* The person, association, partnership, corporation, or other business entity designated under a unit agreement to conduct operations on unitized land as specified in such agreement.

(h) *Participating area.* That part of the Unit Area which is deemed to be productive from a horizon or deposit and to which production would be allocated in the manner described in the unit agreement assuming that all lands are committed to the unit agreement.

(i) *Working interest.* The interest held in geothermal resources or in lands containing the same by virtue of a lease, operating agreement, fee title, or otherwise, under which, except as otherwise provided in a unit or cooperative agreement, the owner of such interest is vested with the right to explore for, develop, produce, and utilize such resources. The right delegated to the unit operator as such by the unit agreement is not to be regarded as a working interest.

[38 FR 35073, Dec. 21, 1973. Redesignated and amended at 48 FR 44792, Sept. 30, 1983]

Subpart 3281—Application for Unit Agreement

§ 3281.1 Preliminary consideration of agreements.

The form of unit agreement set forth in § 3286.1 of this title is acceptable for use in unproved areas. The use of this form is not mandatory, but any proposed departure therefrom should be submitted with the application submitted under § 3281.2 of this title for preliminary consideration and for such revision as may be deemed necessary. In areas proposed for unitization in which a discovery of geothermal resources has been made, or where a cooperative agreement is contemplated, the proposed agreement should be submitted with the application submitted under § 3281.2 of this title for preliminary consideration and for such revision as may be deemed necessary. The proposed form of agreement should be submitted in triplicate and should be plainly marked to identify the proposed variances from the form of agreement set forth in § 3286.1 of this title.

§ 3281.2 Designation of area.

An application for designation of an area as logically subject to development and/or operation under a unit or cooperative agreement may be filed, in triplicate, by any proponent of such an agreement through the authorized officer. Each copy of the application shall be accompanied by a map or diagram on a scale of not less than 1 inch to 1 mile, outlining the area sought to be designated under this section. The Federal, State, and privately owned land should be indicated on said map by distinctive symbols or colors and Federal geothermal leases and lease applications should be identified by serial number. Geological information, including the results of geophysical surveys, and such other information as may tend to show that unitization is necessary and advisable in the public interest should be furnished in triplicate. Geological and geophysical information and data so furnished will not be available for public inspection, as provided by 5 U.S.C. 552(b), without the consent of the proponent. The application and supporting data will be

considered by the Director and the applicant will be informed of the decision reached. The designation of an area, pursuant to an application filed under this section, shall not create an exclusive right to submit an executed agreement for such area, nor preclude the inclusion of such area or any part thereof in another unit area.

§ 3281.3 Parties to unit or cooperative agreement.

The owners of any rights, title, or interest in the geothermal resources deposits to be developed and operated under an agreement can be regarded as proper parties to a proposed agreement. All such owners must be invited to join as parties to the agreement. If any owner fails or refuses to join the agreement, the proponent of the agreement should declare this to the authorized officer and should submit evidence of efforts made to obtain joinder of such owner and the reasons for nonjoinder.

§ 3281.4 State land.

Where State-owned land is to be included in the unit, approval of the agreement by appropriate State officials should be obtained prior to its submission to the Department for approval of the executed agreement. When authorized by the laws of the State in which the unitized land is situated, provisions may be made in the agreement accepting State law, to the extent that they are applicable to non-Federal unitized land.

Subpart 3282—Qualification of Unit Operator

§ 3282.1 Qualifications of unit operator.

A unit operator must qualify as to citizenship in the same manner as those holding interests in geothermal leases issued under the Geothermal Steam Act of 1970. The unit operator may be an owner of a working interest in the unit area or such other party as may be selected by the owners of working interests and approved by the authorized officer. The unit operator shall execute an acceptance of the duties and obligations imposed by the agreement. No designation of, or change in, a unit operator will become effective unless and until approved by the authorized officer, and no such approval will be granted unless the unit operator is deemed qualified to fulfill the duties and obligations prescribed in the agreement.

Subpart 3283—Filing and Approval of Documents

§ 3283.1 Filing of documents and number of counterparts.

All proposals and supporting papers, instruments and documents submitted under this part shall be filed with the authorized officer, unless otherwise provided in this part or otherwise instructed by the Director.

[48 FR 44793, Sept. 30, 1983]

§ 3283.2 Executed agreement.

(a) Where a duly executed agreement is submitted for Departmental approval, a minimum of 6 signed counterparts shall be filed. The same number of counterparts shall be filed for documents supplementing, modifying or amending an agreement, including change of operator, designation of a new operator and notice of surrender, relinquishment or termination.

(b) The address of each signatory party to the agreement shall be inserted below the party's signature. Each signature shall be attested to by at least 1 witness, if not notarized. Corporate or other signatures made in a representative capacity shall be accompanied by evidence of the authorization of the signatories to act unless such evidence is already a matter of record in the Bureau of Land Management. (The parties may execute any number of counterparts of the agreement with the same force and effect as if all parties signed the same document, or may execute a ratification of consent in a separate instrument with like force and effect.)

(c) Any modification of an approved agreement shall require approval of the Secretary or his/her duly authorized representative under procedures similar to those cited in § 3283.2–1 of this title.

[48 FR 44793, Sept. 30, 1983]

§ 3283.2–1 Approval of executed agreement.

A duly executed unit or cooperative agreement shall be approved by the Secretary or his/her duly authorized representative upon a determination that such agreement is necessary or advisable in the public interest and is for the purpose of properly conserving the natural resources, taking into account the environmental consequences of the action. Such approval shall be incorporated in a certificate appended to the agreement. No such agreement shall be approved unless at least 1 of the parties is a holder of a Federal lease embracing lands being committed to the agreement and unless the parties signatory to the agreement hold sufficient interests in the area to give effective control of operations therein.

[48 FR 44793, Sept. 30, 1983]

§ 3283.2–2 Review of executed agreement.

No more than 5 years after approval of any cooperative or unit plan of development or operation, and at least every 5 years thereafter, the authorized officer shall review each plan and, after notice and opportunity for comment, eliminate from such plan any lease or part of a lease not regarded as reasonably necessary for cooperative or unit operations under the plan. Such elimination shall be based on scientific evidence, and shall occur only when it is determined by the authorized officer to be for the purpose of conserving and properly managing the geothermal resource.

[54 FR 13887, Apr. 6, 1989 and 55 FR 26443, June 28, 1990]

§ 3283.3 Participating area.

Each application for approval of a participating area, or revision thereof, shall be accompanied by 3 copies of a substantiating geologic and engineering report, structure contour map(s), cross-section or other pertinent data.

[48 FR 44793, Sept. 30, 1983]

§ 3283.4 Plan of development.

Plans of development and operation, plans of further development and operation and proposed participating areas and revisions thereof shall be submitted in quadruplicate.

[48 FR 44793, Sept. 30, 1983]

§ 3283.5 Return of approved documents.

All instruments or documents other than plans of development and operation, plans of further development and operation and proposed participating areas and revisions thereof submitted for approval shall be submitted for approval in sufficient number to permit the approving official to return at least 1 approved counterpart.

[48 FR 44793, Sept. 30, 1983]

Subpart 3284 [Reserved]

Subpart 3285—Appeals

§ 3285.1 Appeals.

Appeals from final orders or decisions issued under the regulations in this part shall be made in the manner provided in Part 4 of this title.

Subpart 3286—Model Forms

§ 3286.1 Model unit agreement: Unproven areas.

UNIT AGREEMENT FOR THE DEVELOPMENT AND OPERATION OF THE_____UNIT AREA COUNTY OF_____STATE OF_____

Table of Contents

Article

I Enabling Act and regulations.
II Definitions.
III Unit area and exhibits.
IV Contraction and expansion of unit area.
V Unitized land and unitized substances.
VI Unit operator.
VII Resignation or removal of unit operator.
VIII Successor unit operator.
IX Accounting provisions and unit operating agreement.
X Rights and obligations of unit operator.
XI Plan of operation.
XII Participating areas.
XIII Allocation of unitized substances.
XIV Relinquishment of leases.
XV Rentals and minimum royalties.
XVI Operations on nonparticipating land.
XVII Leases and contracts conformed and extended.
XVIII Effective date and term.
XIX Appearances.
XX No waiver of certain rights.

XXI Unavoidable delay.
XXII Postponement of obligations.
XXIII Nondiscrimination.
XXIV Counterparts.
XXV Subsequent joinder.
XXVI Covenants run with the land.
XXVII Notices.
XXVIII Loss of title.
XXIX Taxes.
XXX Relation of parties.
XXXI Special Federal lease stipulation and/or conditions.

_____UNIT AGREEMENT_____COUNTY

This Agreement entered into as of the_____day of _____, 19___, by and between the parties subscribing, ratifying, or consenting hereto, and herein referred to as the ''parties hereto''.

WITNESSETH: Whereas the parties hereto are the owners of working, royalty, or other geothermal resources interests in land subject to this Agreement; and

Whereas the Geothermal Steam Act of 1970 (84 Stat. 1566), hereinafter referred to as the ''Act'', authorizes Federal lessees and their representatives to unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of any geothermal resources pool, field, or like area, or any part thereof, for the purpose of more properly conserving the natural resources thereof, whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest; and

Whereas the parties hereto hold sufficient interest in the _____ Unit Area covering the land herein described to effectively control operations therein; and

Whereas, it is the purpose of the parties hereto to conserve natural resources, prevent waste, and secure other benefits obtainable through development and operations of the area subject to this Agreement under the terms, conditions, and limitations herein set forth;

Now, therefore, in consideration of the premises and the promises herein contained, the parties hereto commit to this agreement their respective interests in the below-defined Unit Area, and agree severally among themselves as follows:

ARTICLE I—ENABLING ACT AND REGULATIONS

1.1 The Act and all valid pertinent regulations, including operating and unit plan regulations, heretofore or hereafter issued thereunder are accepted and made a part of this agreement as to Federal lands.

1.2 As to non-Federal lands, the geothermal resources operating regulations in effect as of the effective date hereof governing drilling and producing operations, not inconsistent with the laws of the State in which the non-Federal land is located, are hereby accepted and made a part of this agreement.

ARTICLE II—DEFINITIONS

2.1 The following terms shall have the meanings here indicated:

(a) *Geothermal lease.* A lease issued under the act of December 24, 1970 (84 Stat. 1566), pursuant to the leasing regulations contained in 43 CFR Group 3200 and, unless the context indicates otherwise, ''lease'' shall mean a geothermal lease.

(b) *Unit area.* The area described in Article III of this Agreement.

(c) *Unit operator.* The person, association, partnership, corporation, or other business entity designated under this Agreement to conduct operations on Unitized Land as specified herein.

(d) *Participating area.* That part of the Unit Area which is deemed to be productive from a horizon or deposit and to which production would be allocated in the manner described in the unit agreement assuming that all lands are committed to the unit agreement.

(e) *Working interest.* The interest held in geothermal resources or in lands containing the same by virtue of a lease, operating agreement, fee title, or otherwise, under which, except as otherwise provided in this Agreement, the owner of such interest is vested with the right to explore for, develop, produce and utilize such resources. The right delegated to the Unit Operator as such by this Agreement is not to be regarded as a Working Interest.

(f) *Secretary.* The Secretary of the Interior or any person duly authorized to exercise powers vested in that officer.

(g) *Director.* The Director of the Bureau of Land Management.

(h) *Authorized officer.* Any person authorized by law or by lawful delegation of authority in the Bureau of Land Management to perform the duties described.

ARTICLE III—UNIT AREA AND EXHIBITS

3.1 The area specified on the map attached hereto marked ''Exhibit A'' is hereby designated and recognized as constituting the Unit Area, containing_____acres, more or less.

The above-described Unit Area shall when practicable be expanded to include therein any additional lands or shall be contracted to exclude lands whenever such expansion or contraction is deemed to be necessary or advisable to conform with the purposes of this Agreement.

3.2 Exhibit A attached hereto and made a part hereof is a map showing the boundary of the Unit Area, the boundaries and identity of tracts and leases in said area to the extent known to the Unit Operator.

3.3 Exhibit B attached hereto and made a part thereof is a schedule showing to the extent known to the Unit Operator the acreage, percentage, and kind of ownership of geothermal resources interests in all lands in the Unit Area.

3.4 Exhibits A and B shall be revised by the Unit Operator whenever changes in the Unit Area render such revision necessary, or when requested by the authorized officer, and not less than five copies of the revised Exhibits shall be filed with the authorized officer.

ARTICLE IV—CONTRACTION AND EXPANSION OF UNIT AREA

4.1 Unless otherwise specified herein, the expansion and/or contraction of the Unit Area contemplated in Article 3.1 hereof shall be effected in the following manner:

(a) Unit Operator either on demand of the Director or on its own motion and after prior concurrence by the Director, shall prepare a notice of proposed expansion or contraction describing the contemplated changes in the boundaries of the Unit Area, the reasons therefor, and the proposed effective date thereof, preferably the first day of a month subsequent to the date of notice.

(b) Said notice shall be delivered to the authorized officer, and copies thereof mailed to the last known address of each Working Interest Owner, Lessee, and Lessor whose interests are affected, advising that 30 days will be allowed for submission to the Unit Operator of any objections.

(c) Upon expiration of the 30-day period provided in the preceding item (b) hereof, Unit Operator shall file with the authorized officer evidence of mailing of the notice of expansion or contraction and a copy of any objections thereto which have been filed with the Unit Operator, together with an application in sufficient number, for approval of such expansion or contraction and with appropriate joinders.

(d) After due consideration of all pertinent information, the expansion or contraction shall, upon approval by the authorized officer, become effective as of the date prescribed in the notice thereof.

4.2 Unitized Leases, insofar as they cover any lands which are excluded from the Unit Area under any of the provisions of this Article IV may be maintained and continued in force and effect in accordance with the terms, provisions, and conditions contained in the Act, and the lease or leases and amendments thereto, except that operations and/or production under this Unit Agreement shall not serve to maintain or continue the excluded portion of any lease.

4.3 All legal subdivisions of unitized lands (i.e., 40 acres by Governmental survey or its nearest lot or tract equivalent in instances of irregular surveys), no part of which is entitled to be within a Participating Area on the fifth anniversary of the effective date of the initial Participating Area established under this Agreement, shall be eliminated automatically from this Agreement effective as of said fifth anniversary and such lands shall no longer be a part of the Unit Area and shall no longer be subject to this Agreement unless diligent drilling operations are in progress on an exploratory well on said fifth anniversary, in which event such lands shall not be eliminated from the Unit Area for as long as exploratory drilling operations are continued diligently with not more than four (4) months time elapsing between the completion of one exploratory well and the commencement of the next exploratory well.

4.4 An exploratory well, for the purposes of this Article IV is defined as any well, regardless of surface location, projected for completion in a zone or deposit below any zone or deposit for which a Participating Area has been established and is in effect, or any well, regardless of surface location, projected for completion at a subsurface location under Unitized Lands not entitled to be within a Participating Area.

4.5 In the event an exploratory well is completed during the four (4) months immediately preceding the fifth anniversary of the initial Participating Area established under this Agreement, lands not entitled to be within a Participating Area shall not be eliminated from this Agreement on said fifth anniversary, provided the drilling of another exploratory well is commenced under an approved Plan of Operation within four (4) months after the completion of said well. In such event, the land not entitled to be in participation shall not be eliminated from the Unit Area so long as exploratory drilling operations are continued diligently with not more than four (4) months time elapsing between the completion of one exploratory well and the commencement of the next exploratory well.

4.6 With prior approval of the authorized officer, a period of time in excess of four (4) months may be allowed to elapse between the completion of one well and the commencement of the next well without the automatic elimination of nonparticipating acreage.

4.7 Unitized lands proved productive by drilling operations which serve to delay automatic elimination of lands under this Article IV shall be incorporated into a Participating Area (or Areas) in the same manner as such lands would have been incorporated in such areas had such lands been proven productive during the year preceding said fifth anniversary.

4.8 In the event nonparticipating lands are retained under this Agreement after the fifth anniversary of the initial Participating Area as a result of exploratory drilling operations, all legal subdivisions of unitized land (i.e., 40 acres by Government survey or its

nearest lot or tract equivalent in instances of irregular Surveys), no part of which is entitled to be within a Participating Area shall be eliminated automatically as of the 121 day, or such later date as may be established by the authorized officer, following the completion of the last well recognized as delaying such automatic elimination beyond the fifth anniversary of the initial Participating Area established under this Agreement.

ARTICLE V—UNITIZED LAND AND UNITIZED SUBSTANCES

5.1 All land committed to this Agreement shall constitute land referred to herein as ''Unitized Land''. All geothermal resources in and produced from any and all formations of the Unitized Land are unitized under the terms of this agreement and herein are called ''Unitized Substances.''

ARTICLE VI—UNIT OPERATOR

6.1 _____ is hereby designated as Unit Operator and by signature hereto as Unit Operator agrees and consents to accept the duties and obligations of Unit Operator for the discovery, development, production, distribution and utilization of Unitized Substances as herein provided. Whenever reference is made herein to the Unit Operator, such reference means the Unit Operator acting in that capacity and not as an owner of interest in Unitized Substances, and the term ''Working Interest Owner'' when used herein shall include or refer to Unit Operator as the owner of a Working Interest when such an interest is owned by it.

ARTICLE VII—RESIGNATION OR REMOVAL OF UNIT OPERATOR

7.1 Prior to the establishment of a Participating Area, hereunder, Unit Operator shall have the right to resign. Such resignation shall not become effective so as to release Unit Operator from the duties and obligations of Unit Operator or terminate Unit Operators rights, as such, for a period of six (6) months after notice of its intention to resign has been served by Unit Operator on all Working Interest Owners and the authorized officer, nor until all wells then drilled hereunder are placed in a satisfactory condition for suspension or abandonment whichever is required by the authorized officer, unless a new Unit Operator shall have been selected and approved and shall have taken over and assumed the duties and obligations of Unit Operator prior to the expiration of said period.

7.2 After the establishment of a Participating Area hereunder Unit Operator shall have the right to resign in the manner and subject to the limitations provided in 7.1 above.

7.3 The Unit Operator may, upon default or failure in the performance of its duties or obligations hereunder, be subject to removal by the same percentage vote of the owners of Working Interests as herein provided for the selection of a new Unit Operator. Such removal shall be effective upon notice thereof to the authorized officer.

7.4 The resignation or removal of Unit Operator under this Agreement shall not terminate its right, title, or interest as the owner of a Working Interest or other interest in Unitized Substances, but upon the resignation or removal of Unit Operator becoming effective, such Unit Operator shall deliver possession of all wells, equipment, material, and appurtenances used in conducting the unit operations to the new duly qualified successor Unit Operator or, if no such new unit operator is elected, to the common agent appointed to represent the Working Interest Owners in any action taken hereunder to be used for the purpose of conducting operations hereunder.

7.5 In all instances of resignation or removal, until a successor Unit Operator is selected and approved as hereinafter provided, the Working Interest Owners shall be jointly responsible for performance of the duties and obligations of Unit Operator, and shall not later than 30 days before such resignation or removal becomes effective appoint a common agent to represent them in any action to be taken hereunder.

7.6 The resignation of Unit Operator shall not release Unit Operator from any liability for any default by it hereunder occurring prior to the effective date of its resignation.

ARTICLE VIII—SUCCESSOR UNIT OPERATOR

8.1 If, prior to the establishment of a Participating Area hereunder, the Unit Operator shall resign as Operator, or shall be removed as provided in Article VII, a successor Unit Operator may be selected by vote of the owners of a majority of the Working Interests in Unitized Substances, based on their respective shares, on an acreage basis, in the Unitized Land.

8.2 If, after the establishment of a Participating Area hereunder, the Unit Operator shall resign as Unit Operator, or shall be removed as provided in Article VII, a successor Unit Operator may be selected by vote of the owners of a majority of the Working Interests in Unitized Substances, based on their respective shares, on a participating acreage basis. Provided, that, if a majority but less than 60 percent of the Working Interest in the Participating Lands is owned by the party to this agreement, a concurring vote of one or more additional Working Interest Owners owning 10 percent or more of the Working Interest in the participating land shall be required to select a new Unit Operator.

8.3 The selection of a successor Unit Operator shall not become effective until:

(a) The Unit Operator so selected shall accept in writing the duties, obligations and responsibilities of the Unit Operator, and

(b) The selection shall have been approved by the authorized officer.

8.4 If no successor Unit Operator is selected and qualified as herein provided, the Director at his election may declare this Agreement terminated.

ARTICLE IX—ACCOUNTING PROVISIONS AND UNIT OPERATING AGREEMENT

9.1 Costs and expenses incurred by Unit Operator in conducting unit operations hereunder shall be paid and apportioned among and borne by the owners of Working Interests; all in accordance with the agreement or agreements entered into by and between the Unit Operator and the owners of Working Interests, whether one or more, separately or collectively.

9.2 Any agreement or agreements entered into between the Working Interest Owners and the Unit Operator as provided in this Article, whether one or more, are herein referred to as the ''Unit Operating Agreement''.

9.3 The Unit Operating Agreement shall provide the manner in which the Working Interest Owners shall be entitled to receive their respective share of the benefits accruing hereto in conformity with their underlying operating agreements, leases, or other contracts, and such other rights and obligations, as between Unit Operator and the Working Interest Owners.

9.4 Neither the Unit Operating Agreement nor any amendment thereto shall be deemed either to modify any of the terms and conditions of this Agreement or to relieve the Unit Operator of any right or obligation established under this Agreement.

9.5 In case of any inconsistency or conflict between this Agreement and the Unit Operating Agreement, this Agreement shall govern.

9.6 Three true copies of any Unit Operating Agreement executed pursuant to this Article IX shall be filed with the authorized officer prior to approval of this Agreement.

ARTICLE X—RIGHTS AND OBLIGATIONS OF UNIT OPERATOR

10.1 The right, privilege, and duty of exercising any and all rights of the parties hereto which are necessary or convenient for prospecting, producing, distributing or utilizing Unitized Substances are hereby delegated to and shall be exercised by the Unit Operator as provided in this Agreement in accordance with a Plan of Operations approved by the authorized officer.

10.2 Upon request by Unit Operator, acceptable evidence of title to geothermal resources interests in the Unitized Land shall be deposited with the Unit Operator, and together with this Agreement shall constitute and define the rights, privileges, and obligations of Unit Operator.

10.3 Nothing in this Agreement shall be construed to transfer title to any land or to any lease or operating agreement, it being understood that the Unit Operator, in its capacity as Unit Operator shall exercise the rights of possession and use vested in the parties hereto only for the purposes specified in this Agreement.

10.4 The Unit Operator shall take such measures as the authorized officer deems appropriate and adequate to prevent drainage of Unitized Substances from Unitized Land by wells on land not subject to this Agreement.

10.5 The Director is hereby vested with authority to alter or modify from time to time, in his discretion, the rate of prospecting and development and the quantity and rate of production under this Agreement.

ARTICLE XI—PLAN OF OPERATION

11.1 Concurrently with the submission of this Agreement for approval, Unit Operator shall submit an acceptable initial Plan of Operation. Said plan shall be as complete and adequate as the authorized officer may determine to be necessary for timely exploration and/or development and to insure proper protection of the environment and conservation of the natural resources of the Unit Area.

11.2 Prior to the expiration of the initial Plan of Operation, or any subsequent Plan of Operation, Unit Operator shall submit for approval of the authorized officer an acceptable subsequent Plan of Operation for the Unit Area which, when approved by the authorized officer, shall constitute the exploratory and/or development drilling and operating obligations of Unit Operators under this Agreement for the period specified therein.

11.3 Any plan of Operation submitted hereunder shall:

(a) Specify the number and locations of any wells to be drilled and the proposed order and time for such drilling, and

(b) To the extent practicable, specify the operating practices regarded as necessary and advisable for proper conservation of natural resources and protection of the environment in compliance with section 1.1.

11.4 The Plan of Operation submitted concurrently with this Agreement for approval shall prescribe that within six (6) months after the effective date hereof, the Unit Operator shall begin to drill an adequate test well at a location approved by the authorized officer, unless on such effective date a well is being drilled conformably with the terms, hereof, and thereafter continue such drilling diligently until the _____ formation has been tested or until at a lesser depth

unitized substances shall be discovered which can be produced in paying quantities (i.e., quantities sufficient to repay the costs of drilling, completing, and producing operations, with a reasonable profit) or the Unit Operator shall at any time establish to the satisfaction of the authorized officer that further drilling of said well would be unwarranted or impracticable, *Provided, however,* That Unit Operator shall not in any event be required to drill said well to a depth in excess of _____ feet.

11.5 The initial Plan of Operation and/or subsequent Plans of Operation submitted under this article shall provide that the Unit Operator shall initiate a continuous drilling program providing for drilling of no less than one well at a time, and allowing no more than six (6) months time to elapse between completion of one well and the beginning of the next well, until a well capable of producing Unitized Substances in paying quantities is completed to the satisfaction of the authorized officer or until it is reasonably proved that the Unitized Land is incapable of producing Unitized Substances in paying quantities in the formations drilled under this Agreement.

11.6 When warranted by unforeseen circumstances, the authorized officer may grant a single extension of any or all of the critical dates for exploratory drilling operations cited in the initial or subsequent Plans of Operation. No such extension shall exceed a period of four (4) months for each well, required by the initial Plan of Operation.

11.7 Until there is actual production of Unitized Substances, the failure of Unit Operator to timely drill any of the wells provided for in Plans of Operation required under this Article XI or to timely submit an acceptable subsequent Plan of Operations, shall, after notice of default or notice of prospective default to Unit Operator by the authorized officer and after failure of Unit Operator to remedy any actual default within a reasonable time (as determined by the authorized officer), result in automatic termination of this Agreement effective as of the date of the default, as determined by the authorized officer.

11.8 Separate Plans of Operations may be submitted for separate productive zones, subject to the approval of the authorized officer. Also subject to the approval of the authorized officer, Plans of Operation shall be modified or supplemented when necessary to meet changes in conditions or to protect the interest of all parties to this Agreement.

ARTICLE XII—PARTICIPATING AREAS

12.1 Prior to the commencement of production of Unitized Substances, the Unit Operator shall submit for approval by the authorized officer a schedule (or schedules) of all land then regarded as reasonably proved to be productive from a pool or deposit discovered or developed; all lands in said schedule (or schedules), on approval of the authorized officer, will constitute a Participating Area (or Areas) effective as of the date production commences or the effective date of this Unit Agreement, whichever is later. Said schedule (or schedules) shall also set forth the percentage of Unitized Substances to be allocated, as herein provided, to each tract in the Participating Area (or Areas) so established and shall govern the allocation of production commencing with the effective date of the Participating Area.

12.2 A separate Participating Area shall be established for each separate pool or deposit of Unitized Substances or for any group thereof which is produced as a single pool or deposit and any two or more Participating Areas so established may be combined into one, on approval of the authorized officer. The effective date of any Participating Area established after the commencement of actual production of Unitized Substances shall be the first of the month in which is obtained the knowledge or information on which the establishment of said Participating Area is based, unless a more appropriate effective date is proposed by the Unit Operator and approved by the authorized officer.

12.3 Any Participating Area (or Areas) established under 12.1 or 12.2 above shall, subject to the approval of the authorized officer, be revised from time to time to include additional land then regarded as reasonably proved to be productive from the pool or deposit for which the Participating Area was established or to include lands necessary to unit operations, or to exclude land then regarded as reasonably proved not to be productive from the pool or deposit for which the Participating Area was established or to exclude land not necessary to unit operations and the schedule (or schedules) of allocation percentages shall be revised accordingly.

12.4 Subject to the limitation cited in 12.1 hereof, the effective date of any revision of a Participating Area established under Articles 12.1 or 12.2 shall be the first of the month in which is obtained the knowledge or information on which such revision is predicated, provided, however, that a more appropriate effective date may be used if justified by the Unit Operator and approved by the authorized officer.

12.5 No land shall be excluded from a Participating Area on account of depletion of the Unitized Substances, except that any Participating Area established under the provisions of this Article XII shall terminate automatically whenever all operations are abandoned in the pool or deposit for which the Participating Area was established.

12.6 Nothing herein contained shall be construed as requiring any retroactive adjustment for production obtained prior to the effective date of the revision of a Participating Area.

ARTICLE XIII—ALLOCATION OF UNITIZED SUBSTANCES

13.1 All Unitized Substances produced from a Participating Area, established under this Agreement, shall be deemed to be produced equally on an acreage basis from the several tracts of Unitized Land within the Participating Area established for such production.

13.2 For the purpose of determining any benefits accruing under this Agreement, each Tract of Unitized Land shall have allocated to it such percentage of said production as the number of acres in the Tract included in the Participating Area bears to the total number of acres of Unitized Land in said Participating Area.

13.3 Allocation of production hereunder for purposes other than for settlement of the royalty obligations of the respective Working Interest Owners, shall be on the basis prescribed in the Unit Operating Agreement whether in conformity with the basis of allocation set forth above or otherwise.

13.4 The Unitized Substances produced from a Participating Area shall be allocated as provided herein regardless of whether any wells are drilled on any particular part or tract of said Participating Area.

ARTICLE XIV—RELINQUISHMENT OF LEASES

14.1 Pursuant to the provisions of the Federal leases and 43 CFR 3244.1, a lessee of record shall, subject to the provisions of the Unit Operating Agreement, have the right to relinquish any of its interests in leases committed hereto, in whole or in part; provided, that no relinquishment shall be made of interests in land within a Participating Area without the prior approval of the Director.

14.2 A Working Interest Owner may exercise the right to surrender, when such right is vested in it by any non-Federal lease, sublease, or operating agreement, provided that each party who will or might acquire the Working Interest in such lease by such surrender or by forfeiture is bound by the terms of this Agreement, and further provided that no relinquishment shall be made of such land within a Participating Area without the prior written consent of the non-Federal Lessor.

14.3 If, as the result of relinquishment, surrender, or forfeiture the Working Interests become vested in the fee owner or lessor of the Unitized Substances, such owner may:

(1) Accept those Working Interest rights and obligations subject to this Agreement and the Unit Operating Agreement; or

(2) Lease the portion of such land as is included in a Participating Area established hereunder, subject to this Agreement and the Unit Operating Agreement; and provide for the independent operation of any part of such land that is not then included within a Participating Area established hereunder.

14.4 If the fee owner or lessor of the Unitized Substances does not, (1) accept the Working Interest rights and obligations subject to this Agreement and the Unit Operating Agreement, or (2) lease such lands as provided in 14.3 above within six (6) months after the relinquished, surrendered, or forfeited Working Interest becomes vested in said fee owner or lessor, the Working Interest benefits and obligations accruing to such land under this Agreement and the Unit Operating Agreement shall be shared by the owners of the remaining unitized Working Interests in accordance with their respective Working Interest ownerships, and such owners of Working Interests shall compensate the fee owner or lessor of Unitized Substances in such lands by paying sums equal to the rentals, minimum royalties, and royalties applicable to such lands under the lease or leases in effect when the Working Interests were relinquished, surrendered, or forfeited.

14.5 Subject to the provisions of 14.4 above, an appropriate accounting and settlement shall be made for all benefits accruing to or payments and expenditures made or incurred on behalf of any surrendered or forfeited Working Interest subsequent to the date of surrender or forfeiture, and payment of any moneys found to be owing by such an accounting shall be made as between the parties within thirty (30) days.

14.6 In the event no Unit Operating Agreement is in existence and a mutually acceptable agreement cannot be consummated between the proper parties, the authorized officer may prescribe such reasonable and equitable conditions of agreement as he deems warranted under the circumstances.

14.7 The exercise of any right vested in a Working Interest Owner to reassign such Working Interest to the party from whom obtained shall be subject to the same conditions as set forth in this Article XIV in regard to the exercise of a right to surrender.

ARTICLE XV—RENTALS AND MINIMUM ROYALTIES

15.1 Any unitized lease on non-Federal land containing provisions which would terminate such lease unless drilling operations are commenced upon the land covered thereby within the time therein specified or rentals are paid for the privilege of deferring such drilling operations, the rentals required thereby shall, notwithstanding any other provisions of this Agreement, be deemed to

accrue as to the portion of the lease not included within a Participating Area and become payable during the term thereof as extended by this Agreement, and until the required drillings are commenced upon the land covered thereby.

15.2 Rentals are payable on Federal leases on or before the anniversary date of each lease year; minimum royalties accrue from the anniversary date of each lease year and are payable at the end of the lease year.

15.3 Beginning with the lease year commencing on or after _____ and for each lease year thereafter, rental or minimum royalty for lands of the United States subject to this Agreement shall be made on the following basis:

(a) An advance annual rental in the amount prescribed in unitized Federal leases, in no event creditable against production royalties, shall be paid for each acre or fraction thereof which is not within a Participating Area.

(b) A minimum royalty shall be charged at the beginning of each lease year (such minimum royalty to be due as of the last day of the lease year and payable within thirty (30) days thereafter) of $2 an acre or fraction thereof, for all Unitized Acreage within a Participating Area as of the beginning of the lease year. If there is production during the lease year the deficit, if any, between the actual royalty paid and the minimum royalty prescribed herein shall be paid.

15.4 Rental or minimum royalties due on leases committed hereto shall be paid by Working Interest Owners responsible therefor under existing contracts, laws, and regulations, or by the Unit Operator.

15.5 Settlement for royalty interest shall be made by Working Interest Owners responsible therefor under existing contracts, laws, and regulations, or by the Unit Operator, on or before the last day of each month for Unitized Substances produced during the preceding calendar month.

15.6 Royalty due the United States shall be computed as provided in the operating regulations and paid in value as to all Unitized Substances on the basis of the amounts thereof allocated to unitized Federal land as provided herein at the royalty rate or rates specified in the respective Federal leases.

15.7 Nothing herein contained shall operate to relieve the lessees of any land from their respective lease obligations for the payment of any rental, minimum royalty, or royalty due under their leases.

ARTICLE XVI—OPERATIONS ON NONPARTICIPATING LAND

16.1 Any party hereto owning or controlling the Working Interest in any Unitized Land having thereon a regular well location may, with the approval of the authorized officer and at such party's sole risk, costs, and expense, drill a well to test any formation of deposit for which a Participating Area has not been established or to test any formation or deposit for which a Participating Area has been established if such location is not within said Participating Area, unless within 30 days of receipt of notice from said party of his intention to drill the well, the Unit Operator elects and commences to drill such a well in like manner as other wells are drilled by the Unit Operator under this Agreement.

16.2 If any well drilled by a Working Interest Owner other than the Unit Operator proves that the land upon which said well is situated may properly be included in a Participating Area, such Participating Area shall be established or enlarged as provided in this Agreement and the well shall thereafter be operated by the Unit Operator in accordance with the terms of this Agreement and the Unit Operating Agreement.

ARTICLE XVII—LEASES AND CONTRACTS CONFORMED AND EXTENDED

17.1 The terms, conditions, and provisions of all leases, subleases, and other contracts relating to exploration, drilling, development, or utilization of geothermal resources on lands committed to this Agreement, are hereby expressly modified and amended only to the extent necessary to make the same conform to the provisions hereof, otherwise said leases, subleases, and contracts shall remain in full force and effect.

17.2 The parties hereto consent that the Secretary shall, by his approval hereof, modify and amend the Federal leases committed hereto and the regulations in respect thereto to the extent necessary to conform said leases and regulations to the provisions of this Agreement.

17.3 The development and/or operation of lands subject to this Agreement under the terms hereof shall be deemed full performance of any obligations for development and operation with respect to each and every separately owned tract subject to this Agreement, regardless of whether there is any development of any particular tract of the Unit Area.

17.4 Drilling and/or producing operations performed hereunder upon any tract of Unitized Lands will be accepted and deemed to be performed upon and for the benefit of each and every tract of Unitized Land.

17.5 Suspension of operations and/or production on all Unitized Lands pursuant to direction or consent of the Secretary or his duly authorized representative shall be deemed to constitute such suspension pursuant to such direction or consent as to each and every tract of Unitized Land. A suspension of operations and/or production limited to specified lands shall be applicable only to such lands.

17.6 Subject to the provisions of Article XV hereof and 17.10 of this Article, each lease, sublease, or contract relating to the

exploration, drilling, development, or utilization of geothermal resources of lands other than those of the United States committed to this Agreement, is hereby extended beyond any such term so provided therein so that it shall be continued for and during the term of this Agreement.

17.7 Subject to the lease renewal and the readjustment provision of the Act, any Federal lease committed hereto may, as to the Unitized Lands, be continued for the term so provided therein, or as extended by law. This subsection shall not operate to extend any lease or portion thereof as to lands excluded from the Unit Area by the contraction thereof.

17.8 Each sublease or contract relating to the operations and development of Unitized Substances from lands of the United States committed to this Agreement shall be continued in force and effect for and during the term of the underlying lease.

17.9 Any Federal lease heretofore or hereafter committed to any such unit plan embracing lands that are in part within and in part outside of the area covered by any such plan shall be segregated into separate leases as to the lands committed and the lands not committed as of the effective date of unitization.

17.10 In the absence of any specific lease provision to the contrary, any lease, other than a Federal lease, having only a portion of its land committed hereto shall be segregated as to the portion committed and the portion not committed, and the provisions of such lease shall apply separately to such segregated portions commencing as of the effective date hereof. In the event any such lease provides for a lump-sum rental payment, such payment shall be prorated between the portions so segregated in proportion to the acreage of the respective tracts.

17.11 Upon termination of this Agreement, the leases covered hereby may be maintained and continued in force and effect in accordance with the terms, provisions, and conditions of the Act, the lease or leases, and amendments thereto.

ARTICLE XVIII—EFFECTIVE DATE AND TERM

18.1 This Agreement shall become effective upon approval by the Secretary or his duly authorized representative and shall terminate five (5) years from said effective date unless,

(a) Such date of expiration is extended by the Director, or

(b) Unitized Substances are produced or utilized in commercial quantities in which event this Agreement shall continue for so long as Unitized Substances are produced or utilized in commercial quantities, or

(c) This Agreement is terminated prior to the end of said five (5) year period as heretofore provided.

18.2 This Agreement may be terminated at any time by the owners of a majority of the Working Interests, on an acreage basis, with the approval of the authorized officer. Notice of any such approval shall be given by the Unit Operator to all parties hereto.

ARTICLE XIX—APPEARANCES

19.1 Unit Operator shall, after notice to other parties affected, have the right to appear for and on behalf of any and all interests affected hereby before the Department of the Interior, and to appeal from decisions, orders or rulings issued under the regulations of said Department, or to apply for relief from any of said regulations or in any proceedings relative to operations before the Department of the Interior or any other legally constituted authority: *Provided*, *however*, That any interested parties shall also have the right, at its own expenses, to be heard in any such proceeding.

ARTICLE XX—NO WAIVER OF CERTAIN RIGHTS

20.1 Nothing contained in this Agreement shall be construed as a waiver by any party hereto of the right to assert any legal or constitutional right or defense pertaining to the validity or invalidity of any law of the State wherein lands subject to this Agreement are located, or of the United States, or regulations issued thereunder, in any way affecting such party or as a waiver by any such party of any right beyond his or its authority to waive.

ARTICLE XXI—UNAVOIDABLE DELAY

21.1 The obligations imposed by this Agreement requiring Unit Operator to commence or continue drilling or to produce or utilize Unitized Substances from any of the land covered by this Agreement, shall be suspended while, but only so long as, Unit Operator, despite the exercise of due care and diligence, is prevented from complying with such obligations, in whole or in part, by strikes, Acts of God, Federal or other applicable law, Federal or other authorized governmental agencies, unavoidable accidents, uncontrollable delays in transportation, inability to obtain necessary materials in open market, or other matters beyond the reasonable control of Unit Operator, whether similar to matters herein enumerated or not.

21.2 No unit obligation which is suspended under this section shall become due less than thirty (30) days after it has been determined that the suspension is no longer applicable.

21.3 Determination of creditable ''Unavoidable Delay'' time shall be made by the Unit Operator subject to approval of the authorized officer.

ARTICLE XXII—POSTPONEMENT OF OBLIGATIONS

22.1 Notwithstanding any other provisions of this Agreement, the Director, on his own

initiative or upon appropriate justification by Unit Operator, may postpone any obligation established by and under this Agreement to commence or continue drilling or to operate on or produce Unitized Substances from lands covered by this Agreement when in his judgement, circumstances warrant such action.

ARTICLE XXIII—NONDISCRIMINATION

23.1 In connection with the performance of work under this Agreement, the Operator agrees to comply with all of the provisions of section 202 (1) to (7) inclusive, of Executive Order 11246 (30 FR 12319), as amended by Executive Order 11375 (32 FR 14303), which are hereby incorporated by reference in this Agreement.

ARTICLE XXIV—COUNTERPARTS

24.1 This Agreement may be executed in any number of counterparts no one of which needs to be executed by all parties, or may be ratified or consented to by separate instruments in writing specifically referring hereto, and shall be binding upon all parties who have executed such a counterpart, ratification or consent hereto, with the same force and effect as if all such parties had signed the same document.

ARTICLE XXV—SUBSEQUENT JOINDER

25.1 If the owner of any substantial interest in geothermal resources under a tract within the Unit Area fails or refuses to subscribe or consent to this Agreement, the owner of the Working Interest in that tract may withdraw said tract from this Agreement by written notice delivered to the authorized officer and the Unit Operator prior to the approval of this Agreement by the authorized officer.

25.2 Any geothermal resources interests in lands within the Unit Area not committed hereto prior to approval of this Agreement may thereafter be committed by the owner or owners thereof subscribing or consenting to this Agreement, and, if the interest is a Working Interest, by the owner of such interest also subscribing to the Unit Operating Agreement.

25.3 After operations are commenced hereunder, the right of subsequent joinder, as provided in this Article XXV, by a working Interest Owner is subject to such requirements or approvals, if any, pertaining to such joinder, as may be provided for in the Unit Operating Agreement. Joinder to the Unit Agreement by a Working Interest Owner, at any time, must be accompanied by appropriate joinder to the Unit Operating Agreement, if more than one committed Working Interest Owner is involved, in order for the interest to be regarded as committed to this Unit Agreement.

25.4 After final approval hereof, joinder by a nonworking interest owner must be consented to in writing by the Working Interest Owner committed hereto and responsible for the payment of any benefits that may accrue hereunder in behalf of such nonworking interest. A nonworking interest may not be committed to this Agreement unless the corresponding Working Interest is committed hereto.

25.5 Except as may otherwise herein be provided, subsequent joinders to this Agreement shall be effective as of the first day of the month following the filing with the authorized officer of duly executed counterparts of all or any papers necessary to establish effective commitment of any tract to this Agreement unless objection to such joinder is duly made within sixty (60) days by the authorized officer.

ARTICLE XXVI—COVENANTS RUN WITH THE LAND

26.1 The covenants herein shall be construed to be covenants running with the land with respect to the interest of the parties hereto and their successors in interest until this Agreement terminates, and any grant, transfer, or conveyance, of interest in land or leases subject hereto shall be and hereby is conditioned upon the assumption of all privileges and obligations hereunder by the grantee, transferee, or other successor in interest.

26.2 No assignment or transfer of any Working Interest or other interest subject hereto shall be binding upon Unit Operator until the first day of the calendar month after Unit Operator is furnished with the original, photostatic, or certified copy of the instrument of transfer.

ARTICLE XXVII—NOTICES

27.1 All notices, demands or statements required hereunder to be given or rendered to the parties hereto shall be deemed fully given if given in writing and personally delivered to the party or sent by postpaid registered or certified mail, addressed to such party or parties at their respective addresses set forth in connection with the signatures hereto or to the ratification or consent hereof or to such other address as any such party may have furnished in writing to party sending the notice, demand or statement.

ARTICLE XXVIII—LOSS OF TITLE

28.1 In the event title to any tract of Unitized Land shall fail and the true owner cannot be induced to join in this Agreement, such tract shall be automatically regarded as not committed hereto and there shall be such readjustment of future costs and benefits as may be required on account of the loss of such title.

28.2 In the event of a dispute as to title as to any royalty, Working Interest, or other

interests subject hereto, payment or delivery on account thereof may be withheld without liability for interest until the dispute is finally settled: *Provided*, That, as to Federal land or leases, no payments of funds due the United States shall be withheld, but such funds shall be deposited as directed by the authorized officer to be held as unearned money pending final settlement of the title dispute, and then applied as earned or returned in accordance with such final settlement.

ARTICLE XXIX—TAXES

29.1 The Working Interest Owners shall render and pay for their accounts and the accounts of the owners of nonworking interests all valid taxes on or measured by the Unitized Substances in and under or that may be produced, gathered, and sold or utilized from the land subject to this Agreement after the effective date hereof.

29.2 The Working Interest Owners on each tract may charge a proper proportion of the taxes paid under 29.1 hereof to the owners of nonworking interests in said tract, and may reduce the allocated share of each royalty owner for taxes so paid. No taxes shall be charged to the United States or the State of _____ or to any lessor who has a contract with his lessee which requires the lessee to pay such taxes.

ARTICLE XXX—RELATION OF PARTIES

30.1 It is expressly agreed that the relation of the parties hereto is that of independent contractors and nothing in this Agreement contained, expressed, or implied, nor any operations conducted hereunder, shall create or be deemed to have created a partnership or association between the parties hereto or any of them.

ARTICLE XXXI—SPECIAL FEDERAL LEASE STIPULATIONS AND/OR CONDITIONS

31.1 Nothing in this Agreement shall modify special lease stipulations and/or conditions applicable to lands of the United States. No modification of the conditions necessary to protect the lands or functions of lands under the jurisdiction of any Federal agency is authorized except with prior consent in writing whereby the authorizing official specifies the modification permitted.

In witness whereof, the parties hereto have caused this Agreement to be executed and have set opposite their respective names the date of execution.

Unit operator (as unit operator and as working interest owner) _____

Witnesses:

Witnesses:

By _____

Working Interest Owners:

Witnesses:

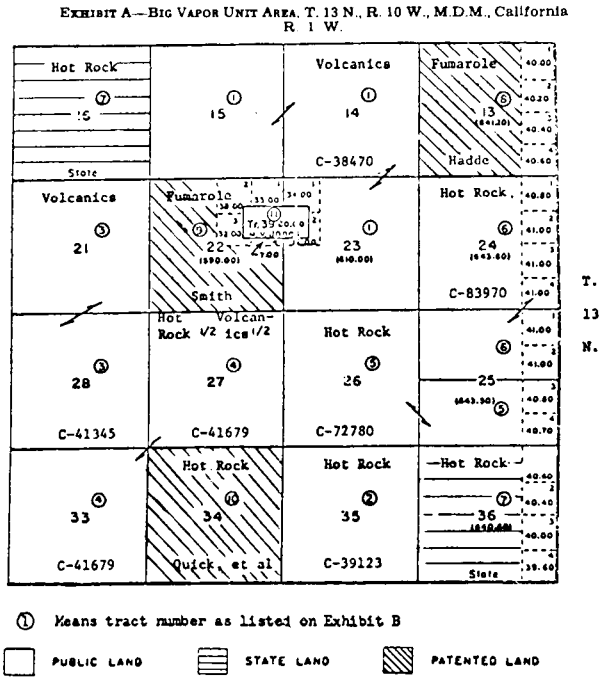
By _____

Other Interest Owners:

By _____

[38 FR 35073, Dec. 21, 1973. Redesignated and amended at 48 FR 44792, 44793, Sept. 30, 1983]

§ 3286.1–1 Model Exhibit "A".



[38 FR 35073, Dec. 21, 1973. Redesignated and amended at 48 FR 44792, 44794, Sept. 30, 1983]

§ 3286.1–2 Model Exhibit "B".

EXHIBIT B—BIG VAPOR UNIT AREA, NAPA COUNTY, CALIF., T. 13 N., R. 10 W.

Tract No.	Description of land	Number of acres	Serial number and expiration date of lease	Basic royalty and ownership percentage	Lessee of record	Working interest and percentage
	Federal land	*serials*	*California.*			
1	Sec. 14: All Sec. 15: All Sec. 23: Lots 1, 2, S½, NE¼, E½NW¼.	1,890.00	38470 7–31–82.	United States: All	Volcanics, Inc	Volcanics, Inc: All.
2	Sec. 35: All	640.00	39123 7–31–82.	do	D. H. Boiler	Hot Rock Co.: All.
3	Sec. 21: All	1,280.00	41345	do	C. S. Waters—50%	Volcanics, Co.: 50%.
	Sec. 28: All		7–31–81		D. F. Mann—50%	Hot Rock Co.: 50%.
4	Sec. 27: All Sec. 33: All.	1,280.00	41679	do	H. C. Pipes	Fumarole, Ltd.: All.
5	Sec. 26: All Sec. 25: S½.	961.50	71278	do	Hot Rock Co	Hot Rock Co.: All.
6	Sec. 24: All Sec. 25: N½	965.80	83970 Appl..	do	H. C. Pipes	Do.
6 Federal tracts 7,017.30 acres or 68.47% of unit area.						
	California. State land.					
7	Sec. 16: All	1,280.60	65–67430	State of California: All	Hot Rock Co	Hot Rock Co.: All.

EXHIBIT B—BIG VAPOR UNIT AREA, NAPA COUNTY, CALIF., T. 13 N., R. 10 W.—Continued

Tract No.	Description of land	Number of acres	Serial number and expiration date of lease	Basic royalty and ownership percentage	Lessee of record	Working interest and percentage
.....	Sec. 36: All.					
1 State tract 1,280.60 acres or 12.49% of unit area.						
	Patented land.					
8	Sec. 13: All	641.20	6–30–79	I. B. Hadde: All	Fumarole, Ltd	Fumarole, Ltd.: All.
9	Sec. 22: Lots 1, 2, 3, 4, S½, NW¼.	590.00	2–28–81	J. P. Smith: All	.....do	Do.
10	Sec. 34: All	640.00	3–31–81	A. G. Quick: 75% ..... P. T. Land: 25%.	Hot Rock Co	Hot Rock Co.: All.
11	Tract 39	80.00	4–30–81	M. V. Jones: All	Unleased	M. V. Jones: All.
4 Patented tracts 1.951.20 acres or 19.04% of unit area.						

Total—11 tracts 10, 249.10 acres in entire unit area.

§ 3286.2 Model unit bond.

COLLECTIVE CORPORATE SURETY

Know all men by these presents, That we, _____ (Name of Unit Operator) signing as Principal, for and on behalf of the record owners of unitized substances now or hereafter covered by the unit agreement for this _____ (Name of Unit) approved _____, (Date) _____, (Name and address of Surety) as Surety are jointly and severally held and firmly bound unto the United States of America in the sum of _____ (Amount of bond) Dollars, lawful money of the United States, for the use and benefit of and to be paid to the United States and any entryman or patentee of any portion of the unitized land, heretofore entered or patented with the reservation of the geothermal resources deposits to the United States, for which payment well and truly to be made, we bind ourselves, and each of us, and each of our heirs, executors, administrators, successors, and assigns by these presents.

The condition of the foregoing obligation is such that, whereas the Secretary on _____ (Date) approved under the provisions of the Geothermal Steam Act of 1970, a unit agreement for the development and operation of the _____ (Name of Unit and State); and

Whereas said Principal and record owners of unitized substances, pursuant to said unit agreement, have entered into certain covenants and agreements as set forth therein, under which operations are to be conducted; and

Whereas said Principal as Unit Operator has assumed the duties and obligations of the respective owners of unitized substances as defined in said unit agreement; and

Whereas said Principal and surety agree to remain bound in the full amount of the bond for failure to comply with the terms of the unit agreement, and the payment of rentals, minimum royalties, and royalties due under the Federal leases committed to said unit agreement; and

Whereas the Surety hereby waives any right of notice of and agrees that this bond may remain in force and effect notwithstanding:

(a) Any additions to or change in the ownership of the unitized substances herein described.

(b) Any suspension of the drilling or producing requirements or waiver, suspension or reduction of rental or minimum royalty payments or reduction of royalties pursuant to applicable laws or regulations thereunder; and

Whereas said Principal and Surety agree to the payment of compensatory royalty under the regulations of the Interior Department in lieu of drilling necessary offset wells in the event of drainage; and

Whereas nothing herein contained shall preclude the United States from requiring an additional bond at any time when deemed necessary:

Now, therefore, if the said Principal shall faithfully comply with all of the provisions of the above-identified unit agreement and with the terms of the leases committed thereto, then the above obligation is to be of no effect; otherwise to remain in full force and virtue.

Signed, sealed, and delivered this _____day of _____, 19___, in the presence of:

Witnesses:

_____

(Principal)

_____

(Surety)

[38 FR 35073, Dec. 21, 1973. Redesignated and amended at 48 FR 44792, 44794, Sept. 30, 1983]

§ 3286.3 Model designation of successor operator.

Designation of successor Unit Operator _____, Unit Area, County of _____, State of _____, No. _____.

This indenture, dated as of the _____ day of _____, 19___, by and between _____, hereinafter designated as ''First Party,'' and the owners of unitized working interest, hereinafter designated as ''Second Parties.''

Witnesseth: Whereas under the provisions of the Geothermal Steam Act of December 24, 1970, 84 Stat. 1566, the Secretary on the _____ day of _____, 19___, approved a unit agreement for the _____ Unit Area, wherein _____ is designated as Unit Operator; and

Whereas said _____ has resigned as such Operator,[1] and the designation of a successor Unit Operator is now required pursuant to the terms thereof; and

Whereas First Party has been and hereby is designated by Second Parties as a Unit Operator, and said First Party desires to assume all the rights, duties, and obligations of Unit Operator under the said unit agreement.

Now, therefore, in consideration of the premises hereinbefore set forth and the promises hereinafter stated, the First Party hereby covenants and agrees to fulfill the duties and assume the obligations of Unit Operator under and pursuant to all the terms of the _____ unit agreement, and the Second Parties covenant and agree that, effective upon approval of this indenture by the authorized officer, of the Minerals Management Service, First Party shall be granted the exclusive right and privilege of exercising any and all rights and privileges and Unit Operator, pursuant to the terms and conditions of said unit agreement; said unit agreement being hereby incorporated herein by references and made a part hereof as fully and effectively as though said unit agreement were expressly set forth in this instrument.

In witness whereof, the parties hereto have executed this instrument as of the date hereinabove set forth.

_____
(First Party)

_____
(Witnesses)

_____
(Second Party)

_____
(Witnesses)

[1] Where the designation of a successor Unit Operator is required for any reason other than resignation, such reason shall be substituted for the one stated.

I hereby approve the foregoing indenture designating _____ as Unit Operator under the unit agreement for the _____Unit Area, this _____ day of _____, 19___.

_____
Authorized Officer,
Bureau of Land Management.

[38 FR 35073, Dec. 21, 1973. Redesignated and amended at 48 FR 44792, 44794, Sept. 30, 1983]

§ 3286.4 Model change of operator by assignment.

Change in Unit Operator _____ unit Area, County of _____, State of _____, No. _____.

This indenture, dated as of the _____ day of _____, 19___, by and between _____ hereinafter designated as ''First Party,'' and _____, hereinafter designated as ''Second Party.''

Witnesseth: Whereas under the provisions of the Geothermal Steam Act of December 24, 1970, 84 Stat. 1566, the Secretary on the _____ day of _____, 19___, approved a unit agreement for the _____ Unit Area, wherein the First Party is designated as Unit Operator; and

Whereas the First Party desires to transfer, assign, release, and quitclaim, and the Second Party desires to assume all the rights, duties, and obligations of Unit Operator under the unit agreement; and

Whereas for sufficient and valuable consideration, the receipt whereof is hereby acknowledged, the First Party has transferred, conveyed and assigned all his/its rights under certain operating agreements involving lands within the area set forth in said unit agreement unto the Second Party:

Now, therefore, in consideration of the premises hereinbefore set forth, the First Party does hereby transfer, assign, release, and quitclaim unto Second Party all of First Party's rights, duties and obligations as Unit Operator under said unit agreement; and

Second Party hereby accept this assignment and hereby covenants and agrees to fulfill the duties and assume the obligations of Unit Operator under and pursuant to all the terms of said unit agreement to the full extent set forth in this assignment, effective upon approval of this indenture by the authorized officer of the Minerals Management Service; said unit agreement being hereby incorporated herein by reference and made a part hereof as fully and effectively as though said unit agreement were expressly set forth in this instrument.

In witness whereof, the parties hereto have executed this instrument as of the date hereinabove set forth.

_____
(First Party)

(Witnesses)

_____

(Second Party)

_____

(Witnesses)

I hereby approve the foregoing indenture designated _____ as Unit Operator under the unit agreement for the _____ Unit Area, this _____ day of _____, 19____.

_____

Authorized Officer,
Bureau of Land Management.

[38 FR 35073, Dec. 21, 1973. Redesignated and amended at 48 FR 44792, 44794, Sept. 30, 1983]

Group 3400—Coal Management

NOTE: The information collection requirements contained in parts 3400, 3410, 3420, 3430, 3450, 3460 and 3470 of Group 3400 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0073. The information is being collected to allow the authorized officer to determine if the applicant to lease, for or develop Federal coal is qualified to hold such lease. This information will be used in making those determinations. The obligation to respond is required to obtain a benefit.
(See 47 FR 33133, July 30, 1982)

PART 3400—COAL MANAGEMENT: GENERAL

Subpart 3400—Introduction: General

Sec.
3400.0–3 Authority.
3400.0–5 Definitions.
3400.1 Multiple development.
3400.2 Lands subject to leasing.
3400.3 Limitations on authority to lease.
3400.3–1 Consent or conditions of surface management agency.
3400.3–2 Department of Defense lands.
3400.3–3 Department of Agriculture lands.
3400.3–4 Trust protection lands.
3400.4 Federal/state government cooperation.
3400.5 Coal production regions.
3400.6 Minimum comment period.

AUTHORITY: 30 U.S.C. 189, 359, 1211, 1251, 1266, and 1273; and 43 U.S.C. 1461, 1733, and 1740.

SOURCE: 44 FR 42609, July 19, 1979, unless otherwise noted.

Subpart 3400—Introduction: General

§ 3400.0–3 Authority.

(a) These regulations are issued under the authority of and to implement provisions of:

(1) The Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 *et seq.)*.

(2) The Mineral Leasing Act for Acquired Lands of August 7, 1947, as amended (30 U.S.C. 351–359 *et seq.)*.

(3) The Federal Land Policy and Management Act of 1976, October 21, 1976 (43 U.S.C. 1701 *et seq.)*.

(4) The Surface Mining Control and Reclamation Act of 1977, August 3, 1977 (30 U.S.C. 1201 *et seq.)*.

(5) The Multiple Mineral Development Act of August 13, 1954 (30 U.S.C. 521–531 *et seq.)*.

(6) The Department of Energy Organization Act of August 4, 1977 (42 U.S.C. 7101 *et seq.)*.

(7) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.)*.

(8) The Federal Coal Leasing Amendments Act of 1976, as amended (90 Stat. 1083–1092).

(9) The Act of October 30, 1978 (92 Stat. 2073–2075).

(b) Specific citations of authority in subsequent subparts of this Group 3400 are to authorities from which the subpart is chiefly derived or which the subpart chiefly implements.

§ 3400.0–5 Definitions.

As used in this group:

(a) *Alluvial valley floor* has the meaning set forth in 30 CFR Chapter VII.

(b) *Authorized officer* means any employee of the Bureau of Land Management delegated the authority to perform the duty described in the section in which the term is used.

(c) *Bonus* means that value in excess of the rentals and royalties that accrues to the United States because of coal resource ownership that is paid as part of the consideration for receiving a lease.

(d) *Bypass coal* means an isolated coal deposit that cannot, for the foreseeable future, be mined economically and in an environmentally sound manner either separately or as part of any mining operation other than that of the

applicant for either an emergency lease under the provisions of § 3425.1–4 of this title or a lease modification.

(e) *Casual use* means activities which do not ordinarily lead to any appreciable disturbance or damage to lands, resources or improvements, for example, activities which do not involve use of heavy equipment or explosives and which do not involve vehicle movement except over already established roads and trails.

(f) *Certificate of bidding rights* means a right granted by the Secretary to apply the fair market value of a relinquished coal or other mineral lease or right to a preference right coal or other mineral lease as a credit against the bonus bid or bids on a competitive lease or leases acquired at a lease sale or sales, or as a credit against the payment required for a coal lease modification.

(g) *Coal deposits* mean all Federally owned coal deposits, except those held in trust for Indians.

(h) *Department* means the United States Department of the Interior.

(i) *Director* means the Director of the Bureau of Land Management unless otherwise indicated.

(j) *Environmental assessment* means a document prepared by the responsible Federal agency consistent with 40 CFR 1508.9.

(k) *Exploration* has the meaning set forth in § 3480.0–5(a)(17) of this title.

(l) *Exploration license* means a license issued by the authorized officer to permit the licensee to explore for coal on unleased Federal lands.

(m) *Exploration plan* has the meaning set forth in § 3480.0–5(a)(18) of this title.

(n) *Fair market value* means that amount in cash, or on terms reasonably equivalent to cash, for which in all probability the coal deposit would be sold or leased by a knowledgeable owner willing but not obligated to sell or lease to a knowledgeable purchaser who desires but is not obligated to buy or lease.

(o) *Federal lands* mean lands owned by the United States, without reference to how the lands were acquired or what Federal agency administers the lands, including surface estate, mineral estate and coal estate, but excluding lands held by the United States in trust for Indians, Aleuts or Eskimos.

(p) *Governmental entity* means a Federal or state agency or a political subdivision of a state, including a county or a municipality, or any corporation acting primarily as an agency or instrumentality of a state, which produces electrical energy for sale to the public.

(q) *Interest* in a lease, application or bid means: any record title interest, overriding royalty interest, working interest, operating rights or option, or any agreement covering such an interest; any claim or any prospective or future claim to an advantage or benefit from a lease; and any participation or any defined or undefined share in any increments, issues, or profits that may be derived from or that may accrue in any manner from the lease based on or pursuant to any agreement or understanding existing when the application was filed or entered into while the lease application or bid is pending. Stock ownership or stock control does not constitute an interest in a lease within the meaning of this definition. Attribution of acreage to stock ownership interests in leases is covered by § 3472.1–3(b) of this title.

(r) *Lease* means a Federal lease, issued under the coal leasing provisions of the mineral leasing laws, which grants the exclusive right to explore for and extract coal. In provisions of this group that also refer to Federal leases for minerals other than coal, the term *Federal coal lease* may apply.

(s) *Lease bond* means the bond or equivalent security given the Department to assure payment of all obligations under a lease, exploration license, or license to mine, and to assure that all aspects of the mining operation other than reclamation operations under a permit on a lease are conducted in conformity with the approved mining or exploration plan. This is the same as the *Federal lease bond* referred to in 30 CFR 742.11(a).

(t) *Licensee* means the holder of an exploration license.

(u) *License to mine* means a license issued under the provisions of part 3440 to mine coal for domestic use.

(v) *Logical Mining Unit* has the meaning set forth in § 3480.0–5(a)(22) of this title.

(w) *Logical Mining Unit reserves* has the meaning set forth in the term *logical mining unit recoverable coal reserves* in § 3480.0–5(a)(23) of this title.

(x) *Maximum economic recovery* has the meaning set forth in § 3480.0–5(a)(24) of this title.

(y) *Mineral leasing laws* mean the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*), and the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359).

(z) *Mining plan* means a resource recovery and protection plan as described in § 3480.0–5(a)(39) of this title.

(aa) *Mining Supervisor* means the authorized officer.

(bb) *Mining unit* means an area containing technically recoverable coal that will feasibly support a commercial mining operation. The coal may either be Federal coal or be both Federal and non-Federal coal.

(cc) *Operator* means a lessee, exploration licensee or one conducting operations on a lease or exploration license under the authority of the lessee or exploration licensee.

(dd) *Permit* has the meaning set forth in 30 CFR Chapter VII.

(ee) *Permit area* has the meaning set forth in 30 CFR Chapter VII.

(ff) *Public bodies* means Federal and state agencies; political subdivisions of a state, including counties and municipalities; rural electric cooperatives and similar organizations; and nonprofit corporations controlled by any such entities.

(gg) *Qualified surface owner* means the natural person or persons (or corporation, the majority stock of which is held by a person or persons otherwise meeting the requirements of this section) who:

(1) Hold legal or equitable title to the surface of split estate lands;

(2) Have their principal place of residence on the land, or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming and ranching operations; and

(3) Have met the conditions of paragraphs (gg) (1) and (2) of this section for a period of at least 3 years, except for persons who gave written consent less than 3 years after they met the requirements of both paragraphs (gg) (1) and (2) of this section. In computing the three year period the authorized officer shall include periods during which title was owned by a relative of such person by blood or marriage if, during such periods, the relative would have met the requirements of this section.

(hh) *Reserves* has the meaning set forth in the term *recoverable coal reserves* in § 3480.0–5(a)(37) of this title.

(ii) *Secretary* means the Secretary of the Interior.

(jj) *Sole party in interest* means a party who is and will be vested with all legal and equitable rights under a lease, bid, or an application for a lease. No one is a sole party in interest with respect to a lease or bid in which any other party has any interest.

(kk) *Split estate* means land in which the ownership of the surface is held by persons, including governmental bodies, other than the Federal government and the ownership of underlying coal is, in whole or in part, reserved to the Federal government.

(ll) *Substantial legal and financial commitments* means significant investments that have been made on the basis of a long-term coal contract in power plants, railroads, coal handling and preparation, extraction or storage facilities and other capital intensive activities. Costs of acquiring the coal in place or of the right to mine it without an existing mine are not sufficient to constitute *substantial legal and financial commitments*.

(mm) *Surface coal mining operations* means activities conducted on the surface of lands in connection with a surface coal mine or surface operations and surface impacts incident to an underground mine, as defined in section 701(28) of the Surface Mining Control and Reclamation Act (30 U.S.C. 1291(28).

(nn) *Surface management agency* means the Federal agency with jurisdiction over the surface of federally owned lands containing coal deposits, and, in the case of private surface over Federal coal, the Bureau of Land Management, except in areas designated as National Grasslands, where it means the Forest Service.

(oo) *Surface Mining Officer* means the regulatory authority as defined in 30 CFR Chapter VII.

(pp) *Valid existing rights* as used in § 3461.1 of this title is defined in 30 CFR 761.5.

(qq) *Written consent* means the document or documents that a qualified surface owner has signed that:

(1) Permit a coal operator to enter and commence surface mining of coal;

(2) Describe any financial or other consideration given or promised in return for the permission, including in-kind considerations;

(3) Describe any consideration given in terms of type or method of operation or reclamation for the area;

(4) Contain any supplemental or related contracts between the surface owner and any other person who is a party to the permission; and

(5) Contain a full and accurate description of the area covered by the permission.

(rr) For the purposes of section 2(a)(2)(A) of the Act:

(1) *Arm's length transaction* means the transfer of an interest in a lease to an entity that is not controlled by or under common control with the transferor.

(2) *Bracket* means a 10-year period that begins on the date that coal is first produced on or after August 4, 1976, from a lease that has not been made subject to the diligence provisions of part 3480 of this title on the date of first production.

(3) *Controlled by or under common control with,* based on the instruments of ownership of the voting securities of an entity, means:

(i) Ownership in excess of 50 percent constitutes control;

(ii) Ownership of 20 through 50 percent creates a presumption of control; and

(iii) Ownership of less than 20 percent creates a presumption of noncontrol.

(4) *Entity* means any person, association, or corporation, or any subsidiary, affiliate, or persons controlled by or under common control with such person, association, or corporation.

(5) *Holds and has held* means the cumulative amount of time that an entity holds any working interest in a lease on or after August 4, 1976. The *holds and has held* requirement of section 2(a)(2)(A) of the Act is working interest holder-specific for each lease. *Working interest* includes both record title interests and arrangements whereby an entity has the ability to determine when, and under what circumstances, the rights granted by the lease to develop coal will be exercised.

(6) *Producing* means actually severing coal. A lease is also considered producing when:

(i) The operator/leasee is processing or loading severed coal, or transporting it from the point of severance to the point of sale; or

(ii) Coal severance is temporarily interrupted in accordance with §§ 3481.4–1 through 4–4 of this chapter.

[44 FR 42609, July 19, 1979, as amended at 47 FR 33133, 33134, July 30, 1982; 47 FR 38131, Aug. 30, 1982; 50 FR 8626, Mar. 4, 1985; 51 FR 43921, Dec. 5, 1986; 52 FR 416, Jan. 6, 1987; 62 FR 44369, Aug. 20, 1997]

§ 3400.1 Multiple development.

(a) The granting of an exploration license, a license to mine or a lease for the exploration, development, or production of coal deposits shall preclude neither the issuance of prospecting permits or mineral leases for prospecting, development or production of deposits of other minerals in the same land with suitable stipulations for simultaneous operation, nor the allowance of applicable entries, locations, or selections of leased lands with a reservation of the mineral deposits to the United States.

(b) The presence of deposits of other minerals or the issuance of prospecting permits or mineral leases for prospecting, development or production of deposits of other minerals shall not preclude the granting of an exploration license, a license to mine or a lease for the exploration, development or production of coal deposits on the same lands with suitable stipulations for simultaneous operations.

[44 FR 42609, July 19, 1979, as amended at 47 FR 33134, July 30, 1982]

§ 3400.2 Lands subject to leasing.

The Secretary may issue coal leases on all Federal lands except:

(a) Lands in:

(1) The National Park System;

(2) The National Wildlife Refuge System;

(3) The National Wilderness Preservation System;

(4) The National System of Trails;

(5) The National Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act;

(6) Incorporated cities, towns, and villages;

(7) The Naval Petroleum Reserves, the National Petroleum Reserve in Alaska, and oil shale reserves; and

(8) National Recreation Areas designated by law;

(b) Tide lands, submerged coastal lands within the Continental Shelf adjacent or littoral to any part of land within the jurisdiction of the United States; and

(c) Land acquired by the United States for the development of mineral deposits, by foreclosure or otherwise for resale, or reported as surplus property pursuant to the provisions of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).

§ 3400.3 Limitations on authority to lease.

§ 3400.3–1 Consent or conditions of surface management agency.

Leases for land, the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior, may be issued only with the consent of the head or other appropriate official of the other agency having jurisdiction over the lands containing the coal deposits, and subject to such conditions as that officer may prescribe to insure the use and protection of the lands for the primary purpose for which they were acquired or are being administered.

§ 3400.3–2 Department of Defense lands.

The Secretary may issue leases with the consent of the Secretary of Defense on acquired lands set apart for military or naval purposes only if the leases are issued to a governmental entity which:

(a) Produces electrical energy for sale to the public;

(b) Is located in the state in which the leased lands are located; and

(c) Has production facilities in that state, and will use the coal produced from the lease within that state.

§ 3400.3–3 Department of Agriculture lands.

Subject to the provisions of § 3400.3–1, the Secretary may issue leases that authorize surface coal mining operations on Federal lands within the National Forest System, provided that such leases may not be issued on lands within a national forest unless the tract is assessed to be acceptable for all or certain stipulated methods of surface coal mining operations under the provisions of Criterion No. 1 in § 3461.1 of this title.

§ 3400.3–4 Trust protection lands.

The regulations in this group do not apply to the leasing and development of coal deposits held in trust by the United States for Indians. See 43 CFR 3400.0–5(o). Regulations governing those deposits are found in 25 CFR Chapter I.

[44 FR 42609, July 19, 1979, as amended at 47 FR 33134, July 30, 1982]

§ 3400.4 Federal/state government cooperation.

(a) In order to implement the requirements of law for Federal-state cooperation in the management of Federal lands, a Department-state regional coal team shall be established for each coal production region defined pursuant to § 3400.5. The team shall consist of a Bureau of Land Management field representative for each state in the region, who will be the Bureau of Land Management State Director, or, in his absence, his designated representative; the Governor of each state included in the region or, in his absence, his designated representative; and a representative appointed by and responsible to the Director of the Bureau of Land Management. The Director's representative shall be chairperson of the team. If the region is a multi-state region under the jurisdiction of only one Bureau of Land Management State Office, each State Director shall designate a Bureau of Land Management representative for each state.

(b) Each regional coal team shall guide all phases of the coal activity

planning process described in §§3420.3 through 3420.3–4 of this title which relate to competitive leasing in the region.

(c) The regional coal team shall also serve as the forum for Department/state consultation and cooperation in all other major Department coal management program decisions in the region, including preference right lease applications, public body and small business setaside leasing, emergency leasing and exchanges.

(d) The regional coal team recommendations on leasing levels under §3420.2(a)(4) of this title and on regional lease sales under §3420.3–4(g) shall be accepted except:

(1) In the case of an overriding national interest; or

(2) In the case the advice of the Governor(s) which is contrary to the recommendations of the regional coal team is accepted pursuant to §3420.4–3(c) of this title. In cases where the regional coal team's advice is not accepted, a written explanation of the reasons for not accepting the advice shall be provided to the regional coal team and made available for public review.

(e) Additional representatives of state and Federal agencies may participate directly in team meetings or indirectly in the preparation of material to assist the team at any time at the request of the team chairperson. Participation may be solicited from state and Federal agencies with special expertise in topics considered by the team or with direct surface management responsibilities in areas potentially affected by coal management decisions. However, at every point in the deliberations, the official team spokespersons for the Bureau of Land Management and for the Governors shall be those designated under paragraph (a) of this section.

(f) If a state declines to participate under this section in the coal-related activities of the Department:

(1) The Department may take action authorized in Group 3400 of this title in a coal production region wholly within such a state without forming a regional coal team, and

(2) The Department may form a regional coal team without a representative of the Governor of such a state in any multi-state coal production region.

(g) The regional coal team will function under the public participation procedures at §§1784.4–2, 1784.4–3, and 1784.5 of this chapter.

[44 FR 42609, July 19, 1979; 44 FR 56339, Oct. 1, 1979, as amended at 47 FR 33134, 33135, July 30, 1982; 51 FR 18887, May 23, 1986; 64 FR 52242, Sept. 28, 1999]

§3400.5 Coal production regions.

The Bureau of Land Management shall establish by publication in the FEDERAL REGISTER coal production regions. A coal production region may be changed or its boundaries altered by publication of a notice of change in the FEDERAL REGISTER. Coal production regions shall be used for establishing regional leasing levels under §3420.2 of this title. Coal production regions shall be used to establish areas in which leasing shall be conducted under §3420.3 of this title and for other purposes of the coal management program.

[47 FR 33135, July 30, 1982]

§3400.6 Minimum comment period.

Unless otherwise required in Group 3400 of this title, a minimum period of 30 days shall be allowed for public review and comment where such review is required for Federal coal management program activities under Group 3400 of this title.

[51 FR 18887, May 23, 1986]

PART 3410—EXPLORATION LICENSES

Subpart 3410—Exploration Licenses

Sec.

3410.0–1 Purpose.
3410.0–2 Objective.
3410.0–3 Authority.
3410.1 Exploration licenses: Generally.
3410.1–1 Lands subject to exploration licenses.
3410.1–2 When an exploration license is required.
3410.2 Prelicensing procedures.
3410.2–1 Application for an exploration license.
3410.2–2 Environmental analysis.
3410.2–3 Surface management agency.
3410.3 Exploration licenses.
3410.3–1 Issuance and termination of an exploration license.

Bureau of Land Management (4/11/97)

Final Rule

Federal Register / Vol. 48, No. 205, Friday, October 21, 1983, Rules and Regulations

Onshore Oil and Gas Order No. 1 - Approval of Operations on Onshore Federal and Indian Oil and Gas Leases

Introduction

I. Accountability

II. Special Situations

Ill. Drilling Operations

A. Surveying and Staking

B. Material to be Filed

1. Notice of Staking

2. Application for Permit to Drill

C. Conferences and Inspections

D. Processing Time Frames

E. Cultural Resources Clearance

F. Threatened and Endangered Species Clearance and Other Critical Environmental Concerns

G. Components of a Complete

Onshore Oil and Gas Order

Federal and Indian Oil and Gas Leases
Order No. 1

Effective: November 21, 1983.

(See ***Note*** below)

Approval of Operations

Introduction

This Order is established pursuant to the authority prescribed in 43 CFR Part 3160***, formerly 30 CFR 221***. Approval of all proposed exploratory, development, and service wells, and all required approvals of subsequent well operations and other lease operations, shall be obtained in accordance with 43 CFR 3162.3-1, 3162.3-2, 3162.3-3, 3162.3-4 and 3162.5-1***, formerly 30 CFR 221.23, 221.27, 221.28, 221.29, or 221.30, as appropriate***.

All wells approved for drilling under the provisions of this Order shall have been included in a drilling plan, as required under 43 CFR 3162.3-1(d)***, formerly 30 CFR 221.23(d)***.

A drilling plan may be submitted for a single well, or for several wells that are proposed to be drilled to the same zone within a field or area of geological and environmental similarity. Plans for additional development of the leasehold should be considered in the submittal.

However, approval of Form 3160-3, ***formerly 9-331C*** ***(Application for Permit to Drill, Deepen, or Plug Back)*** is required for each well, and in order to be complete an Application for Permit to Drill (APD) shall include all information required under 43 CFR 3162.3-1 (d) and (e). A technically and administratively complete APD includes, in addition to Form 3160-3, a drilling plan, evidence of bond coverage, a designation of operator, when appropriate, and such other information as may be required by applicable Order or Notice to evaluate the proposal. Refer to section III.G. for more detailed guidance on complete APD'S.

Certain subsequent well operations and other lease operations involving additional surface disturbance shall be included in a plan submitted on Form 3160-5, ***formerly 9-331*** ***(Sundry Notices and Reports On Wells)***, and approved under the provisions of this Order pursuant to 43 CFR 3162.3-2 or 3162.3-3***, formerly 30 CFR 221.27 or 221.28, respectively***.

A report on all subsequent well operations shall be filed on Form 3160-5, as prescribed in 43 CFR 3162.3-2. A notice of intention to abandon a well and a subsequent report of abandonment shall also be filed on Form 3160-5, as required by 43 CFR 3162.3-4.

Application for Permit to Drill

IV. Subsequent Operations

A. Production Facilities ***(see title change)***
B. Other Operations ***(see title change)***
C. Emergency Repairs
D. Environmental Review

V. Well-Abandonment ***(see title change)***

VI. Water Well Conversion

VII. Privately Owned Surface

VIII. Reports and Activities Required After Well Completion

Updated on April 1, 1997 by John Broderick

You are visitor # to this page since March 26, 1997.

All applications for approval under the provisions of this Order shall be submitted to the appropriate authorized officer of the Bureau of Land Management (BLM). "Authorized Officer" means any person authorized to perform the duties prescribed. To be advised of the proper BLM official and office with which to file an application, the lessee/operator may contact the appropriate District Manager of BLM having jurisdiction over lease operations in a particular area.

The lessee/operator shall comply with the following requirements:

I. *Accountability.* Lessees and operators have the responsibility to see that their exploration, development, production, and construction operations are conducted in a manner which (1) conforms with applicable Federal laws and regulations and with State and local laws and regulations to the extent that such State and local laws are applicable to operations on Federal or Indian leases; (2) conforms with the lease terms, lease stipulations, and conditions of approval; (3) results in diligent development and efficient resource recovery; (4) protects the lease from drainage; (5) affords adequate safeguards for the environment; (6) results in the proper reclamation of disturbed lands; (7) conforms with current available technology and practice; (8) assures that underground sources of fresh water will not be endangered by any fluid injection operation; and (9) otherwise assures the protection of the public health and safety. Lessees and operators shall be held fully accountable for their contractors and subcontractors' compliance with the requirements of the approved permit and/or plan. Drilling/construction and associated operations shall not be conducted without prior approval of the authorized officer of BLM. BLM approval of the APD does not relieve the lessee and operator from obtaining any other authorizations required for operations on Federal and Indian lands.

[48 FR 56226, Dec. 20, 1983]

II. *Special Situations.* Lessees and operators, as well as their contractors and subcontractors, shall not commence any operation or construction activity on a lease, other than cultural resource inventories and surveying and staking well locations on Federal and Indian lands, without the prior approval of the authorized officer of BLM, except for certain subsequent operations (see Section IV. of this Order). The terms and conditions of an approved permit and drilling plan, or other plan, shall not be altered unless BLM first has approved an amended or supplemental permit and/or plan covering any such modifications.

For proposed operations on a committed State or fee tract in a Federally supervised unit or communitized tract, the operator shall furnish a copy of the approved State permit to the authorized officer of BLM which will be accepted for record purposes. In addition, in cases where an access road to a non-Federal or non-Indian drillsite will cross leased Federal or Indian lands, the operator shall submit a surface use plan only for those portions of the access road on Federal or Indian lands where new construction or reconstruction will occur. Such plans shall be submitted to the authorized officer of BLM or appropriate Federal Surface Management Agency (SMA) and approval obtained prior to commencement of construction operations on the Federal or Indian surface. For privately owned surface. refer to section VII.

[48 FR 56226, Dec. 20, 1983]

III. *Drilling Operations.*

A. *Surveying and Staking*. Surveying and staking may be done without advance approval from the authorized officer of BLM or other appropriate SMA and prior to the conduct of any required cultural resource inventory, except for lands administered by the Department of Defense or other lands used for military purposes, or where significant surface disturbance is likely to occur.

Lessees and operators are strongly encouraged to notify the appropriate SMA prior to entry upon the lands for the purposes of surveying and staking. Early notification will allow the SMA to apprise the lessees and operators of any existing conditions, knowledge of which could result in saving of time and money by both industry and Government. These include but are not limited to:

- Whether a cultural resource inventory is required;
- Presence of threatened or endangered species and/or critical habitats;
- Vehicle access restrictions; and/or
- Permitting requirements applicable to affected lands outside the leasehold boundary.

Where the surface is privately owned or held in trust of Indian benefit, the lessee/operator is responsible for making access arrangements with the private surface owner or the Bureau of Indian Affairs (BIA) and Indian tribe or Indian allottee(s) prior to entry upon the lands for the purpose of surveying and staking.

Staking shall include the well location, two 200-foot directional reference stakes, the exterior dimensions of the drill pad, reserve pit and other areas of surface disturbance, cuts and fills, and centerline flagging of new roads with road stakes being visible from one to the next. Cut and fill staking applies only to the wellsite, reserve pit, and, if off-location, any ancillary facilities.

[48 FR 56226, Dec. 20, 1983]

B. Material to be Filed.

1. *Notice of Staking*. Prior to filing a complete APD, the lessee or operator may, at its option, file a Notice of Staking (Attachment A) with the authorized officer of BLM and appropriate office of any other involved SMA. In Alaska, a copy of the Notice shall also be sent to the appropriate Borough and/or Native Regional or Village Corporation when a subsistence stipulation is part of the lease.

The information contained in the Notice of Staking (NOS) will aid in identifying the need for associated rights-of-way and special use permits. If all required information is not included, the NOS shall be returned to the operator for modification.

2. *Application for Permit to Drill (APD)*. Regardless of whether an NOS is filed, the lessee or operator shall file an APD. This application shall be administratively and technically complete prior to approval. The authorized officer of BLM shall advise the lessee or operator, within 7 ***working*** days of receipt of the application, as to whether or not the

application is complete. If the application is complete, oral notification will suffice. If the application is not complete, notification to that effect shall be made in writing even though the lessee or operator may have already received oral notification. For purposes of written notification, Attachment B, Checklist For Applicant Notification, shall be mailed to the applicant within the 7-day period. The notification shall advise the lessee or operator of any defects that need correcting and of any additional information required. If the deficiencies are not corrected and/or the additional required information is not submitted within 45 days of the date of any oral or written notice (if no prior oral notice), the application shall be returned to the proponent.

Upon initiation of the APD process, the authorized officer of BLM shall consult with any other involved SMA and with other appropriate interested parties, and shall take one of the following actions within 30 days: (1) approve the application as submitted or with appropriate modifications or stipulations; (2) return the application and advise the lessee or operator of the reasons for disapproval; or (3) advise the lessee or operator, either in writing or orally with subsequent written confirmation, of the reasons why final action will be delayed and the date such final action is expected.

When the NOS option is followed, BLM shall strive to process the subsequent related APD within 10 days of the APD's receipt. However, in either situation, the process of reviewing the APD and advising the lessee or operator as to whether it is technically and administratively complete shall be considered a part of the overall APD processing time, i.e., 30 days in case of the APD option and 10 days if the NOS process is utilized. Operators are cautioned that with respect to any particular well, the option selected initially, of either filing both an NOS and a subsequent APD or only an APD, is to be followed and there shall be no shifting between the two options. If operators fail to maintain a consistent approach in this regard, the processing time already expended shall not be counted as part of the above 30-day period.

The processing of applications shall be given a high priority, and individual applications shall be processed according to the date the application is received by the appropriate BLM office. If it is not possible for BLM actions to be taken prior to lease expiration, the lessee or operator shall be advised, at least orally, prior to the lease expiration date, with all such notifications confirmed in writing. Said advice shall detail the reasons for delay so that the lessee or operator may take such appeal or other recourse to preserve the lease as is allowed by law and/or regulation. The appropriate BLM office telephone number and address shall be furnished to the lessee or operator with the earliest notification or advice.

[48 FR 56226 and 56227, Dec. 20, 1983]

C. *Conferences and Inspections.* An onsite predrill inspection shall be scheduled and conducted by the appropriate BLM office within 15 days of receiving the applicant's initially-filed document, i.e., either an NOS or a complete APD. In special circumstances, such as those areas enumerated in section III. D., the authorized officer of BLM may require the filing of a complete APD prior to the scheduling of an onsite predrill inspection. Representatives of the appropriate BLM office, the operator and other interested parties, such as any other involved SMA, the appropriate Alaska Borough and/or Native Regional or Village Corporation (when a subsistence stipulation is part of the lease), and the operator's principal dirt and, if known, drilling contractor shall attend the predrill inspection. When

appropriate, the operator's surveyor and archeologist should also participate in the inspection. If any other involved SMA is not able to participate at the desired time, the inspection may be rescheduled provided it can be conducted within the 15-day period. When private surface is involved, the lessee or operator shall furnish the name, address and, if known, telephone number of the private surface owner on the NOS form or, in the surface use program, such information shall be attached to the APD. The BLM shall invite the surface owner to participate in the onsite inspection. This invitation will be extended as early as possible. However, a surface owner's inability to attend shall not delay the scheduled inspection unless BLM can conveniently reschedule the inspection within the 15-day time period. Joint inspections, i.e., those involving any other SMA, normally shall not be held for propose infill well locations in developed fields if an appropriate environmental assessment (EA) already has been completed by BLM for the field or that area of the field. However, if staffing permits, a representative of BLM shall inspect those proposed locations where a joint predrill inspection is not held. At the time of onsite inspection, staking of the location shall have occurred, as specified in part A of this section.

The surface use and reclamation stipulations shall be developed during the onsite inspection and provided to the operator either at the location or within 5 ***working*** days from the date of the onsite inspection, barring unusual circumstances. These requirements shall be incorporated into the complete application, when filed, if the proponent is following the NOS option. Otherwise, these requirements shall be incorporated as conditions of the APD approval if an NOS is not filed. However, this does not preclude the possibility of additional conditions being imposed as a result of the review of the complete application.

[48 FR 56226 and 56227, Dec. 20, 1983]

D. *Processing Time Frames*. The following table summarizes the major time frames involved in processing most APD'S:

APD Option

Action items	Days
Onsite inspection	Within 15-days after receipt of the APD.
Requirements to be imposed when APD is approved.	Developed onsite or within 5 ***working*** days thereafter.
Complete processing of APD.	Within 30 days of APD receipt, provided that it is technically and administratively complete at the end of the 30 day period (includes the above 15-day and 5-day periods).

NOS OPTION

Action items	Days
Onsite inspection	Within 15 days of receipt of the NOS.
Requirements for inclusion in the APD.	Furnish onsite or within 5 ***working*** days thereafter.
Complete processing of APD.	Within 10 days of the APD's receipt, provided that it is technically and administratively complete at the end of the 10-day period.

The above time frames together comprise the total period during which BLM anticipates it will be able to process approximately 90 percent of all APD'S. However, the 30 days may not run consecutively even when APD's are filed immediately after onsite inspections. For example, any time used by lessees or operators to correct deficiencies, or to prepare and submit information initially omitted from the application and which causes delays in processing beyond BLM's control, shall not be counted as part of the 30-day period. However, BLM shall continue to process applications up to the point where any missing piece of information or an uncorrected deficiency renders further processing impractical or impossible. Processing delays which extend the 30-day processing time are expected to occur in less than 5 percent of the cases. In addition, delays in conducting onsite inspections within 15 days of receiving an NOS (or an APD if an NOS is not filed), or delays in providing all stipulations to the operator within 5 ***working*** days of an onsite inspection may occur in less than 5 percent of the cases during periods of severe weather conditions and in areas where certain environmental concerns or jurisdictional conflicts exist.

Such areas include, but are not limited to:

1. Certain tribally or individually owned Indian trust or restricted lands.
2. Lands withdrawn for Federal reservoirs and Federal lands surrounding such reservoirs.
3. Lands in formally designated wilderness areas, lands formally proposed for such designation, lands within BLM Wilderness Study Areas or lands within Forest Service Further Planning Areas.
4. National Recreation Areas.
5. Wildlife Refuges.
6. Certain Federal lands in Alaska.
7. Lands under jurisdiction of the Department of Defense.
8. Lands where a major problem exists with respect to cultural resources.
9. Lands known to contain threatened or endangered species and/or critical habitats.

The 30-day time frame for completion of the APD process may sometimes be exceeded where it is necessary to prepare an EA, and in all cases where it is necessary to prepare an environmental impact statement (EIS).

Lessees and operators are also cautioned that if the NOS/APD process begins less than 30 days prior to the desired date of commencement of drilling operations, the process may not be completed within the time desired.

[48 FR 56227, Dec. 20, 1983]

E. Cultural Resources Clearance. Because consultation with the involved SMA and the State Historic Preservation Officer on matters that relate to the protection of historic and cultural resources is provided in BLM (36 CFR 800.4(a)(1)), lessees and operators should contact the involved SMA at least 15 days prior to the submission of an NOS or APD to determine whether any actions are necessary to locate and identify historic and cultural resources.

Survey work and a related report shall be required only if the involved SMA has reason to believe that properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) are present in the area of potential effect. If such actions are necessary, lessees and operators are encouraged to complete the field work and submit the required report with the complete APD submittal, when following the NOS option, or not later than the 25th day of the 30-day processing period, when following the APD option. Historic and cultural resources work on privately owned surface shall be undertaken only with the consent of the private surface owner. If the private surface owner refuses entry for that purpose, the lessee or operator shall use its best efforts to conduct its approved operations in a manner that avoids adverse effects on any properties which are listed, or may be eligible for listing, in the NRHP.

[48 FR 56227, Dec. 20, 1983]

F. Threatened and Endangered Species Clearance and Other Critical Environmental Concerns. The involved SMA shall identify any threatened and endangered species and/or critical habitat problems and other environmental concerns, e.g.. wilderness and wilderness study areas, wild and scenic rivers, etc., to minimize the possibility of drill site relocation. Should the SMA, if that agency is not BLM, be unable to carry out this responsibility, BLM shall do so. BLM shall identify any known or potential surface geological hazards. If any of these concerns exist, information in that regard shall be conveyed to the lessee/operator by BLM no later than when the surface use and reclamation stipulations are provided; however, the lessee/operator can ensure earlier identification of potential conflict in these areas of concern by contacting the involved SMA prior to the submittal of an NOS or APD. The authorized officer of BLM should be timely apprised of any contacts with any other involved SMA.

G. Components of a CompleteApplication for Permit to Drill.

1. *Complete Application*. If an NOS is filed, the lessee/operator shall prepare and submit a complete APD within 45 days of the onsite inspection pursuant to the requirements of this subsection. Failure to timely submit an APD within this time frame may result in the lessee/operator having to repeat the entire process. The complete APD shall be submitted in triplicate to BLM, together with any additional copies required by the authorized officer. As provided in 43 CFR 3162.3-1(d)***, formerly 30 CFR 221.23(d)***, a complete application consists of:

(a) Form 3160-3,
(b) a drilling plan (or reference thereto) containing information required by section G.4., below,

(c) evidence of bond coverage as required by Department of the Interior regulations,
(d) designation of operator, where necessary, and
(e) such other information as may be required by applicable Orders and Notices.

The APD shall be signed by the lessee/operator official having the responsibility and authority to supervise and direct all activities related to the permit and who can be contacted in the event of a problem. The authorized officer may require additional information in unusual circumstances. However, where the proposed well is to be completed for injection purposes (disposal or production enhancement), lessees and operators also shall obtain an underground injection permit from the Environmental Protection Agency (EPA) or the State, where the State has achieved primacy. Any information submitted in support of obtaining that permit shall be accepted by the authorized officer to the extent that it satisfies the information submission requirements of this Order.

[48 FR 56227, Dec.20, 1983]

2. *Designation of Operator*. The lessee may authorize the actual conduct of operations in its behalf by designating another party as operator in a manner and form acceptable to the authorized officer. Lessees shall notify the authorized officer in writing whenever an existing designation of operator is cancelled. A designated operator cannot designate a different party as operator.

3. *Form 3160-3.* ***formerly 9-331 C***, ***(Application for Permit to Drill, Deepen, or Plug Back)***. This Form shall be completed in full and submitted to the authorized officer together with all necessary information referred to under section G.1. above. The following points a. through f. are specific as to appropriate information requirements of the Form and shall be stated thereon, or as an attachment thereto, for each proposed well:

a. A well location plat shall be attached depicting the proposed location, as determined by a registered surveyor, in feet and direction from the nearest section lines of an established public land survey or, in areas where there are no public land surveys, by such other method as is acceptable to the authorized officer. The plat shall be signed by the surveyor, certifying that the location has, in fact, been staked on the grounds as shown on the plat.

b. The elevation given shall be the above-sea-level datum of the unprepared ground.

c. The type of drilling tools to be utilized shall be stated.

d. The proposed casing program shall include the size, grade, weight, type of thread and coupling, and setting depth of each string, and whether it is new or used.

e. The amount and type of cement, including additives to be used in setting each casing string. shall be described. If stage-cementing techniques are to be employed, the setting depth of the stage collars and amount and type of cement, including additives, to be used in each stage shall be given. The expected linear fill-up of each cemented string or each stage, when utilizing stage-cementing techniques, shall be provided.

f. The anticipated duration of the total operation shall be given in addition to the anticipated starting date.

A copy of the approved Form 3160-3 and the pertinent drilling plan, along with any conditions of approval, shall be available at the drillsite to authorized or delegated representatives of the United States whenever active construction, drilling, or completion operations are under way.

[48 FR 56227, Dec. 20, 1983]

4. *Drilling Plan*. A drilling plan in sufficient detail to permit a complete appraisal of the technical adequacy of, and environmental effects associated with, the proposed project shall be prepared and either submitted with each copy of Form 3160-3, or referenced thereon if it is already on file with BLM or is being submitted for more than one well. The plan shall be developed in conformity with the provisions of the lease. including attached stipulations, and the guidelines provided by this Order or other land use documents. Each drilling plan shall contain a description of the drilling program and surface use program. The BLM shall send a copy of appropriate parts of the plan to any other involved SMA and may send a copy of the plan to other interested Federal, State, and local agencies. All information identified as proprietary by the applicant pursuant to 43 CFR 3162.8***, formerly 30 CFR 221.33***, shall first be deleted.

The drilling program shall include a description of the pressure control system and circulation mediums, the testing, logging and coring program, pertinent geologic data, and information on expected problems and hazards. The drilling program shall be reviewed for adequacy by BLM. If the program is considered inadequate, BLM shall require modification of the drilling program.

The surface use program shall contain a description of the road and drill pad location and construction methods for containment and disposal of waste material, and other pertinent data as the authorized officer may require. The surface use program shall provide for safe operations,. adequate protection of surface resources and uses and other environmental components, and shall, for Federal and Indian surface, include adequate measures for reclamation of disturbed lands no longer needed for either drilling or other subsequent operations. Where the surface is privately owned, the authorized officer may require the submission of the reclamation plan between the lessee or operator and landowner in order to determine if it is adequate to protect nearby Federal and Indian surface from significant impacts generated by the operation. In developing the surface use program, the lessee or operator shall make use of such information as is available from the involved SMA concerning the surface resources and uses, environmental considerations, and local reclamation procedures. The surface use program shall be reviewed for adequacy by BLM and by any other involved SMA. If the surface use program is considered inadequate, BLM shall, in consultation with any other involved SMA, require modifications or amendment of the program or otherwise set forth stipulations or conditions of approval as are necessary for the protection of surface resources/uses and the environment, and for the reclamation of the areas to be disturbed when no longer needed for operational purposes.

[48 FR 56227, Dec. 20, 1983]

a. *Guidelines for Preparing Drilling Program*. The following information shall be included as part of the drilling plan but shall be made specific to each well if the plan covers more than one well:

(1) Estimated tops of important geologic markers.

(2) Estimated depths at which the top and the bottom of anticipated water (particularly fresh water), oil, gas or other mineral-bearing formations are expected to be encountered and the lessee's or operator's plans for protecting such resources.

(3) Lessee's or operator's minimum specifications for pressure control equipment to be used and a schematic diagram thereof showing sizes, pressure ratings (or API series), and the testing procedures and testing frequency.

(4) Any supplementary information more completely describing the drilling equipment and casing program as set forth on Form 3160-3.

(5) Type and characteristics of the proposed circulating medium or mediums to be employed in drilling, the quantities and types of mud and weighting material to be maintained, and the monitoring equipment to be used on the mud system.

(6) The anticipated type and amount of testing, logging, and coring.

(7) The expected bottom hole pressure and any anticipated abnormal pressures or temperatures or potential hazards, such as hydrogen sulfide, expected to be encountered, along with contingency plans for mitigating such identified hazards.

(8) Any other facets of the proposed operation which the lessee or operator wishes to point out for BLM's consideration of the application.

(b) *Guidelines for Preparing Surface Use Program*. In preparing this program, the lessee or operator shall submit maps, plats, and narrative descriptions which adhere closely to the following (maps and plats should be of a scale no smaller than 1:24,000 unless otherwise stated below):

(1) *Existing Roads*. A legible map (USGS topographic, county road, Alaska Borough, or other such map), labeled and showing the access route to the location, shall be used for locating the proposed well site in relation to a town (village) or other locatable point, such as a highway or county road, which handles the majority of the through traffic to the general area. The proposed route to the location, including appropriate distances from the point where the access route exits established roads, shall be shown. All access roads shall be appropriately labeled. Any plans for improvement and/or a statement that existing roads will be maintained in the same or better condition shall be provided. Existing roads and newly constructed roads on surface under the jurisdiction of an SMA shall be maintained in accordance with the standards of the SMA.

Information required by items (2), (3), (4), (5), (6), and (8) of this subsection also may be shown on this map if appropriately labeled or on a separate plat or map.

(2) *Access Roads to Be Constructed and Reconstructed*. All permanent and temporary access roads that are to be constructed, or reconstructed, in connection with the drilling of the proposed well shall be appropriately identified and submitted on a map or plat. Width, maximum grade, major cuts and fills, turnouts, drainage design, location and size of culverts and/or bridges, fence cuts and/or cattleguards, and type of surfacing

material, if any, shall be stated for all construction. In addition, where permafrost exists, the methods for protection from thawing must be indicated. Modification of proposed road design may be required during the onsite inspection.

Information also should be furnished to indicate where existing facilities may be altered or modified. Such facilities include gates, cattleguards, culverts, and bridges which, if installed or replaced, shall be designed to adequately carry anticipated loads.

[48 FR 56227, Dec.20, 1983]

(3) *Location of Existing Wells*. It is recommended that this information be submitted on a map or plat and include all wells (water, injection or disposal, producing, and drilling) within a 1-mile radius of the proposed location.

(4) *Location of Existing and/or Proposed Facilities if Well is Productive.*

(a) *On well pad* - A map or plat shall be included showing, to the extent known or anticipated, the location of all production facilities and lines to be installed if the well is successfully completed for production.

(b) *Off well pad - A* map or plat shall be included showing to the extent known or anticipated, the existing or new production facilities to be utilized and the lines to bc installed if the well is successfully completed for production. If new construction, the dimensions of the facility layout are to be shown.

If the information required under (a) or (b) above is not known and cannot be accurately presented and the well subsequently is completed for production, the operator shall then comply with section IV. of this Order.

(5) *Location and Type of Water Supply (Rivers, Creeks, Lakes, Ponds, and Wells).* This information may be shown by quarter-quarter section on a map or plat, or may be a written description. The source and transportation method for all water to be used in drilling the proposed well shall be noted if the source is located on Federal or Indian lands or if water is to be used from a Federal or Indian project. If the water is obtained from other than Federal or Indian lands, only the location need be identified. Any access roads crossing Federal or Indian lands that are needed to haul the water shall be described in items G.4.b. (1) and (2), as appropriate. If a water supply well is to be drilled on the lease, it shall be so stated under this item, and the authorized officer of BLM may require the filing of a separate APD.

(6) *Construction Materials*. The lessee or operator shall state the character and intended use of all construction materials, such as sand, gravel, stone and soil material. If the materials to be used are Federally-owned, the proposed source shall be shown by either quarter-quarter section on a map or plat, or a written description, The use of materials under BLM jurisdiction is governed by 43 CFR 3610.2-3. The authorized officer shall inform the lessee or operator if the materials may be used free of charge or if an application for sale is required. If the materials to be used are Indian owned or under the jurisdiction of any SMA other than BLM, the specific tribe and or Area Superintendent of BIA, or the appropriate SMA office shall be contacted to determine the appropriate procedure for use of the materials.

[48 FR 56227, Dec. 20, 1983]

(7) *Methods for Handling Waste Disposal* A written description shall be given of the methods and locations proposed for safe containment and disposal of each type of waste material (e.g., cuttings, garbage, salts, chemicals, sewage, etc.) that results from the drilling of the proposed well. Likewise, the narrative shall include plans for the eventual disposal of drilling fluids and any produced oil or water recovered during testing operations.

(8) *Ancillary Facilities*. The plans, or subsequent amendments to such plans, shall identify all ancillary facilities such as camps and airstrips as to their location, land area required, and the methods and standards to be employed in their construction. Such facilities shall be shown on a map or plat. The approximate center of proposed camps and the center line of airstrips shall be staked on the ground.

(9) *Well Site Layout.* A plat of suitable scale (not less than 1 inch= 50 feet) showing the proposed drill pad and its approximate location with respect to topographic features is required. Cross section diagrams of the drill pad showing any cuts and fills and the relation to topography are also required. The plat shall also include the approximate proposed location of the reserve and burn pits, access roads onto the pad, turnaround areas, parking areas, living facilities, soil material stockpiles, and the orientation of the rig with respect to the pad and other facilities. Plans, if any, to line the reserve pit shall be detailed.

[48 FR 56227, Dec. 20, 1983]

(10) *Plans for Reclamation of the Surface.* The program for surface reclamation upon completion of the operation, such as configuration of the reshaped topography, drainage system, segregation of spoil materials, surface manipulations, waste disposal, revegetation methods, and soil treatments, plus other practices necessary to reclaim all disturbed areas, including any access roads or portions of well pads when no longer needed, shall be stated. An estimate of the time for commencement and completion of reclamation operations, dependent on weather conditions and other local uses of the area, shall be provided.

[48 FR 56227, Dec. 20, 1983]

(11) *Surface Ownership*. The surface ownership (Federal, Indian, State or private) at the well location, and for all lands crossed by roads which are to be constructed or upgraded, shall be indicated. Where the surface of the well site is privately owned, the operator shall provide the name, address and, if known, telephone number of the surface owner, unless previously provided.

[48 FR 56227, Dec. 20, 1983]

(12) *Other Information*. The lessee or operator is encouraged to submit any additional information that may be helpful in processing the application.

(13) *Lessee's or Operator's Representative and Certification*. The name, address and telephone number of the lessee's or operator's field representative shall be included. The lessee or operator submitting the APD shall certify as follow,:

I hereby certify that I, or persons under my direct supervision, have inspected the proposed drill site and access route; that I am familiar with the conditions which currently exist; that the statements made in this plan are, to the best of my knowledge, true and correct; and that the work associated with operations proposed herein will be performed by_____ and its contractors and subcontractors in conformity with this plan and the terms and conditions under which it is approved. This statement is subject to the provisions of l8 U.S.C. 1001 for the filing of a false statement.

Date _____

Name and Title _____

5. *Environmental Review Requirements.* When an onsite inspection is conducted, it shall be made by representatives of the authorized officer and the operator, and other interested parties such as the involved SMA, the appropriate Alaska Borough and/or Native Regional Corporation (when a subsistence stipulation is part of the lease), and the operator's principal dirt contractor and, if known, drilling contractor. It is recommended that, when appropriate, the operator's surveyor and archeologist should also participate in the inspection. The purpose of this inspection shall be to ensure the staked location, access roads and other areas proposed for surface disturbance are geologically and environmentally acceptable, giving appropriate consideration to all applicable Federal laws and regulations. Lessees and operators are encouraged to designate their future drilling sites so that several locations may be inspected at one time.

[48 FR 56227, Dec. 20, 1983]

a. *Federal Responsibilities.* When an inspection is made, the information obtained shall be utilized by BLM in appraising the environmental effects associated with the proposed action and in preparing pertinent portions of the required environmental documentation. As the approving agency, BLM has the lead responsibility for completing the environmental review process and establishing the terms and conditions under which the proposed action may be approved. The conduct of the environmental review process, under the Department of the Interior's implementing procedures pursuant to the National Environmental Policy Act, will result in the preparation of a Record of Review (ROR) and/or an EA, consistent with pertinent regulations and procedures. This review shall identify the probable and potential environmental impacts associated with the proposal and methods for mitigating these impacts and shall be the basis of the approving official's determination as to whether approval of the proposed activity would or would not constitute a major Federal action significantly affecting the quality of the human environment as defined by section 102(2)(C) of the National Environmental Policy Act of 1969. A "would constitute" determination shall necessitate the preparation of an EIS. In that case, final action on the APD shall not be taken until the EIS and Record of Decision are completed.

b. *Other Considerations*. Lessees and operators are strongly encouraged to file their NOS and/or complete APD at least 30 days in advance of the time when they wish to commence operations and to consult with the involved SMA as early as possible to identify potential areas of concern (see sections III. E. and F.).

IV. *Subsequent Operations.*Subsequent operations shall be conducted in accordance with 43 CFR Part 3160***, formerly 30 CFR 221***. However, where the proposed subsequent operation will result in the well being converted for injection

purposes (disposal or production enhancement), lessees and operators also shall obtain an underground injection permit from EPA or the State, where the State has achieved primacy. Any information submitted in support of obtaining that permit shall be accepted by the authorized officer of BLM to the extent that it satisfies the information submittal requirements of this Order.

A. *Well and Production Operations*. Before conducting further well operations that involve change in the original plan, a detailed written statement of the work shall be filed on Form 3160-5 or 3160-3, as appropriate, with the authorized officer and approval obtained before the work is started. These operations include redrilling, deepening, performing casing repairs, plugging-back, altering casing, performing nonroutine fracturing jobs, recompleting in a different interval, performing water shut-off, and converting to injection or disposal. Within 30 days of the completion of such operations, a subsequent report shall be filed on Form 3160-5 and, if the well is recompleted, a recompletion report on Form 3160-4, pursuant to 43 CFR 3162.3-2 and ***the information collection approval note, formerly 30 CFR 221.27 and 221.2-1***.

Unless additional surface disturbance is involved and so long as the operations conform to the standard of prudent operating practice, no prior approval is required for routine fracturing or acidizing jobs, or recompletion in the same interval, but a subsequent report of these operations shall be filed on Form 3160-5***, formerly 9-331***, within 30 days of completion, pursuant to 43 CFR 3162.3-2 and ***the information collection approval note, formerly 30 CFR 221.27 and 221.2-1***.

Neither prior approval nor a subsequent report is required for well clean-out work, routine well maintenance (such as pump, rods, and tubing work), or for repair, replacement, or modification of surface production equipment, provided no additional surface disturbance is involved. However, the modification of any production. treating. and measurement facilities shall require the submission of a revised schematic diagram within 30 days of the completion of such operations, pursuant to 43 CFR 3162.7-2***. formerly 30 CFR 221.34***.

[48 FR 56227, Dec.20, 1983]

B. *Surface Disturbing Operations.*Pursuant to 43 CFR 3162.3-2 and 3162.3-3***, formerly 30 CFR 221.27 and 221.28***, lessees and operators shall submit, for the approval of the authorized officer, a proposed plan of operations on Form 3160-5 prior to undertaking any subsequent new construction, reconstruction, or alteration of existing facilities including. but not limited to, roads, emergency pits. firewalls. flowlines, or other production facilities on any lease when additional surface disturbance will result. If, at the time the original APD was filed, the lessee or operator elected to defer submitting information for item III.G.4.b.(4), "Location of Existing and/or Proposed Facilities if Well is Productive," the lessee or operator shall supply this information for approval prior to construction and installation of the facilities. The authorized officer, in consultation with any other involved SMA, may require a field inspection before approving the proposal.

C. Emergency Repairs. Emergency repairs may be conducted without prior approval provided that the authorized officer is promptly notified. Sufficient information shall be submitted to permit a proper evaluation of any resultant surface disturbing activities as well as any planned accommodations necessary to mitigate potential adverse

environmental effects.

D. Environmental Review. The environmental review procedures discussed in section III.G.5. of this Order shall also apply to subsequent operations which involve additional surface disturbance.

V. *Well Abandonment*. No well abandonment operations may be commenced without the prior approval of the authorized officer. In the case of newly drilled dry holes or failures and in emergency situations, oral approval may be obtained from the authorized officer subject to prompt written confirmation. For old wells not having an approved abandonment plan, a sketch showing the disturbed area and roads to be abandoned, along with the proposed reclamation measures, shall be submitted with Form 3160-5. On Federal and Indian surface, the appropriate SMA may request additional reclamation measures at abandonment, which normally shall be made a part of BLM's approval of abandonment. Within 30 days following completion of the well abandonment, the lessee or operator shall file with the authorized officer of BLM a Subsequent Report of Abandonment on Form 3160-5, in accordance with 43 CFR Part 3160***, formerly 30 CFR Part 221***. Upon completion of reclamation operations, the lessee or operator shall notify the authorized officer when the location is ready for inspection, via an additional Form 3160-5. Final abandonment shall not be approved until the surface reclamation work required by the approved drilling permit or approved abandonment notice has been completed to the satisfaction of the involved SMA.

VI. *Water Well Conversion*. The complete abandonment of a well which has encountered usable fresh water shall not be approved if the SMA or surface owner wants to acquire the well. If, at abandonment, the SMA or surface owner elects to assume further responsibility for the well, the SMA or surface owner, as appropriate, shall reimburse the lessee or operator for the cost of any recoverable casing or wellhead equipment which is to be left in or on the hole solely because it is to be completed as a water well. The lessee or operator shall abandon the well to the base of the deepest fresh water zone of interest, as required by the authorized officer, and shall complete the surface cleanup and reclamation, as required by the approved drilling permit or approved abandonment notice, immediately upon completion of the conversion operations.

VII. *Privately Owned Surface*.-

A. *Federal oil and gas leases*. Where the well site and access road surface are privately owned or are held in trust for Indian benefit, the lessee or operator is responsible for reaching an agreement with BIA or the private surface owner as to the requirements for the protection of surface resources and reclamation of disturbed areas and/or damages in lieu thereof. However, if the authorized officer or any other involved SMA determines that the surface of Federal or Indian-owned lands in proximity to the proposed well site or access road on private surface will be significantly affected, the lessee or operator may be required to furnish a copy of any existing agreement between the lessee or operator and the surface owner to the authorized officer. If the agreement on private surface is considered inadequate to protect the surface of adjacent Federal or Indian-owned lands, the authorized officer or other involved SMA may prescribe additional measures to protect the adjacent Federal or Indian lands. In the event there is no agreement between the surface owner and the operator, the operator may comply with the provisions of the law or the regulations

governing the Federal or Indian right of reentry to the surface (See Subpart 3814 of this title) and the authorized officer may then proceed to issue the permit.

B. *Indian oil and gas]cases*. Where the well site and access road surface are privately owned or are held in trust for an Indian or Indian tribe other than the owner of the oil and gas rights, the lessee or operator is responsible for reaching an agreement with the surface owner (or the BIA if the surface is held in trust for numerous or unlocatable Indian owners) as to the requirement for the protection of surface resources and reclamation of disturbed areas and/or damages in lieu thereof. However, if the authorized officer or any other involved SMA determines that the surface of Federal or Indian-owned lands in proximity to the proposed well site or access road on private surface will be significantly affected, the lessee or operator may be required to furnish the authorized officer a copy of any existing agreement between the lessee or operator and the surface owner. If the agreement on private, surface is considered inadequate to protect the surface of adjacent Federal or Indian owned lands, the authorized officer or other involved SMA may prescribe additional measures to protect the adjacent Federal or Indian-owned lands. In the event there is no agreement between the surface owner and the operator, the authorized officer may permit the operator to conduct operations if he/she determines that:

(1) a good faith effort has been made by the operator to reach agreement with the surface owner,

(2) adequate security is posted, in the form of a bond. escrow account or by other means, to compensate the surface owner for any damages; and

(3) there is no legal obstacle to conducting operations in the absence of surface owner consent.

VIII. *Report and Activities Required After Well Completion.* Within 30 days after the well completion, the lessee or operator shall furnish 2 copies of Form 3160-4***, formerly 9-330 (Well Completion or Recompletion Report and Log)*** to the authorized officer. However, no later than the fifth business day after any well begins production anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well that has been off production for more than 90 days, the lessee or operator shall notify the authorized officer of the date on which production has begun or resumed.

The notification may be provided orally if promptly confirmed in writing.

	Attachment A
SAMPLE FORMAT	
NOTICE OF STAKING (Not to be used in place of Application for Permit to Drill Form 3160-3)	6. Lease Number
1. Oil Well Gas Well Other(Specify)	7. If Indian, Allottee or Tribe Name
2. Name of Operator:	8. Unit Agreement Name
3. Name of Specific Contact Person:	9. Farm or Lease Name

4. Address & Phone No. of Operator or Agent		10. Well No.	
5. Surface Location of Well Attach: a) Sketch showing road entry onto pad, pad dimensions, and reserve pit. b) Topographical or other acceptable map showing location, access road, and lease boundaries.		11. Field or Wildcat Name 12. Sec., T., R., M., or Blk and Survey or Area	
15. Formation Objective(s)	16. Estimated Well	13. County, Parish, or Borough	14. State
17. Additional Information (as appropriate; must include surface owner's name, address and, if known, telephone number)			
18. Signed_____ Title_____ Date_____			
Note: Upon receipt of the Notice, the Bureau of Land Management (BLM) will schedule the date of the onsite predrill inspection and notify you accordingly. The location must be staked and access road must be flagged prior to the onsite. Operators must consider the following prior to the onsite: a) H_2S Potential b) Cultural Resources (Archeology) c) Federal Right of Way or Special Use Permit			
IMPORTANT : SEE REVERSE SIDE FOR INSTRUCTIONS			

Instructions for Preparation of Attachment A

General: This provides notice to the Bureau of Land Management (BLM) that staking has been (or will be) completed for well locations on Federal or Indian leases and serves as a request to schedule an onsite inspection. The original and one copy of this notice, together with a map and sketch, should be submitted to the appropriate BLM office.

Any item not completed may be justification for not promptly scheduling the onsite inspection.

Specific Considerations: Items included herein should be reviewed and evaluated thoroughly prior to the onsite. These items affect placement of location, road, and facilities. Failure to be prepared with complete, accurate information at the onsite may necessitate later re-evaluation of the site and an additional onsite inspection.

a. H_2S Potential: Prevailing winds, escape routes, and placement of living quarters must be considered.

b. Cultural Resources: Archeological surveys, if required, should be done prior to, during or immediately following the onsite. Changes in location due to subsequent archeological findings may require an additional onsite. Contact involved Surface Management Agency (SMA) for detailed site specific requirements.

c. Federal Right-of-Way or Special Use Permit: Access roads outside the leasehold boundary which cross Federal lands will require a right-of-way grant or special use permit and should be discussed with the BLM or other involved SMA at the time of filing the Notice of Staking.

*Supplemental Checklis*t: The following items, if applicable, should be submitted with or prior to the Application For Permit to Drill (APD) to ensure timely approval of the application. Contact the BLM regarding specific requirements relating to each item.

1. Bonding.
2. Designation of Operator.
3. Report of Cultural Resources/Archeology.
4. H_2S Contingency Plan.
5. Status of Plan of Development and Designation of Agent for wells in Federal units.
6. Federal Right-of-Way (BLM) or Special Use Permit (Forest Service).

Timetable: The onsite inspection will be scheduled and conducted by the BLM within 15 days after receipt of this notice. Surface protection and rehabilitation requirements will be made known to the operator by the BLM during the onsite or no later than 5 ***working*** days from the date of inspection, barring unusual circumstances. These requirements are to be incorporated into he complete APD. However, this does not exclude the possibility of additional conditions of approval being imposed.

[48 FR 56227, Dec. 20, 1983]

ATTACHMENT B

Date:_____

Bureau of Land Management

Checklist for Applicant Notification

Receipt and Acceptability of Application for Permit To Drill (APD)

Lease No._____

Well No._____

Lessee_____

Operator_____

Date APD Received_____

1.____ APD complete as submitted.

2.____ APD is deficient in the following area (s) and (see items 3, 4, or 5 below): -Designation of Operator

- Designation of Agent under _____ unit agreement
- Bonding
- Cultural Resources Report (depends on Federal Surface Management Agency's Requirements
- Form 3160-3***, formerly 9-331C***
- Drilling Plan
- Other (Refer to attachment(s) for any specifics)

3.____APD is retained; to be processed upon receipt of further information as noted above.

4.____APD is being processed; final action pending receipt of further information as noted above.

5.____APD is returned for the following reasons:_____

_____

_____

_____

Note:- A returned APD herewith may be resubmitted when convenient at which time it will be reviewed again for technical and administrative completeness.

A retained but deficient APD must be brought to a technically and administratively acceptable level of completion within 45 days of the date of this notice or the application will be returned unapproved.

[48 FR 56227, Dec. 20, 1983]

Updated on April 23, 1997 by John Broderick

Note: The Order is in it's official form. However, changes to this Order were proposed in the Federal Register on July 23, 1992. Due to a number of changes in the regulations, policies and procedures a decision has been to repropose the order rather than to proceed as originally planned. Therefore, any modifications to the text are limited to clarification and changes to match the text to that contained in this Order or 43 CFR 3160. They are in "**bold**", "*italicized*", and are "underlined" and are as follows:

Production Facilities should be Well and Production Operations

Other Operations should be Surface Disturbing Operations

Well-Abandonment should be Well Abandonment

Delete ***, formerly 30 CFR 221***

Delete ***, formerly CFR 221.23, 221.27, 221.28, 221.29, 0r 221.30, as appropriate***

Delete ***, formerly 30 CFR 221.23(d)***

Delete ***formerly 9-331C***

Change ***(Application for Permit to Drll, Deepen, or Plug Back)*** to Application for Permit to Drill or Deepen

Delete ***formerly 9-331***

Delete parenthesis around Sundry Notices and Reports On Wells

Delete ***, formerly 30 CFR 221.27 or 221.28, respectively***

Change ***working*** to business

Delete ***, formerly 30 CFR 221.33***

Change ***(b)*** to b

Change ***the information collection approval note, formerly 30 CFR 221.27 and 221.2-1*** to 43 CFR 3160.0-9

Delete ***, formerly 9-331***

Delete ***, formerly 9-330***

Delete ***, formerly 30 CFR 221.34***

Delete ***, formerly 30 CFR 221.27 and 221.28,***

Delete parenthesis from around Well Completion or Recompletion Report and Log; and add a comma after Log

Delete , *formerly 9-331C*

Updated on April 23, 1997 by John Broderick

Onshore Oil and Gas Order

Federal and Indian Oil and Gas Leases
Order No. 1

Effective: November 21, 1983.

(See ***Note*** below)

Approval of Operations

Introduction

This Order is established pursuant to the authority prescribed in 43 CFR Part 3160***, formerly 30 CFR 221***. Approval of all proposed exploratory, development, and service wells, and all required approvals of subsequent well operations and other lease operations, shall be obtained in accordance with 43 CFR 3162.3-1, 3162.3-2, 3162.3-3, 3162.3-4 and 3162.5-1***, formerly 30 CFR 221.23, 221.27, 221.28, 221.29, or 221.30, as appropriate***.

All wells approved for drilling under the provisions of this Order shall have been included in a drilling plan, as required under 43 CFR 3162.3-1(d)***, formerly 30 CFR 221.23(d)***.

A drilling plan may be submitted for a single well, or for several wells that are proposed to be drilled to the same zone within a field or area of geological and environmental similarity. Plans for additional development of the leasehold should be considered in the submittal.

However, approval of Form 3160-3, ***formerly 9-331C (Application for Permit to Drill, Deepen, or Plug Back)*** is required for each well, and in order to be complete an Application for Permit to Drill (APD) shall include all information required under 43 CFR 3162.3-1 (d) and (e). A technically and administratively complete APD includes, in addition to Form 3160-3, a drilling plan, evidence of bond coverage, a designation of operator, when appropriate, and such other information as may be required by applicable Order or Notice to evaluate the proposal. Refer to section III.G. for more detailed guidance on complete APD'S.

Certain subsequent well operations and other lease operations involving additional surface disturbance shall be included in a plan submitted on Form 3160-5, ***formerly 9-331 (Sundry Notices and Reports On Wells)***, and approved under the provisions of this Order pursuant to 43 CFR 3162.3-2 or 3162.3-3***, formerly 30 CFR 221.27 or 221.28, respectively***.

A report on all subsequent well operations shall be filed on Form 3160-5, as prescribed in 43 CFR 3162.3-2. A notice of intention to abandon a well and a subsequent report of abandonment shall also be filed on Form 3160-5, as required by 43 CFR 3162.3-4.

All applications for approval under the provisions of this Order shall be submitted to the appropriate authorized officer of the Bureau of Land Management (BLM). "Authorized Officer" means any person authorized to perform the duties prescribed. To be advised of the proper BLM official and office with which to file an application, the lessee/operator may contact the appropriate District Manager of BLM having jurisdiction over lease operations in a particular area.

The lessee/operator shall comply with the following requirements:

I. *Accountability.* Lessees and operators have the responsibility to see that their exploration, development,

production, and construction operations are conducted in a manner which (1) conforms with applicable Federal laws and regulations and with State and local laws and regulations to the extent that such State and local laws are applicable to operations on Federal or Indian leases; (2) conforms with the lease terms, lease stipulations, and conditions of approval; (3) results in diligent development and efficient resource recovery; (4) protects the lease from drainage; (5) affords adequate safeguards for the environment; (6) results in the proper reclamation of disturbed lands; (7) conforms with current available technology and practice; (8) assures that underground sources of fresh water will not be endangered by any fluid injection operation; and (9) otherwise assures the protection of the public health and safety. Lessees and operators shall be held fully accountable for their contractors and subcontractors' compliance with the requirements of the approved permit and/or plan. Drilling/construction and associated operations shall not be conducted without prior approval of the authorized officer of BLM. BLM approval of the APD does not relieve the lessee and operator from obtaining any other authorizations required for operations on Federal and Indian lands.

[48 FR 56226, Dec. 20, 1983]

II. *Special Situations.* Lessees and operators, as well as their contractors and subcontractors, shall not commence any operation or construction activity on a lease, other than cultural resource inventories and surveying and staking well locations on Federal and Indian lands, without the prior approval of the authorized officer of BLM, except for certain subsequent operations (see Section IV. of this Order). The terms and conditions of an approved permit and drilling plan, or other plan, shall not be altered unless BLM first has approved an amended or supplemental permit and/or plan covering any such modifications.

For proposed operations on a committed State or fee tract in a Federally supervised unit or communitized tract, the operator shall furnish a copy of the approved State permit to the authorized officer of BLM which will be accepted for record purposes. In addition, in cases where an access road to a non-Federal or non-Indian drillsite will cross leased Federal or Indian lands, the operator shall submit a surface use plan only for those portions of the access road on Federal or Indian lands where new construction or reconstruction will occur. Such plans shall be submitted to the authorized officer of BLM or appropriate Federal Surface Management Agency (SMA) and approval obtained prior to commencement of construction operations on the Federal or Indian surface. For privately owned surface. refer to section VII.

[48 FR 56226, Dec. 20, 1983]

III. *Drilling Operations.*

A. *Surveying and Staking*. Surveying and staking may be done without advance approval from the authorized officer of BLM or other appropriate SMA and prior to the conduct of any required cultural resource inventory, except for lands administered by the Department of Defense or other lands used for military purposes, or where significant surface disturbance is likely to occur.

Lessees and operators are strongly encouraged to notify the appropriate SMA prior to entry upon the lands for the purposes of surveying and staking. Early notification will allow the SMA to apprise the lessees and operators of any existing conditions, knowledge of which could result in saving of time and money by both industry and Government. These include but are not limited to:

- Whether a cultural resource inventory is required;
- Presence of threatened or endangered species and/or critical habitats;
- Vehicle access restrictions; and/or
- Permitting requirements applicable to affected lands outside the leasehold boundary.

Where the surface is privately owned or held in trust of Indian benefit, the lessee/operator is responsible for making access arrangements with the private surface owner or the Bureau of Indian Affairs (BIA) and Indian tribe or Indian allottee(s) prior to entry upon the lands for the purpose of surveying and staking.

Staking shall include the well location, two 200-foot directional reference stakes, the exterior dimensions of the drill pad, reserve pit and other areas of surface disturbance, cuts and fills, and centerline flagging of new roads with road stakes being visible from one to the next. Cut and fill staking applies only to the wellsite, reserve pit, and, if off-location, any ancillary facilities.

[48 FR 56226, Dec. 20, 1983]

B. Material to be Filed.

1. *Notice of Staking*. Prior to filing a complete APD, the lessee or operator may, at its option, file a Notice of Staking (Attachment A) with the authorized officer of BLM and appropriate office of any other involved SMA. In Alaska, a copy of the Notice shall also be sent to the appropriate Borough and/or Native Regional or Village Corporation when a subsistence stipulation is part of the lease.

The information contained in the Notice of Staking (NOS) will aid in identifying the need for associated rights-of-way and special use permits. If all required information is not included, the NOS shall be returned to the operator for modification.

2. *Application for Permit to Drill (APD)*. Regardless of whether an NOS is filed, the lessee or operator shall file an APD. This application shall be administratively and technically complete prior to approval. The authorized officer of BLM shall advise the lessee or operator, within 7 ***working*** days of receipt of the application, as to whether or not the application is complete. If the application is complete, oral notification will suffice. If the application is not complete, notification to that effect shall be made in writing even though the lessee or operator may have already received oral notification. For purposes of written notification, Attachment B, Checklist For Applicant Notification, shall be mailed to the applicant within the 7-day period. The notification shall advise the lessee or operator of any defects that need correcting and of any additional information required. If the deficiencies are not corrected and/or the additional required information is not submitted within 45 days of the date of any oral or written notice (if no prior oral notice), the application shall be returned to the proponent.

Upon initiation of the APD process, the authorized officer of BLM shall consult with any other involved SMA and with other appropriate interested parties, and shall take one of the following actions within 30 days: (1) approve the application as submitted or with appropriate modifications or stipulations; (2) return the application and advise the lessee or operator of the reasons for disapproval; or (3) advise the lessee or operator, either in writing or orally with subsequent written confirmation, of the reasons why final action will be delayed and the date such final action is expected.

When the NOS option is followed, BLM shall strive to process the subsequent related APD within 10 days of the APD's receipt. However, in either situation, the process of reviewing the APD and advising the lessee or operator as to whether it is technically and administratively complete shall be considered a part of the overall APD processing time, i.e., 30 days in case of the APD option and 10 days if the NOS process is utilized. Operators are cautioned that with respect to any particular well, the option selected initially, of either filing both an NOS and a subsequent APD or only an APD, is to be followed and there shall be no shifting between the two options. If operators fail to maintain a consistent approach in this regard, the processing time already expended shall not be counted as part of the above 30-day period.

The processing of applications shall be given a high priority, and individual applications shall be processed according to the date the application is received by the appropriate BLM office. If it is not possible for BLM

actions to be taken prior to lease expiration, the lessee or operator shall be advised, at least orally, prior to the lease expiration date, with all such notifications confirmed in writing. Said advice shall detail the reasons for delay so that the lessee or operator may take such appeal or other recourse to preserve the lease as is allowed by law and/or regulation. The appropriate BLM office telephone number and address shall be furnished to the lessee or operator with the earliest notification or advice.

[48 FR 56226 and 56227, Dec. 20, 1983]

C. *Conferences and Inspections.* An onsite predrill inspection shall be scheduled and conducted by the appropriate BLM office within 15 days of receiving the applicant's initially-filed document, i.e., either an NOS or a complete APD. In special circumstances, such as those areas enumerated in section III. D., the authorized officer of BLM may require the filing of a complete APD prior to the scheduling of an onsite predrill inspection. Representatives of the appropriate BLM office, the operator and other interested parties, such as any other involved SMA, the appropriate Alaska Borough and/or Native Regional or Village Corporation (when a subsistence stipulation is part of the lease), and the operator's principal dirt and, if known, drilling contractor shall attend the predrill inspection. When appropriate, the operator's surveyor and archeologist should also participate in the inspection. If any other involved SMA is not able to participate at the desired time, the inspection may be rescheduled provided it can be conducted within the 15-day period. When private surface is involved, the lessee or operator shall furnish the name, address and, if known, telephone number of the private surface owner on the NOS form or, in the surface use program, such information shall be attached to the APD. The BLM shall invite the surface owner to participate in the onsite inspection. This invitation will be extended as early as possible. However, a surface owner's inability to attend shall not delay the scheduled inspection unless BLM can conveniently reschedule the inspection within the 15-day time period. Joint inspections, i.e., those involving any other SMA, normally shall not be held for propose infill well locations in developed fields if an appropriate environmental assessment (EA) already has been completed by BLM for the field or that area of the field. However, if staffing permits, a representative of BLM shall inspect those proposed locations where a joint predrill inspection is not held. At the time of onsite inspection, staking of the location shall have occurred, as specified in part A of this section.

The surface use and reclamation stipulations shall be developed during the onsite inspection and provided to the operator either at the location or within 5 ***working*** days from the date of the onsite inspection, barring unusual circumstances. These requirements shall be incorporated into the complete application, when filed, if the proponent is following the NOS option. Otherwise, these requirements shall be incorporated as conditions of the APD approval if an NOS is not filed. However, this does not preclude the possibility of additional conditions being imposed as a result of the review of the complete application.

[48 FR 56226 and 56227, Dec. 20, 1983]

D. *Processing Time Frames*. The following table summarizes the major time frames involved in processing most APD'S:

APD Option

Action items	Days
Onsite inspection	Within 15-days after receipt of the APD.
Requirements to be imposed when APD is approved.	Developed onsite or within 5 ***working*** days thereafter.

Complete processing of APD.	Within 30 days of APD receipt, provided that it is technically and administratively complete at the end of the 30 day period (includes the above 15-day and 5-day periods).

NOS OPTION

Action items	Days
Onsite inspection	Within 15 days of receipt of the NOS.
Requirements for inclusion in the APD.	Furnish onsite or within 5 ***working*** days thereafter.
Complete processing of APD.	Within 10 days of the APD's receipt, provided that it is technically and administratively complete at the end of the 10-day period.

The above time frames together comprise the total period during which BLM anticipates it will be able to process approximately 90 percent of all APD'S. However, the 30 days may not run consecutively even when APD's are filed immediately after onsite inspections. For example, any time used by lessees or operators to correct deficiencies, or to prepare and submit information initially omitted from the application and which causes delays in processing beyond BLM's control, shall not be counted as part of the 30-day period. However, BLM shall continue to process applications up to the point where any missing piece of information or an uncorrected deficiency renders further processing impractical or impossible. Processing delays which extend the 30-day processing time are expected to occur in less than 5 percent of the cases. In addition, delays in conducting onsite inspections within 15 days of receiving an NOS (or an APD if an NOS is not filed), or delays in providing all stipulations to the operator within 5 ***working*** days of an onsite inspection may occur in less than 5 percent of the cases during periods of severe weather conditions and in areas where certain environmental concerns or jurisdictional conflicts exist.

Such areas include, but are not limited to:

1. Certain tribally or individually owned Indian trust or restricted lands.
2. Lands withdrawn for Federal reservoirs and Federal lands surrounding such reservoirs.
3. Lands in formally designated wilderness areas, lands formally proposed for such designation, lands within BLM Wilderness Study Areas or lands within Forest Service Further Planning Areas.
4. National Recreation Areas.
5. Wildlife Refuges.
6. Certain Federal lands in Alaska.
7. Lands under jurisdiction of the Department of Defense.
8. Lands where a major problem exists with respect to cultural resources.
9. Lands known to contain threatened or endangered species and/or critical habitats.

The 30-day time frame for completion of the APD process may sometimes be exceeded where it is necessary to

prepare an EA, and in all cases where it is necessary to prepare an environmental impact statement (EIS).

Lessees and operators are also cautioned that if the NOS/APD process begins less than 30 days prior to the desired date of commencement of drilling operations, the process may not be completed within the time desired.

[48 FR 56227, Dec. 20, 1983]

E. Cultural Resources Clearance. Because consultation with the involved SMA and the State Historic Preservation Officer on matters that relate to the protection of historic and cultural resources is provided in BLM (36 CFR 800.4(a)(1)), lessees and operators should contact the involved SMA at least 15 days prior to the submission of an NOS or APD to determine whether any actions are necessary to locate and identify historic and cultural resources.

Survey work and a related report shall be required only if the involved SMA has reason to believe that properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) are present in the area of potential effect. If such actions are necessary, lessees and operators are encouraged to complete the field work and submit the required report with the complete APD submittal, when following the NOS option, or not later than the 25th day of the 30-day processing period, when following the APD option. Historic and cultural resources work on privately owned surface shall be undertaken only with the consent of the private surface owner. If the private surface owner refuses entry for that purpose, the lessee or operator shall use its best efforts to conduct its approved operations in a manner that avoids adverse effects on any properties which are listed, or may be eligible for listing, in the NRHP.

[48 FR 56227, Dec. 20, 1983]

F. Threatened and Endangered Species Clearance and Other Critical Environmental Concerns. The involved SMA shall identify any threatened and endangered species and/or critical habitat problems and other environmental concerns, e.g.. wilderness and wilderness study areas, wild and scenic rivers, etc., to minimize the possibility of drill site relocation. Should the SMA, if that agency is not BLM, be unable to carry out this responsibility, BLM shall do so. BLM shall identify any known or potential surface geological hazards. If any of these concerns exist, information in that regard shall be conveyed to the lessee/operator by BLM no later than when the surface use and reclamation stipulations are provided; however, the lessee/operator can ensure earlier identification of potential conflict in these areas of concern by contacting the involved SMA prior to the submittal of an NOS or APD. The authorized officer of BLM should be timely apprised of any contacts with any other involved SMA.

G. Components of a CompleteApplication for Permit to Drill.

1. *Complete Application*. If an NOS is filed, the lessee/operator shall prepare and submit a complete APD within 45 days of the onsite inspection pursuant to the requirements of this subsection. Failure to timely submit an APD within this time frame may result in the lessee/operator having to repeat the entire process. The complete APD shall be submitted in triplicate to BLM, together with any additional copies required by the authorized officer. As provided in 43 CFR 3162.3-1(d)***, formerly 30 CFR 221.23(d)***, a complete application consists of:

(a) Form 3160-3,
(b) a drilling plan (or reference thereto) containing information required by section G.4., below,
(c) evidence of bond coverage as required by Department of the Interior regulations,
(d) designation of operator, where necessary, and
(e) such other information as may be required by applicable Orders and Notices.

The APD shall be signed by the lessee/operator official having the responsibility and authority to supervise and direct all activities related to the permit and who can be contacted in the event of a problem. The authorized officer may require additional information in unusual circumstances. However, where the proposed well is to be completed for injection purposes (disposal or production enhancement), lessees and operators also shall obtain an underground injection permit from the Environmental Protection Agency (EPA) or the State, where the State has achieved primacy. Any information submitted in support of obtaining that permit shall be accepted by the authorized officer to the extent that it satisfies the information submission requirements of this Order.

[48 FR 56227, Dec.20, 1983]

2. *Designation of Operator*. The lessee may authorize the actual conduct of operations in its behalf by designating another party as operator in a manner and form acceptable to the authorized officer. Lessees shall notify the authorized officer in writing whenever an existing designation of operator is cancelled. A designated operator cannot designate a different party as operator.

3. *Form 3160-3. **formerly 9-331 C**, **(Application for Permit to Drill, Deepen, or Plug Back)***. This Form shall be completed in full and submitted to the authorized officer together with all necessary information referred to under section G.1. above. The following points a. through f. are specific as to appropriate information requirements of the Form and shall be stated thereon, or as an attachment thereto, for each proposed well:

a. A well location plat shall be attached depicting the proposed location, as determined by a registered surveyor, in feet and direction from the nearest section lines of an established public land survey or, in areas where there are no public land surveys, by such other method as is acceptable to the authorized officer. The plat shall be signed by the surveyor, certifying that the location has, in fact, been staked on the grounds as shown on the plat.

b. The elevation given shall be the above-sea-level datum of the unprepared ground.

c. The type of drilling tools to be utilized shall be stated.

d. The proposed casing program shall include the size, grade, weight, type of thread and coupling, and setting depth of each string, and whether it is new or used.

e. The amount and type of cement, including additives to be used in setting each casing string. shall be described. If stage-cementing techniques are to be employed, the setting depth of the stage collars and amount and type of cement, including additives, to be used in each stage shall be given. The expected linear fill-up of each cemented string or each stage, when utilizing stage-cementing techniques, shall be provided.

f. The anticipated duration of the total operation shall be given in addition to the anticipated starting date.

A copy of the approved Form 3160-3 and the pertinent drilling plan, along with any conditions of approval, shall be available at the drillsite to authorized or delegated representatives of the United States whenever active construction, drilling, or completion operations are under way.

[48 FR 56227, Dec. 20, 1983]

4. *Drilling Plan*. A drilling plan in sufficient detail to permit a complete appraisal of the technical adequacy of, and environmental effects associated with, the proposed project shall be prepared and either submitted with each copy of Form 3160-3, or referenced thereon if it is already on file with BLM or is being submitted for more than one well. The plan shall be developed in conformity with the provisions of the lease. including attached stipulations, and the guidelines provided by this Order or other land use documents. Each drilling plan shall contain a description of the drilling program and surface use program. The BLM shall send a copy of appropriate parts of the plan to any other involved SMA and may send a copy of the plan to other interested Federal, State, and local agencies. All information identified as proprietary by the applicant pursuant to 43 CFR 3162.8,

formerly 30 CFR 221.33, shall first be deleted. The drilling program shall include a description of the pressure control system and circulation mediums, the testing, logging and coring program, pertinent geologic data, and information on expected problems and hazards. The drilling program shall be reviewed for adequacy by BLM. If the program is considered inadequate, BLM shall require modification of the drilling program.

The surface use program shall contain a description of the road and drill pad location and construction methods for containment and disposal of waste material, and other pertinent data as the authorized officer may require. The surface use program shall provide for safe operations,. adequate protection of surface resources and uses and other environmental components, and shall, for Federal and Indian surface, include adequate measures for reclamation of disturbed lands no longer needed for either drilling or other subsequent operations. Where the surface is privately owned, the authorized officer may require the submission of the reclamation plan between the lessee or operator and landowner in order to determine if it is adequate to protect nearby Federal and Indian surface from significant impacts generated by the operation. In developing the surface use program, the lessee or operator shall make use of such information as is available from the involved SMA concerning the surface resources and uses, environmental considerations, and local reclamation procedures. The surface use program shall be reviewed for adequacy by BLM and by any other involved SMA. If the surface use program is considered inadequate, BLM shall, in consultation with any other involved SMA, require modifications or amendment of the program or otherwise set forth stipulations or conditions of approval as are necessary for the protection of surface resources/uses and the environment, and for the reclamation of the areas to be disturbed when no longer needed for operational purposes.

[48 FR 56227, Dec. 20, 1983]

a. *Guidelines for Preparing Drilling Program*. The following information shall be included as part of the drilling plan but shall be made specific to each well if the plan covers more than one well:

(1) Estimated tops of important geologic markers.

(2) Estimated depths at which the top and the bottom of anticipated water (particularly fresh water), oil, gas or other mineral-bearing formations are expected to be encountered and the lessee's or operator's plans for protecting such resources.

(3) Lessee's or operator's minimum specifications for pressure control equipment to be used and a schematic diagram thereof showing sizes, pressure ratings (or API series), and the testing procedures and testing frequency.

(4) Any supplementary information more completely describing the drilling equipment and casing program as set forth on Form 3160-3.

(5) Type and characteristics of the proposed circulating medium or mediums to be employed in drilling, the quantities and types of mud and weighting material to be maintained, and the monitoring equipment to be used on the mud system.

(6) The anticipated type and amount of testing, logging, and coring.

(7) The expected bottom hole pressure and any anticipated abnormal pressures or temperatures or potential hazards, such as hydrogen sulfide, expected to be encountered, along with contingency plans for mitigating such identified hazards.

(8) Any other facets of the proposed operation which the lessee or operator wishes to point out for BLM's consideration of the application.

(b) *Guidelines for Preparing Surface Use Program*. In preparing this program, the lessee or operator shall submit

maps, plats, and narrative descriptions which adhere closely to the following (maps and plats should be of a scale no smaller than 1:24,000 unless otherwise stated below):

(1) *Existing Roads*. A legible map (USGS topographic, county road, Alaska Borough, or other such map), labeled and showing the access route to the location, shall be used for locating the proposed well site in relation to a town (village) or other locatable point, such as a highway or county road, which handles the majority of the through traffic to the general area. The proposed route to the location, including appropriate distances from the point where the access route exits established roads, shall be shown. All access roads shall be appropriately labeled. Any plans for improvement and/or a statement that existing roads will be maintained in the same or better condition shall be provided. Existing roads and newly constructed roads on surface under the jurisdiction of an SMA shall be maintained in accordance with the standards of the SMA.

Information required by items (2), (3), (4), (5), (6), and (8) of this subsection also may be shown on this map if appropriately labeled or on a separate plat or map.

(2) *Access Roads to Be Constructed and Reconstructed*. All permanent and temporary access roads that are to be constructed, or reconstructed, in connection with the drilling of the proposed well shall be appropriately identified and submitted on a map or plat. Width, maximum grade, major cuts and fills, turnouts, drainage design, location and size of culverts and/or bridges, fence cuts and/or cattleguards, and type of surfacing material, if any, shall be stated for all construction. In addition, where permafrost exists, the methods for protection from thawing must be indicated. Modification of proposed road design may be required during the onsite inspection.

Information also should be furnished to indicate where existing facilities may be altered or modified. Such facilities include gates, cattleguards, culverts, and bridges which, if installed or replaced, shall be designed to adequately carry anticipated loads.

[48 FR 56227, Dec.20, 1983]

(3) *Location of Existing Wells*. It is recommended that this information be submitted on a map or plat and include all wells (water, injection or disposal, producing, and drilling) within a 1-mile radius of the proposed location.

(4) *Location of Existing and/or Proposed Facilities if Well is Productive.*

(a) *On well pad* - A map or plat shall be included showing, to the extent known or anticipated, the location of all production facilities and lines to be installed if the well is successfully completed for production.

(b) *Off well pad - A* map or plat shall be included showing to the extent known or anticipated, the existing or new production facilities to be utilized and the lines to bc installed if the well is successfully completed for production. If new construction, the dimensions of the facility layout are to be shown.

If the information required under (a) or (b) above is not known and cannot be accurately presented and the well subsequently is completed for production, the operator shall then comply with section IV. of this Order.

(5) *Location and Type of Water Supply (Rivers, Creeks, Lakes, Ponds, and Wells).* This information may be shown by quarter-quarter section on a map or plat, or may be a written description. The source and transportation method for all water to be used in drilling the proposed well shall be noted if the source is located on Federal or Indian lands or if water is to be used from a Federal or Indian project. If the water is

obtained from other than Federal or Indian lands, only the location need be identified. Any access roads crossing Federal or Indian lands that are needed to haul the water shall be described in items G.4.b. (1) and (2), as appropriate. If a water supply well is to be drilled on the lease, it shall be so stated under this item, and the authorized officer of BLM may require the filing of a separate APD.

(6) *Construction Materials*. The lessee or operator shall state the character and intended use of all construction materials, such as sand, gravel, stone and soil material. If the materials to be used are Federally-owned, the proposed source shall be shown by either quarter-quarter section on a map or plat, or a written description, The use of materials under BLM jurisdiction is governed by 43 CFR 3610.2-3. The authorized officer shall inform the lessee or operator if the materials may be used free of charge or if an application for sale is required. If the materials to be used are Indian owned or under the jurisdiction of any SMA other than BLM, the specific tribe and or Area Superintendent of BIA, or the appropriate SMA office shall be contacted to determine the appropriate procedure for use of the materials.

[48 FR 56227, Dec. 20, 1983]

(7) *Methods for Handling Waste Disposal* A written description shall be given of the methods and locations proposed for safe containment and disposal of each type of waste material (e.g., cuttings, garbage, salts, chemicals, sewage, etc.) that results from the drilling of the proposed well. Likewise, the narrative shall include plans for the eventual disposal of drilling fluids and any produced oil or water recovered during testing operations.

(8) *Ancillary Facilities*. The plans, or subsequent amendments to such plans, shall identify all ancillary facilities such as camps and airstrips as to their location, land area required, and the methods and standards to be employed in their construction. Such facilities shall be shown on a map or plat. The approximate center of proposed camps and the center line of airstrips shall be staked on the ground.

(9) *Well Site Layout*. A plat of suitable scale (not less than 1 inch= 50 feet) showing the proposed drill pad and its approximate location with respect to topographic features is required. Cross section diagrams of the drill pad showing any cuts and fills and the relation to topography are also required. The plat shall also include the approximate proposed location of the reserve and burn pits, access roads onto the pad, turnaround areas, parking areas, living facilities, soil material stockpiles, and the orientation of the rig with respect to the pad and other facilities. Plans, if any, to line the reserve pit shall be detailed.

[48 FR 56227, Dec. 20, 1983]

(10) *Plans for Reclamation of the Surface.* The program for surface reclamation upon completion of the operation, such as configuration of the reshaped topography, drainage system, segregation of spoil materials, surface manipulations, waste disposal, revegetation methods, and soil treatments, plus other practices necessary to reclaim all disturbed areas, including any access roads or portions of well pads when no longer needed, shall be stated. An estimate of the time for commencement and completion of reclamation operations, dependent on weather conditions and other local uses of the area, shall be provided.

[48 FR 56227, Dec. 20, 1983]

(11) *Surface Ownership*. The surface ownership (Federal, Indian, State or private) at the well location, and for all lands crossed by roads which are to be constructed or upgraded, shall be indicated. Where the surface of the well site is privately owned, the operator shall provide the name, address and, if known, telephone number of the surface owner, unless previously provided.

[48 FR 56227, Dec. 20, 1983]

(12) *Other Information*. The lessee or operator is encouraged to submit any additional information that may be helpful in processing the application.

(13) *Lessee's or Operator's Representative and Certification*. The name, address and telephone number of the lessee's or operator's field representative shall be included. The lessee or operator submitting the APD shall certify as follow,:

I hereby certify that I, or persons under my direct supervision, have inspected the proposed drill site and access route; that I am familiar with the conditions which currently exist; that the statements made in this plan are, to the best of my knowledge, true and correct; and that the work associated with operations proposed herein will be performed by_____ and its contractors and subcontractors in conformity with this plan and the terms and conditions under which it is approved. This statement is subject to the provisions of l8 U.S.C. 1001 for the filing of a false statement.

Date _____

Name and Title _____

5. *Environmental Review Requirements.* When an onsite inspection is conducted, it shall be made by representatives of the authorized officer and the operator, and other interested parties such as the involved SMA, the appropriate Alaska Borough and/or Native Regional Corporation (when a subsistence stipulation is part of the lease), and the operator's principal dirt contractor and, if known, drilling contractor. It is recommended that, when appropriate, the operator's surveyor and archeologist should also participate in the inspection. The purpose of this inspection shall be to ensure the staked location, access roads and other areas proposed for surface disturbance are geologically and environmentally acceptable, giving appropriate consideration to all applicable Federal laws and regulations. Lessees and operators are encouraged to designate their future drilling sites so that several locations may be inspected at one time.

[48 FR 56227, Dec. 20, 1983]

a. *Federal Responsibilities.* When an inspection is made, the information obtained shall be utilized by BLM in appraising the environmental effects associated with the proposed action and in preparing pertinent portions of the required environmental documentation. As the approving agency, BLM has the lead responsibility for completing the environmental review process and establishing the terms and conditions under which the proposed action may be approved. The conduct of the environmental review process, under the Department of the Interior's implementing procedures pursuant to the National Environmental Policy Act, will result in the preparation of a Record of Review (ROR) and/or an EA, consistent with pertinent regulations and procedures. This review shall identify the probable and potential environmental impacts associated with the proposal and methods for mitigating these impacts and shall be the basis of the approving official's determination as to whether approval of the proposed activity would or would not constitute a major Federal action significantly affecting the quality of the human environment as defined by section 102(2)(C) of the National Environmental Policy Act of 1969. A "would constitute" determination shall necessitate the preparation of an EIS. In that case, final action on the APD shall not be taken until the EIS and Record of Decision are completed.

b. *Other Considerations*. Lessees and operators are strongly encouraged to file their NOS and/or complete APD at least 30 days in advance of the time when they wish to commence operations and to consult with the involved SMA as early as possible to identify potential areas of concern (see sections III. E. and F.).

IV. *Subsequent Operations.*Subsequent operations shall be conducted in accordance with 43 CFR Part 3160, ***formerly 30 CFR 221***. However, where the proposed subsequent operation will result in the well being converted for injection purposes (disposal or production enhancement), lessees and operators also shall obtain an underground injection permit from EPA or the State, where the State has achieved primacy. Any information submitted in support of obtaining that permit shall be accepted by the authorized officer of BLM to the extent that it satisfies the information submittal requirements of this Order.

A. *Well and Production Operations*. Before conducting further well operations that involve change in the original plan, a detailed written statement of the work shall be filed on Form 3160-5 or 3160-3, as appropriate, with the authorized officer and approval obtained before the work is started. These operations include redrilling, deepening, performing casing repairs, plugging-back, altering casing, performing nonroutine fracturing jobs, recompleting in a different interval, performing water shut-off, and converting to injection or disposal. Within 30 days of the completion of such operations, a subsequent report shall be filed on Form 3160-5 and, if the well is recompleted, a recompletion report on Form 3160-4, pursuant to 43 CFR 3162.3-2 and ***the information collection approval note, formerly 30 CFR 221.27 and 221.2-1***.

Unless additional surface disturbance is involved and so long as the operations conform to the standard of prudent operating practice, no prior approval is required for routine fracturing or acidizing jobs, or recompletion in the same interval, but a subsequent report of these operations shall be filed on Form 3160-5***, formerly 9-331***, within 30 days of completion, pursuant to 43 CFR 3162.3-2 and ***the information collection approval note, formerly 30 CFR 221.27 and 221.2-1***.

Neither prior approval nor a subsequent report is required for well clean-out work, routine well maintenance (such as pump, rods, and tubing work), or for repair, replacement, or modification of surface production equipment, provided no additional surface disturbance is involved. However, the modification of any production. treating. and measurement facilities shall require the submission of a revised schematic diagram within 30 days of the completion of such operations, pursuant to 43 CFR 3162.7-2***. formerly 30 CFR 221.34***.

[48 FR 56227, Dec.20, 1983]

B. *Surface Disturbing Operations*.Pursuant to 43 CFR 3162.3-2 and 3162.3-3***, formerly 30 CFR 221.27 and 221.28***, lessees and operators shall submit, for the approval of the authorized officer, a proposed plan of operations on Form 3160-5 prior to undertaking any subsequent new construction, reconstruction, or alteration of existing facilities including. but not limited to, roads, emergency pits. firewalls. flowlines, or other production facilities on any lease when additional surface disturbance will result. If, at the time the original APD was filed, the lessee or operator elected to defer submitting information for item III.G.4.b.(4), "Location of Existing and/or Proposed Facilities if Well is Productive," the lessee or operator shall supply this information for approval prior to construction and installation of the facilities. The authorized officer, in consultation with any other involved SMA, may require a field inspection before approving the proposal.

C. Emergency Repairs. Emergency repairs may be conducted without prior approval provided that the authorized officer is promptly notified. Sufficient information shall be submitted to permit a proper evaluation of any resultant surface disturbing activities as well as any planned accommodations necessary to mitigate potential adverse environmental effects.

D. Environmental Review. The environmental review procedures discussed in section III.G.5. of this Order shall also apply to subsequent operations which involve additional surface disturbance.

V. *Well Abandonment*. No well abandonment operations may be commenced without the prior approval of the authorized officer. In the case of newly drilled dry holes or failures and in emergency situations, oral approval may be obtained from the authorized officer subject to prompt written confirmation. For old wells not having an approved abandonment plan, a sketch showing the disturbed area and roads to be abandoned, along with the proposed reclamation measures, shall be submitted with Form 3160-5. On Federal and Indian surface, the appropriate SMA may request additional reclamation measures at abandonment, which normally shall be made a part of BLM's approval of abandonment. Within 30 days following completion of the well abandonment, the lessee or operator shall file with the authorized officer of BLM a Subsequent Report of Abandonment on Form

3160-5, in accordance with 43 CFR Part 3160***, formerly 30 CFR Part 221***. Upon completion of reclamation operations, the lessee or operator shall notify the authorized officer when the location is ready for inspection, via an additional Form 3160-5. Final abandonment shall not be approved until the surface reclamation work required by the approved drilling permit or approved abandonment notice has been completed to the satisfaction of the involved SMA.

VI. *Water Well Conversion*. The complete abandonment of a well which has encountered usable fresh water shall not be approved if the SMA or surface owner wants to acquire the well. If, at abandonment, the SMA or surface owner elects to assume further responsibility for the well, the SMA or surface owner, as appropriate, shall reimburse the lessee or operator for the cost of any recoverable casing or wellhead equipment which is to be left in or on the hole solely because it is to be completed as a water well. The lessee or operator shall abandon the well to the base of the deepest fresh water zone of interest, as required by the authorized officer, and shall complete the surface cleanup and reclamation, as required by the approved drilling permit or approved abandonment notice, immediately upon completion of the conversion operations.

VII. *Privately Owned Surface*.-

A. *Federal oil and gas leases*. Where the well site and access road surface are privately owned or are held in trust for Indian benefit, the lessee or operator is responsible for reaching an agreement with BIA or the private surface owner as to the requirements for the protection of surface resources and reclamation of disturbed areas and/or damages in lieu thereof. However, if the authorized officer or any other involved SMA determines that the surface of Federal or Indian-owned lands in proximity to the proposed well site or access road on private surface will be significantly affected, the lessee or operator may be required to furnish a copy of any existing agreement between the lessee or operator and the surface owner to the authorized officer. If the agreement on private surface is considered inadequate to protect the surface of adjacent Federal or Indian-owned lands, the authorized officer or other involved SMA may prescribe additional measures to protect the adjacent Federal or Indian lands. In the event there is no agreement between the surface owner and the operator, the operator may comply with the provisions of the law or the regulations governing the Federal or Indian right of reentry to the surface (See Subpart 3814 of this title) and the authorized officer may then proceed to issue the permit.

B. *Indian oil and gas]cases*. Where the well site and access road surface are privately owned or are held in trust for an Indian or Indian tribe other than the owner of the oil and gas rights, the lessee or operator is responsible for reaching an agreement with the surface owner (or the BIA if the surface is held in trust for numerous or unlocatable Indian owners) as to the requirement for the protection of surface resources and reclamation of disturbed areas and/or damages in lieu thereof. However, if the authorized officer or any other involved SMA determines that the surface of Federal or Indian-owned lands in proximity to the proposed well site or access road on private surface will be significantly affected, the lessee or operator may be required to furnish the authorized officer a copy of any existing agreement between the lessee or operator and the surface owner. If the agreement on private, surface is considered inadequate to protect the surface of adjacent Federal or Indian owned lands, the authorized officer or other involved SMA may prescribe additional measures to protect the adjacent Federal or Indian-owned lands. In the event there is no agreement between the surface owner and the operator, the authorized officer may permit the operator to conduct operations if he/she determines that:

(1) a good faith effort has been made by the operator to reach agreement with the surface owner,

(2) adequate security is posted, in the form of a bond. escrow account or by other means, to compensate the surface owner for any damages; and

(3) there is no legal obstacle to conducting operations in the absence of surface owner consent.

VIII. *Report and Activities Required After Well Completion.* Within 30 days after the well completion, the lessee or operator shall furnish 2 copies of Form 3160-4, ***formerly 9-330*** ***(Well Completion or Recompletion Report and Log)*** to the authorized officer. However, no later than the fifth business day after any well begins production anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well that has been off production for more than 90 days, the lessee or operator shall notify the authorized officer of the date on which production has begun or resumed.

The notification may be provided orally if promptly confirmed in writing.

Attachment A

SAMPLE FORMAT

NOTICE OF STAKING (Not to be used in place of Application for Permit to Drill Form 3160-3)		6. Lease Number	
1. Oil Well Gas Well Other(Specify)		7. If Indian, Allottee or Tribe Name	
2. Name of Operator:		8. Unit Agreement Name	
3. Name of Specific Contact Person:		9. Farm or Lease Name	
4. Address & Phone No. of Operator or Agent		10. Well No.	
5. Surface Location of Well Attach: a) Sketch showing road entry onto pad, pad dimensions, and reserve pit. b) Topographical or other acceptable map showing location, access road, and lease boundaries.		11. Field or Wildcat Name 12. Sec., T., R., M., or Blk and Survey or Area	
15. Formation Objective(s)	16. Estimated Well	13. County, Parish, or Borough	14. State
17. Additional Information (as appropriate; must include surface owner's name, address and, if known, telephone number)			
18. Signed_____ Title_____ Date_____			

Note: Upon receipt of the Notice, the Bureau of Land Management (BLM) will schedule the date of the onsite predrill inspection and notify you accordingly. The location must be staked and access road must be flagged prior to the onsite.

Operators must consider the following prior to the onsite:

a) H_2S Potential
b) Cultural Resources (Archeology)
c) Federal Right of Way or Special Use Permit

IMPORTANT : SEE REVERSE SIDE FOR INSTRUCTIONS

Instructions for Preparation of Attachment A

General: This provides notice to the Bureau of Land Management (BLM) that staking has been (or will be) completed for well locations on Federal or Indian leases and serves as a request to schedule an onsite inspection. The original and one copy of this notice, together with a map and sketch, should be submitted to the appropriate BLM office.

Any item not completed may be justification for not promptly scheduling the onsite inspection.

Specific Considerations: Items included herein should be reviewed and evaluated thoroughly prior to the onsite. These items affect placement of location, road, and facilities. Failure to be prepared with complete, accurate information at the onsite may necessitate later re-evaluation of the site and an additional onsite inspection.

a. H_2S Potential: Prevailing winds, escape routes, and placement of living quarters must be considered.

b. Cultural Resources: Archeological surveys, if required, should be done prior to, during or immediately following the onsite. Changes in location due to subsequent archeological findings may require an additional onsite. Contact involved Surface Management Agency (SMA) for detailed site specific requirements.

c. Federal Right-of-Way or Special Use Permit: Access roads outside the leasehold boundary which cross Federal lands will require a right-of-way grant or special use permit and should be discussed with the BLM or other involved SMA at the time of filing the Notice of Staking.

*Supplemental Checklis*t: The following items, if applicable, should be submitted with or prior to the Application For Permit to Drill (APD) to ensure timely approval of the application. Contact the BLM regarding specific requirements relating to each item.

1. Bonding.
2. Designation of Operator.
3. Report of Cultural Resources/Archeology.
4. H_2S Contingency Plan.
5. Status of Plan of Development and Designation of Agent for wells in Federal units.
6. Federal Right-of-Way (BLM) or Special Use Permit (Forest Service).

Timetable: The onsite inspection will be scheduled and conducted by the BLM within 15 days after receipt of this notice. Surface protection and rehabilitation requirements will be made known to the operator by the BLM during the onsite or no later than 5 ***working*** days from the date of inspection, barring unusual circumstances. These requirements are to be incorporated into he complete APD. However, this does not exclude the possibility of additional conditions of approval being imposed.

[48 FR 56227, Dec. 20, 1983]

ATTACHMENT B

Date:_____

Bureau of Land Management

Checklist for Applicant Notification

Receipt and Acceptability of Application for Permit To Drill (APD)

Lease No._____

Well No._____

Lessee_____

Operator_____

Date APD Received_____

1.____ APD complete as submitted.

2.____ APD is deficient in the following area (s) and (see items 3, 4, or 5 below): -Designation of Operator

- Designation of Agent under _____ unit agreement
- Bonding
- Cultural Resources Report (depends on Federal Surface Management Agency's Requirements
- Form 3160-3***, formerly 9-331C***
- Drilling Plan
- Other (Refer to attachment(s) for any specifics)

3.____APD is retained; to be processed upon receipt of further information as noted above.

4.____APD is being processed; final action pending receipt of further information as noted above.

5.____APD is returned for the following reasons:_____

_____

_____

_____

Note:- A returned APD herewith may be resubmitted when convenient at which time it will be reviewed again for technical and administrative completeness.

A retained but deficient APD must be brought to a technically and administratively acceptable level of completion within 45 days of the date of this notice or the application will be returned unapproved.

[48 FR 56227, Dec. 20, 1983]

Updated on April 23, 1997 by John Broderick

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

RIN 1004-AB72

[WO-610-4111-02-24 1A]

Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases; Onshore Oil and Gas Order No. 1, Approval of Operations

AGENCY: Bureau of Land Management, Interior

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the existing Onshore Oil and Gas Order No. 1, which was published on November 12, 1983 (48 FR 48916), pursuant to 43 CFR 3164.1. The Order provides the requirements necessary for the approval of all proposed oil and gas exploratory, development, or service wells on all Federal and Indian (except the Osage Tribe) onshore oil and gas leases. It also covers most approvals necessary for subsequent well operations, including abandonment. These approvals are granted by the Bureau of Land management (BLM). The revision is necessary due to provisions of the 1987 Federal Onshore Oil and Gas Leasing Reform Act (Reform Act), legal opinions and court cases since the Order was issued, and other policy and procedural changes. The revised Order would address the submittal of a complete Application for Permit to Drill or Deepen package, including a Drilling Plan, Surface Use Plan of Operations, evidence of bond coverage, and Operator Certification. The process for approval is explained including onsite predrill inspection, public notification, coordination with other surface management agencies, agency deadlines and time expectations, and Federal and operator responsibilities. The approval process for certain subsequent well operations is also explained. The revised Order would set forth the process whereby the Application for Permit to Drill (APD) package may serve as the application for an associated BLM right-of-way. This Order would also be incorporated by the Forest Service into its oil and gas regulations.

DATES: Comments should be submitted by September 21, 1992. Comments received or postmarked after this date may not be considered in the decision process of the final rulemaking.

ADDRESSES: Comments should be sent to: Director (140), Bureau of Land Management, Room 5555, Main Interior Building, 1800 C Street NW., Washington, DC 20240.

Comments will be available for public review at this address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday (excepting Federal holidays).

FOR FURTHER INFORMATION CONTACT: Lynn E. Rust, (307) 772-2293 or Sie Ling Chiang, (202) 653-2127.

SUPPLEMENTARY INFORMATION: The regulations at 43 CFR part 3160, Onshore Oil and Gas Operations, provide in § 3164.1 for the issuance of Onshore Oil and Gas Orders to supplement and implement specific provisions of the regulations. All Orders are promulgated by the rulemaking process and, when issued in final form, apply nationwide to all Federal and Indian (except the Osage tribe) oil and gas leases. The table in 43 CFR 3164.1(b) lists existing Orders. This proposed rulemaking will revise existing Onshore order no. 1 (the Order), which supplements primarily §§ 3162.3 and 3162.5. Section 3162.3 covers conduct of operations, application to drill on a lease, subsequent well operations, other miscellaneous lease operations, and abandonment. Section 3162.5 covers environmental and safety obligations. For further information on the Order, refer to the **Federal Register** of November 12, 1983, 48 FR 48916.

There are four primary reasons the Order is being revised:

1. The 1987 Reform Act includes two significant changes affecting APD processing on Federal leases. The first is the addition of a provision for public notification of a proposed action prior to approving an APD or substantially modifying the term or terms of a Federal lease. Because the Act specifically requires such notification, the Order would describe processes to satisfy the statutory requirement, and would incorporate them into current operating procedures.

The second important change is the allocation of authority to the Forest Service (FS) to approve and regulate the surface disturbing actions associated with oils and gas wells on National Forest System (NFS) lands, and to determine reclamation requirements. Where NFS lands are involved, the Surface Use Plan of Operations included in the APD is now approved by the FS, along with surface disturbing aspects of related and subsequent operations. The FS has actively participated in this revision, and will apply the Order in its review of oil and gas surface operations.

2. In response to protests on two Resource management Plans, in April 1988, the Solicitor of the Department of the Interior issued two opinions related to oil and gas issues. The first, and most far-reaching, concerned BLM responsibilities on Federal leases overlain by private surface (split-estate). In this opinion, the Solicitor ruled that the national Environmental Policy Act (NEPA), the Endangered Species Act (ESA), and the National Historic Preservation Act (NHPA) required BLM to regulate exploration, development, and abandonment on Federal leases on split-estate lands in essentially the same manner as lease overlain by Federal surface. The Solicitor also stated that while a private owner's wishes should weigh in compliance decisions, they do not overrule compliance requirements of these statutes and their implementing regulations.

The second opinion lays out in more detail BLM's responsibilities under NHPA, elucidating further the discussion on cultural resources in the first opinion.

The pertinent requirements of the present Order No. 1 do not fully conform to the Solicitor's opinions. Therefore, amendments of portions of the order are required.

3. All requirements needed to approve a BLM right-of-way (R/W) are required to be met before it can be granted, whether or not the R/W is mineral related. However, it has been BLM policy that R/W applications in support of oil and gas wells can be initiated by APDS in lieu of a formal R/W form. This change involving APD submittals and necessary additional procedures is absent from the existing Order because the policy allowing such applications was implemented after the order was issued.

4. Existing Order No. 1 is over 6 years old. Conditions, regulations, policies, procedures, and requirements have been altered, added, and eliminated since the Order was issued. Because of these changes in law and policy, extensive amendments of the order are needed. The revision proposed is so extensive that a paragraph by paragraph comparison is not practical and would be confusing.

The former 8-point Drilling Program (also referred to as the Subsurface Use Plan) is now the 9-point Drilling Plan; and the former 13-point Surface Use Program (or Plan) is now the 12-point Surface Use Plan of Operations (SUPO). Note that the former item 13 of the Surface Use Program, "Operator Certification", has been removed from the SUPO and made into a separate component of the APD package. This was done to emphasize and ensure that the Operator Certification covers the

entire APD package and not just the SUPO.

The principal authors of this proposed rulemaking are Lynn Rust of the Wyoming State Office, Frank Lanzetta, Washington Office, Paul Dunlevy, California State Office, George Diwachak, Utah State Office, John Duhon, Jackson District Office, Bureau of Land Management, and William Robinson, Rocky Mountain Region, U.S. Forest Service, assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The BLM has determined that this proposed rule is categorically excluded from further environmental review pursuant to 516 Departmental Manual (DM), Chapter 2, Appendix 1, Item 1.10, and that the proposal would not significantly affect the 10 criteria for exceptions listed in 516 DM 2, appendix 2. Pursuant to the Council on Environmental Quality regulations (40 CFR 1508.4) and environmental policies and procedures of the Department of the Interior, "categorical exclusions" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

The Department of the Interior has determined under Executive Order 12291 that this document is not a major rule. In part, the rule would merely transfer authority to regulate surface-disturbing activity from the BLM to the Forest Service. In implementing the Solicitor's opinion on the application of environmental and historical protection statutes to split estate lands, the rule would affect a minority of oil and gas leases. Most lessees with such leases would not be obligated to spend large sums to comply because in most cases endangered species and historical resources are not present. A major rule is any regulation that is likely to result in an annual effect on the economy of $100 million or more, a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The exact amounts that would have to be spent in both compliance and enforcement are not known, but it is clear that they will not approach the threshold amounts specified in the Executive Order. Further, for the same reasons, the Department has determined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that it will not have a significant economic impact on a substantial number of small entities.

The Department certifies that this proposed rule does not represent a governmental action capable of interference with constitutionally protected property rights. The rules would not require the surrender of any lease rights or otherwise lead to the loss of private property. Therefore, as required by Executive Order 12630, the Department of the Interior has determined that the rule would not cause a taking of private property.

The information collection requirements contained in this proposed Order have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1004–0134.

List of Subjects in 43 CFR Part 3160

Government contracts, Indian lands—mineral resources, Mineral royalties, Oil and gas exploration, Oil and gas production, Public lands—mineral resources, Reporting requirements.

Under the authorities cited below, part 3160, Group 3100, subchapter C, chapter II of title 43 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 3160—[AMENDED]

1. The authority citation for part 3160 is revised to read:

Authority: 30 U.S.C. 181 *et eq.*; 30 U.S.C. 351–359; 30 U.S.C. 301–306; 25 U.S.C. 396; 25 U.S.C. 396a–396q; 25 U.S.C. 397; 25 U.S.C. 398; 25 U.S.C. 398a–398e; 25 U.S.C. 399; 43 U.S.C. 1457, see also Attorney General's Opinion of April 2, 1941 (45 Op.Atty.Gen 41); 40 U.S.C. *et seq.*; 42 U.S.C. 4321 *et seq.*; 42 U.S.C. 6508; Pub. L. 97–78; 30 U.S.C. 1701 et seq.; and 25 U.S.C. 2102.

2. Section 3164.1(b) is amended by revising the first entry on the table:

§ 3164.1 Onshore oil and gas orders.

* * * * *

(b) * * *

Order No. subject	Effective date	Federal Register reference	Supersedes
1. Approval of operations.....			Order No. 1 (11/21/83)
* * * * *			

Note: Numbers will be assigned by the Washington Office, Bureau of Land Management, to additional Orders as they are prepared for publication and added to this table.

Dated: December 24, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

Editorial Note: This document was received in the Office of the Federal Register on July 22, 1992.

Appendix—Text of Onshore Oil and Gas Order No. 1

Note: This appendix is published for information only and will not appear in the Code of Federal Regulations.

Onshore Oil and Gas Order No. 1

Approval of Operations

I. Introduction

A. Authority
B. Purpose
C. Scope

II. General

A. Definitions.
B. Requirements.
C. Modification of Lease Stipulation.
D. Rights-of-Way/Special Use Permits
E. Appeal Procedures

III. APD Procedures

A. Surveying, Staking, and Inventories
B. Posting Requirements
C. APD Package
D. Notice of Staking Option.
E. Processing Timeframes
F. Environmental Requirements

IV. Split Estate (Private Surface/Federal Minerals or Private Surface/Indian Minerals)

A. Environmental Protection of Resources
B. Bonding

V. Indian Oil and Gas Leases

A. Approval of Operations
B. Surface Use

VI. Subsequent Operations/Sundry Notices

VII. Reclamation and Abandonment

A. Reclamation
B. Abandonment
C. List of Operators Found to be in Material Noncompliance
D. Well Conversions

VIII. Variances

ONSHORE OIL AND GAS ORDER NO. 1

Approval of Operations

I. Introduction

A. Authority

This Onshore Order is established pursuant to the authority granted to the Secretaries of the Interior and Agriculture by various Federal and Indian mineral leasing statutes as well as the Federal Onshore Oil and Gas Leasing Reform Act of 1987. The Secretary of the Interior has delegated his authority to the Bureau of Land Management (BLM). It is implemented by the onshore oil and gas operating regulations codified at parts 3150 and 3160 of title 43 of The Code of Federal Regulations. 43 CFR 3164.1 authorizes the Director of BLM to issue Onshore Oil and Gas Orders when necessary to implement and supplement the operating regulations, and provides that all such Orders shall be binding on the operator(s) of Federal and Indian (except the Osage Tribe) oil and gas leases that have been, or are hereafter, issued.

Specific BLM authority for the provisions contained in this Order is found at 43 CFR 3162.5–2 for drilling wells; Section 3162.3–1 for drilling applications and plans; Sections 3162.3–2 and 3162.3–3 for subsequent well operations and other lease operations; Section 3162.3–4 for well abandonment; Section 3162.5 for environmental and safety obligations, and § 3164.3 for surface rights. For leases on Indian lands, the specific authorities are at 25 CFR parts 211, 212, 213, and 227.

The authority for surface disturbing activities on National Forest System (NFS) lands is granted to the Secretary of Agriculture by the Federal Onshore Oil and Gas Leasing Reform Act of 1987. This authority has been delegated to the Forest Service (FS). Its regulatory authority is 36 CFR chapter II, including, but not limited to, part 251, subpart B, and part 261. The responsibility of the FS is limited to approval and administration of surface disturbing activities on NFS lands (36 CFR part 228, subpart E).

B. Purpose

The purpose of this Order is to state the necessary requirements for the approval of all proposed exploratory, development, and service wells, certain subsequent well operations, and abandonment.

C. Scope

This Order is applicable to all Federal and Indian (except the Osage Tribe) oil and gas leases and Indian Mineral Development Act agreements. The requirements in this Order do not relieve an operator from compliance with any applicable Federal, State, or local requirements regarding oil and gas drilling and producing operations and abandonment.

Operators have the responsibility to see that their construction, exploration, development, and production operations are conducted in a manner which (1) conforms with the lease terms, lease stipulations, and Conditions of Approval (COA) for Applications for Permit to Drill or Deepen (APD) and Sundry Notices (SN); (2) provides adequate safeguards for the environments; (3) results in the proper reclamation of disturbed lands; (4) conforms to best available technology and practices; (5) assures that underground sources of usable water will not be contaminated; (6) protects other prospectively valuable minerals; and (7) otherwise assures the protection of the public health and safety.

II. General

a. Definitions

As used in this order the following definitions apply:

Authorized Officer: Any person with the authority to approve or disapprove oil and gas actions on Federal and Indian lands.

Authorized Forest Officer (AFO): Any person with the authority to approve or disapprove surface activities on National Forest System lands.

Blooie Line: A discharge line used in conjunction with a rotating head in drilling operations where air or gas is the circulating medium.

Condition of Approval (COA): A site-specific requirement for operations that is incorporated into an approved APD or Sundry Notice.

Development Well: Any well drilled within the known productive limits of a pool for the purpose of obtaining oil or gas from the producing formation or formations in that field.

Drilling Plan: Documents submitted by an operator as part of an APD package or as a supplement to an approved plan of operations detailing the proposed drilling operations and containing such information as required in 43 CFR 3162.3–1(e).

Exploratory Well: Any well drilled beyond the known productive limits of a pool.

Federal Lands: All lands and minerals owned and administered by the Federal government.

Indian Lands: Lands on or as to which oil and gas leases or other agreements have been approved by the Bureau of Indian Affairs for Indian tribes and/or allottees.

Lease: Any contract or to her agreement issued by the BLM or BIA under the mineral leasing laws providing for exploration for, development of, and/or extraction of oil and gas.

Lessee: A person or entity holding record title in a lease issued or approved by the United States (43 CFR 3160.0–5, and 25 CFR 211.2 and 212.4(a).

National Forest System (NFS) Lands: Federal lands, such as the National Forests and the National Grasslands, administered by the Forest Service.

Operator: Any person or entity, including but not limited to the lessee or operating rights owner, who has acknowledged to the authorized officer, in writing, responsibility under the terms and conditions of the lease for the operations conducted on the leased lands or portions thereof (43 CFR 3160.0–5).

Pre-drill Inspection: An onsite inspection of the proposed drillpad and access road conducted prior to approval of the APD and commencement of construction activities.

Prospectively Valuable Deposits of Minerals: Any deposit of minerals, other than hydrocarbons, determined by the authorized officer to have characteristics of quantity and quality that warrant its protection from oil and gas operations.

Public Lands: Those Federal lands administered by BLM.

Special Use Authorization (SUA): A FS document that authorizes operations on NFS lands outside of the lease, unit, or communization agreement boundary, pursuant to 36 CFR part 211, 251, and 261.

Split Estate: A condition of land ownership where the surface is owned by one party (not Federal) and the subsurface (mineral estate) is owned by the Federal Government and leased under Federal leasing laws.

Surface Disturbing Activities: Any operation which alters (1) natural surface or (2) surface that has been previously reclaimed.

Surface Management Agency (SMA): Any Federal agency having jurisdiction over the surface of Federal or Indian lands.

Surface Use Plan of Operations (SUPO): A document submitted by an operator as part of an APD or a supplement to an approved plan of operations detailing proposed surface occupancy and planned operations pursuant to a Federal or Indian oil and gas lease.

Usable Water: Water containing less than 10,000 parts per million (ppm) total dissolved solids.

Variance: An approved alternative to a provision or standard of this Order.

B. Requirements

Mere reference to compliance with other Onshore Orders will not be sufficient to make an APD or SN technically complete. The operator shall describe or show, as set forth in this Order, the procedures, equipment, and materials to be used in the proposed operations. Neither drilling operations nor construction activities preliminary thereto may be commenced prior to the authorized officer's approval of the permit. Operators shall be held fully accountable for their contractor's and subcontractor's compliance with the requirements of the approved permit and/or plan. Drilling without approval on Federal or Indian lands is a violation under 43 CFR 3163.1(b)(2) and is subject to an immediate daily assessment. Noncompliance with, or alteration or deviation from, an approved APD or SN, without prior approval from the authorized officer or Authorized Forest Officer (AFO), is a violation.

In the event of an extreme emergency, immediate action may be taken without prior approval to safeguard life or prevent significant environmental degradation. Notification of the necessary emergency action taken by the operator shall be provided to the authorized officer as soon as possible, but not later than 24 hours after the action is commenced. If the emergency involves surface resources on SMA lands, the SMA shall also be notified within 24 hours. Upon conclusion of the emergency, the authorized officer or the SMA, where appropriate, will review the incident and determine whether assessments or penalties are warranted.

1. Approval of Form 3160-3. An Application for Permit to Drill or Deepen (APD) is required for each well. In order to be complete, an APD Package shall include all information required under 43 CFR 3162.3–1(d) and (e). A technically and administratively complete APD includes, in addition to Form 3160–3, a Drilling Plan, a Surface Use Plan of Operations (SUPO), evidence of bond coverage, operator certification, and such other information as may be required by applicable Order or Notice to evaluate the proposal. The APD form shall be used for new wells, any well that is a redrill of a permanently abandoned well, and for well deepenings. (Refer to section III.C. for more detailed guidance on completing APDs.) On NFS lands, the Authorized Forest Officer (AFO) is responsible for approving the SUPO of the APD package.

2. Subsequent Well Operations. Proposals for subsequent well operations, except well deepenings, shall be submitted on Form 3160–5, "Sundry Notice and Report on Wells", and approved under the provisions of this Order pursuant to 43 CFR 3162.3–2 or 3162.3–3. Lease operations involving new surface disturbance shall include an amended SUPO submitted with Form 3160–5. A report on all subsequent well operations shall be filed on Form 3160–5, as prescribed in 43 CFR 3162.3–2. A Notice of Intent to Abandon (NIA) a well, a Subsequent Report of Abandonment (SRA), and a Final Abandonment Notice (FAN) shall also be filed on Form 3160–5, as required by 43 CFR 3162.3–4. (Refer to Section VI for additional information.)

3. Office of Filing. All applications for approval under the provisions of this Order shall be submitted to the appropriate authorized officer of the BLM.

4. Compliance with Other Laws and Regulations. This Onshore Order does not exempt the operator from reporting requirements or compliance aspects of other Onshore Orders, Notices to Lessees, etc. An operator's compliance with the requirements of this Order shall not relieve the operator of the obligation to comply with other applicable laws and regulations in accordance with 43 CFR 3162.1(a). Submittal of either the APD or subsequent operations packages and/or forms shall not constitute an application for a variance from the requirements of other Onshore Orders. Requests for variances to any Orders shall be submitted in writing. Approval of proposals submitted under other Orders shall not authorize a variance to provisions of this Order.

C. Modification of Lease Stipulation

An operator may request the BLM/FS/BIA to accept, modify, or waive a lease stipulation. All requests for stipulation changes shall be forwarded in writing to the BLM or BIA. The BLM will forward the requests to the FS or other SMA on Federal leases for decision or recommendation, as applicable. These requests shall be accompanied by technical information that demonstrates that the resource to be protected by the stipulation is not present at the location or is no longer an issue, or that the problem can be mitigated. The modifications shall also be consistent with the planning objectives that prompted inclusion of the lease stipulation. Amendments to BLM Resource Management Plans, Forest Land and Resource Management Plans, or other appropriate agency planning documents may be necessary to accommodate certain requests. All final decisions on Federal leases will be processed through the BLM.

When the review of a requested change in a stipulation or Federal lease term has been completed and a decision has been reached, the operator will be notified in writing by the authorized officer or AFO. Prior to approving a substantial change to the provisions of the lease, the authorized officer or AFO will provide public notification of the proposed modification for at least 30 days, as specified in the Federal Onshore Oil and Gas Leasing Reform Act (Reform Act) of 1987, and III.B. of this Order. This requirement will not be waived or modified. However, this 30-day notification is not required on Indian lands.

D. Rights-of-Way/Special Use Authorization

At the time the APD or Notice of Staking (NOS) package or Sundry Notice is submitted, or during the predrill inspection, the BLM or FS will notify the operator of any additional right-of-way (R/W), Special Use Authorization (SUA), license, or other application needed for support facilities or off-lease access. If another SMA or Indian tribe is involved, the operator will be notified before or during the predrill inspection that the timing or actions or requirements under each permit or license may be different.

On-lease improvements, necessary for operations and production on the lease, do not require a R/W or SUA. These actions will be approved using the APD package or a Sundry Notice with a SUPO amendment. Refer to 43 CFR part 2880 and CFR part 169 for guidance on R/W.

1. *Rights-of-Way (BLM).* For Public lands, the APD package may serve as the supporting documents for the R/W application, in lieu of a R/W plan of development. An NOS will be considered an incomplete R/W application requiring a subsequent APD or a separate R/W application, Standard Form 299 (Application for Transportation and Utility Systems and Facilities on Federal Lands).

Within 10 days of the time an NOS, APD, or other notification is received, the operator will be informed as to what parts of the project will need a R/W, and will be furnished with a cost recovery determination, the proper forms, and supplemental information. This information should be submitted with the APD package if the NOS option has been used. The R/W approval will

be decided within the same time frames allotted for the APD package where possible, as long as the application fee, Form 2800–14, evidence of a bond or a lease rider, and rentals are submitted within 10 days of notification by the BLM.

No surface disturbing activities shall take place on the subject R/W until the associated APD is approved. The holder will adhere to the Conditions of Approval of the APD pertaining to any R/W facilities. Even if an APD is deemed complete, it will not be approved until any necessary R/W applications are also completed for all facilities related to the drilling of the well. The operator will be informed of the rental amount that is due before the R/W is approved. The completed APD and related R/W applications will be approved simultaneously.

2. *Special Use Authorizations (FS).* Applicants for a FS SUA shall identify the lands to be affected and submit an application, using Form FS–2700–3, for the SUA fully describing the proposed uses, improvements, effects on surface resources, and the length of time that the SUA will be needed. The area of land for the SUA will be limited to the minimum needed for the purpose of the authorization. Conditions regulating the use may be imposed to protect the public interest and to ensure compatibility with other NFS programs and activities and to comply with directions provided in the Forest Land and Resources Management Plan. SUAs require payment of the annual fee in advance, commensurate with the fair market value of the rights or privileges authorized, except where authorized otherwise by statute or regulation. Reclamation measures for areas of surface disturbance authorized by the SUA are part of the reclamation plan prepared as part of the SUPO.

E. Appeal Procedures

In accordance with 43 CFR 3165.3, any party adversely affected by a decision of the authorized officer issued under this Order may request an administrative review before the State Director. Any party adversely affected by the decision in the State Director Review may appeal that decision to the Interior Board of Land Appeals as specified in 43 CFR part 4. Complete information concerning the appeal process for BLM actions is contained in 43 CFR part 3165.

Forest Service decisions on consent or approval for use of NFS lands are subject to administrative appeal under 36 CFR parts 217 and 251. Decisions governing plans, projects, and activities to be carried out on NFS lands and that result from analysis, documentation, and other requirements of the National Environmental Policy Act (NEPA) and the National Forest Management Act and the implementing regulations, policy, and procedures are subject to appeal under 36 CFR part 217. These regulations provide for a public notice following these decisions 7 days before activities can be initiated.

The regulations in 36 CFR part 251 govern appeals of written decisions of FS line officers related to issuance, denial, or administration of written instruments to occupy and use NFS lands. A list of the types of written instruments is provided at 36 CFR 251.82 and includes SUAs and SUPOs related to the authorized use and occupancy of a particular site or area.

III. APD Procedures

A. Surveying, Staking, and Inventories

Surveying and staking activities and cultural resource inventories that meet the criteria of casual use, as defined in 43 CFR 3150.0–5(b), and that are in compliance with lease stipulation limitations, may be done on public lands without advance approval from the authorized officer of the BLM. Operators are strongly encouraged to notify the authorized officer prior to entry upon the lands.

Prior notice and approval of entry upon lands administered by the FS or the Department of Defense are required from these agencies for surveying, staking, conduct of cultural resource inventories, and other purposes.

On Indian lands (tribal and allotted), the operator is responsible for making access arrangements with the Bureau of Indian Affairs (BIA) and the affected Indian tribe or allottee prior to entry for surveying, staking, conducting cultural resource inventories, and for other purposes.

Where the surface is privately owned (split-estate), the operator is responsible for making access arrangements with the landowner prior to entry upon the land for the purpose of surveying, staking, and inventories.

Early notification will allow the SMA to apprise the operator of any unusual conditions on the lease, knowledge of which could result in savings of time and money by both industry and the government. These include, but are not limited to:

—Status of LRMP/RMP and management prescriptions;
—Presence of threatened or endangered species and/or habitat;
—Information on the most recent surveys and changes in land ownership or administration;
—Vehicular access restrictions;
—Road conditions, including weather and traffic;
—Other land use activities in the area, including wildlife management, recreation, and timber harvesting.
—Military mission activities and restrictions;
—Known concentrations of significant cultural resources.

Staking of the proposed drill pad shall include: the well location, two 200-foot directional reference stakes, the exterior pad dimensions, reserve pit, cuts and fills, outer limits of the area to be disturbed, and any off-location facilities. Staking is also required for surface disturbances that will result from construction of ancillary facilities. Proposed new roads will require centerline flagging with road stakes being clearly visible from one to the next. In rugged terrain, cut and fill staking and/or slopestaking of proposed new access roads and locations for ancillary facilities may be necessary, as determined by the authorized officer or AFO.

The onsite predrill inspection will not occur until after the proposed pad has been surveyed and staked, and any new access has been flagged.

B. Posting Requirements

In accordance with the Reform Act, no APD on Federal leases may be approved until at least 30 days after public notice is provided. To initiatve this process, the operator shall submit, via the APD or NOS, at a minimum, the company/operator name, well name/number, and the well location to the nearest 40 acre parcel (or a map showing the well site location) to the BLM when a drilling or deepening operation is proposed. This information will be posted as a public notice in the appropriate local office of the BLM and the SMA. The notice will be posted in an area of the office that is readily accessible to the public. This requirement cannot be waived or modified.

Should the proposed location be moved more than 200 meters, reposting of the proposal may be necessary, depending on the significance of the modification determined by the authorized officer or AFO. The purpose of the posted notice is for informational purposes only (43 CFR 3162.3–1), to give any interested party notification that an action is proposed on a Federal lease in a given area. Confidential information will not be posted. Therefore, NOSs, and even APDs with incomplete Drilling Plans or SUPOs, can serve to initiate the 30 days required for posting. BLM will notify any other SMA office having

jurisdiction as soon as possible, to allow the 30-day posting of the information by that office to commence. Notification by telephone, telefax, electronic mail, etc., will be used to aid in this process.

If an operator request, or other circumstance, results in a proposed significant modification to or waiver of lease stipulations before, during, or after the APD approval process is complete, then the proposed lease modification will be re-posted for 30 days. This posting will also serve as a notice of waiver.

The posting requirements outlined above are in addition to any public notice required by other laws.

C. APD Package

All operators wishing to drill, deepen, or re-enter a well shall have an approved APD prior to any surface-disturbing activity. An APD will not be approved until it is technically and administratively complete. A technically and administratively complete APD will contain, at a minimum, a completed Form 3160–3 (Application for Permit to Drill or Deepen), a well plat certified by a registered surveyor, a Drilling Plan, a Surface Use Plan of Operations, evidence of bond coverage, operator certification, and other information that may be required by the authorized officer or AFO.

1. *Drilling Plan.* A Drilling Plan, insufficient detail to permit a complete appraisal of the technical adequacy of, and environmental effects associated with, the proposed project, shall be prepared and submitted with each copy of Form 3160–3. The Drilling Plan shall adhere to the provisions of Onshore Oil and Gas Order No. 2 and, if applicable, Onshore Order No. 6, and shall include the following information:

(1) Names and estimated tops of important geologic formation/marker horizons.

(2) Estimated depths at which the top and bottom of formations potentially containing usable water, oil, gas, or prospectively valuable deposits of other minerals are expected to be encountered, and the operator's plans for protecting such resources.

(3) The operator's minimum specifications for Blowout Preventer (BOP) and related equipment to be used and schematic diagrams thereof showing sizes, pressure ratings, and the testing procedures and testing frequency. BOP and BOP-related equipment (BOPE) schematics shall include schematics of choke manifold equipment. Accumulator systems and remote controls shall be utilized.

(4) The proposed casing program, including size, grade, weight, type of thread and coupling, and the setting depth of each string and its condition (new or acceptably reconditioned). For exploratory wells, or for wells as otherwise specified by the authorized officer, the operator shall include the minimum design factors for tensions, burst, and collapse that are incorporated into the casing design. In cases where tapered casing strings are utilized, the operator shall also include the lengths and/or setting depths of each portion.

(5) The amount and type(s) of cement, including anticipated additives to be used in setting each casing string, shall be described. If stage cementing techniques are to be employed, the setting depth of the stage collars and amount and type of cement, including additives, and preflush amounts to be used in each stage, shall be given. The expected linear fill-up of each cemented string, or each stage when utilizing stage-cementing techniques, shall also be given.

(6) The anticipated characteristics, additives, use, and testing of drilling mud to be employed, along with the types and quantities of mud products to be maintained, shall be given. When air or gas drilling is proposed, the operator shall submit the following specific information:

(a) Length and location of blooie line, including the automatic igniter or continuous pilot light.

(b) Location of compressor equipment, including safety devices, and the distance from the wellbore.

(c) Schematics showing deduster equipment and rotating head.

(d) Amounts, types, and characteristics of stand-by mud and associated circulating equipment.

(7) The anticipated testing, logging, and coring procedures to be used, including drill stem testing procedures, equipment, and safety measures.

(8) The expected bottom-hole pressure and any anticipated abnormal pressures, temperatures or potential hazards that are expected to be encountered, such as lost circulation zones and hydrogen sulfide. The operator's plans for mitigating such hazards shall be discussed. Should the potential to encounter hydrogen sulfide exist, the mitigation procedures shall comply with the provisions of Onshore Oil and Gas Order No. 6.

(9) Any other facets of the proposed operation which the operator wishes for BLM to consider in reviewing the application.

2. *Surface Use Plan of Operations.* The Surface Use Plan of Operations (SUPO) shall contain descriptions of road and drill pad locations, construction methods to be used, and means for containment and disposal of all waste materials. The plan shall provide for safe operations and adequate protection of surface resources and uses, disposal of wastes and any hazardous materials, as well as other environmental components. For Federal and Indian surface, the plan shall also include adequate measures for stabilization and reclamation of disturbed lands no longer needed for drilling or production operations. Where the surface is privately owned, the submission of a surface use agreement and reclamation plan between the operator and land owner will be required in order to evaluate compliance with BLM requirements. Further discussion of activities on private surface is contained in Part IV. For operations proposed on SMA lands, operators shall submit the SUPO to the BLM for forwarding to the SMA. In developing a SUPO, operators should make use of such information as is available from local BLM and/or FS offices, or any other involved SMAs concerning surface resources and uses, environmental considerations, and local reclamation procedures, such as the BLM/FS "Surface Operating Standards for Oil and Gas Exploration and Development" (Gold Book). The SUPO will be reviewed by the BLM, FS, and/or the SMA as appropriate.

In preparing the Surface Use Plan of operations, the operator shall submit maps, plats, and narrative descriptions that include the following (maps shall be of a scale no smaller than 1:24,000, unless otherwise stated below):

(1) *Existing Roads:* A legible map (USGS topographic, county road, Alaska Borough, or other such map), labeled and showing the access route to the location, shall be used for locating the proposed well site in relation to a town, village, or other locatable point, such as a highway or county road. All access roads shall be appropriately labeled. Any plans for improvement and/or maintenance of existing roads shall be provided. All roads shall be improved or maintained in a condition the same as or better than before operations. The information provided for use and construction of roads will also be used by BLM for the required Plan of Development for a R/W application as described in section II.C. of this Order.

Existing roads under the jurisdiction of FS can be used for access if they meet agency standards and transportation objectives. When access involves the use of existing roads, the operator may be required to contribute to road maintenance. Existing multiple use roads may be used by an operator when

approved by the FS. This is usually authorized by a SUA or a joint road use agreement, and an operator will be charged a pro rata share of the costs of road maintenance and improvement, based upon the anticipated use of the road. Existing roads and newly constructed roads under the jurisdiction of any other SMA shall be maintained in accordance with the standards of that agency.

Information required by the following items (2), (3), (4), (5), (6), (8) and (11) of this subsection also may be shown on this map, if appropriately labeled, or on a separate plat or map.

(2) Access Roads to be Constructed or Reconstructed: All permanent and temporary access roads to be constructed or reconstructed in connection with the drilling of the proposed well shall be appropriately identified and submitted on a map or plat. The proposed route to the proposed drill site shall be shown, including distances from the point where the access route exits established roads. All permanent and temporary access roads shall be located and designed to implement the goals of transportation planning and meet applicable standards of the appropriate SMA, and shall be consistent with the needs of the users. Final selection of the rouge location may be accepted by the SMA as early as the predrill inspection or during approval of the APD.

Design standards for a constructed or reconstructed road will be based upon the class or type of road, the safety requirements and traffic characteristics, and the vehicles the road will be expected to carry. Width, maximum grade, crown design, turnouts, drainage and ditch design, location and size of culverts and/or bridges, fence cuts and/or cattleguards, major cuts and fills, source and storage sites of topsoil, and type of surfacing material, if any, shall be described for all construction. In addition, where permafrost exists, the methods for protection from thawing shall be indicated.

(3) Location of Existing Wells: This information shall be submitted on a map or plat, which includes all recorded wells (water, injection, or disposal, producing, or being drilled) within a 1-mile radius of the proposed location.

(4) Location of existing and/or proposed production facilities: For facilities planned either on or off the well pad, a plat or diagram shall be included showing, to the extent known or anticipated, the location of all production facilities and lines to be installed if the well is successfully completed for production. If new construction is planned, the dimensions of the facility layouts are to be shown. This information for off-pad production facilities may be used by BLM for R/W application information as specified in Section II.C. If the information required above is not known and cannot be accurately presented and the well subsequently is completed for production, the operator shall then comply with Section VI of this Order. However, to minimize further site inspections, the operator is strongly encouraged to submit, at the APD stage, a reasonable estimate of the anticipated production setup.

(5) Location of Types of Water Supply: Approval of the APD does not relieve the operator of any Federal, Indian, State, or local requirements for use of water.

Information concerning water supply, such as rivers, creeks, springs, lakes, ponds, and wells, may be shown by quarter-quarter section on a map or plat, or may be described in writing. The source and transportation method for all water to be used in drilling the proposed well shall be noted if the source is located on Federal or Indian lands or if water is to be used from a Federal or Indian project. If the water is obtained from other than Federal or Indian lands, the location and transportation method shall be identified. Any access roads crossing Federal or Indian lands that are needed to haul the water shall be described as provided in paragraphs (1) and (2) of this Section. If a water supply well is to be drilled on the lease, the APD shall so state. The authorized officer of BLM may require the filing of a separate APD of a water well.

(6) *Construction Materials;* The operator shall state the character and intended use of all construction materials, such as sand, gravel, stone, and soil material. If the materials to be used are Federally owned, the proposed source shall be shown either on a quarter-quarter section on a map or plat, or in a written description. The use of materials under BLM jurisdiction is governed by 43 CFR 3610.2–3. The authorized officer of AFO will inform the operator whether the materials are available, and if so, whether they may be used free of charge or a permit for sale is required. If the materials to be used are Indian-owned or under the jurisdiction of any other SMA, the specific tribe, BIA, or the appropriate SMA, according to the site location, shall be contacted by the operator for material disposal procedures.

(7) *Methods for Handling Waste Disposal:* A written description of the methods and locations proposed for safe containment and disposal of each type of waste material (e.g., cuttings, garbage, salts, chemicals, sewage, etc.) that results from the drilling and completion of the proposed well shall be provided. The narrative shall describe the procedures for the eventual disposal of drilling fluids and any produced water, and an accounting of any salable oil, recovered during testing operations. Disposal methods shall comply with Federal laws and appropriate regulations, including the Resource Conservation and Recovery Act and the Comprehensive Environmental Response Compensation and Liability Act. Refer to Onshore Order No. 7 for information concerning the temporary use of reserve pits for disposal of produced water. Procedures for proper handling and disposal of hazardous materials and/or dangerous chemicals shall also be included. The location of any off-site disposal facilities or sites shall be specified.

(8) *Ancillary Facilities:* All ancillary facilities such as camps and airstrips shall be identified on a map or plat. Information as to location, land area required, and methods to be used in construction shall also be provided. The approximate center of proposed camps and the center line of airstrips shall be staked on the ground. If the ancillary facilities are located off-lease, additional authorization will be needed.

(9) *Well Site Layout:* A plat of suitable scale (not less than 1 inch=50 feet) showing the proposed drill pad, reserve pit location, access road entry points, and its approximate location with respect to topographic features, along with cross section diagrams of the drill pad and the reserve pit showing all cuts and fills and the relation to topography. The plat shall also include the approximate proposed location and orientation of the drilling rig, dikes and ditches to be constructed, and topsoil and/or spoil material stockpiles.

(10) *Plans for Reclamation of the Surface:* A proposed interim plan for reclamation/stabilization of the site and also final reclamation plan shall be provided. The interim portion of the plan shall cover areas of the drillpad not needed for production. The final portion of the plan shall cover final abandonment of the well. The plan shall include, as appropriate, configuration of the reshaped topography, drainage systems, segregation of spoil materials, surface manipulations, redistribution of topsoil, soil treatments, revegetation, and any other practices necessary to reclaim all distributed areas, including any access roads and pipelines. An estimate of the time for commencement and completion of reclamation operations, including consideration of

weather conditions and other local uses of the area, shall be provided. Further details for reclamation are contained in Section VII.A. of this Order.

(11) *Surface Ownership:* The surface ownership (Federal, Indian, State, or private) and administration (BLM, FS, BIA, Department of Defense, etc.) at the well location, and of all lands crossed by roads which are to be constructed or upgraded, shall be indicated. Where the surface of the proposed well site is privately owned, the operator shall provide the name, address, and telephone number of the surface owner.

(12) *Other Information:* All other information or requirements that may be specified by the authorized officer and/or AFO shall be included. The operator is also encouraged to submit any additional information that may be helpful in processing the application, including information pertaining to possible delays described in Section III.E.2. below.

3. *Bonding.* The operator shall be covered by a bond in its own name as principal, or by a bond in the name of the lessee or sublessee.

Form 3000–4 (June 1988) covers all bonding needs for oil and gas operations, because it allows for surety bond or personal bond to cover all former requirements of lease bonds, operator bonds, and other types of bonds. If the lessee's or sublessee's bond (either Form 3000–4 or any valid earlier bond forms) is used, a rider (consent of surety or principal)shall be furnished to include the operator under the coverage of the bond. The operator on-the-ground shall specify on the APD, Form 3160–3, the type of bond under which the operations are to be conducted.

Operators may be required to submit additional bond coverage for specific APDs. The regulations at 43 CFR 3104.5 and 36 CFR 228.107, or 25 CFR 211.212 for Indian lands, will be used to determine whether an increase in the bond amount is necessary. Other factors that may be considered include location and depth of wells, the total number of wells involved, the age and production capability of the field, and unique environmental issues. Separate bonds may be required for associated R/W's and SUA's.

On Federal leases, operators may ask for a reduction of the amount of a bond, but shall satisfy the terms and conditions in the reclamation plan for particular operation prior to reduction. In appropriate circumstances, the bond may be reduced by the authorized officer in the amount prescribed by the appropriate SMA. A bond reduction will be based on a calculation of the sum that is sufficient for the remainder of the period of operation authorized by the SUPO.

4. Operator Certification. The name, address, and telephone number of the operator and their field representative shall be included. The operator submitting the APD shall certify as follows:

I hereby certify that I, or persons under my direct supervision, have inspected the proposed drill site and access route; that I am familiar with the conditions that currently exist; that the statements made in this APD package are, to the best of my knowledge, true and correct; and that the work associated with operations proposed herein will be performed by _____ contractors and subcontractors in conformity with this APD package and the terms and conditions under which it is approved. I also certify responsibility for the operations conducted on that portion of the leased lands associated with this application, with bond coverage being provided under BLM bond #_____. This statement is subject to the provisions of 18 U.S.C. 1001 for the filing of a false statement.

Date _____.

Name and Title _____

D. Notice of Staking Option

Prior to filing a complete APD, the operator may file a Notice of Staking (NOS) with the authorized officer. In Alaska, a copy of the NOS shall also be sent to the appropriate Borough and/or Native Regional or Village Corporation when a subsistence stipulation is part of the lease. Attachment A is a sample NOS form containing the minimum information to be submitted. For Federal lands managed by other SMAs, the BLM will provide a copy of the NOS to the appropriate SMA office.

Surveying and staking of the proposed drill pad and ancillary facilities, and flagging of new or reconstructed access routes, shall be completed prior to the onsite pre-drill inspection. The operator shall incorporate the information gathered at the NOS onsite pre-drill inspection into the APD package. The purpose of the NOS option is to allow the operator the opportunity to incorporate site-specific agency requirements into the APD package, thereby reducing the number of Conditions of Approval (COAs). The NOS shall contain information which will aid in identifying the need for associated R/Ws and SUPs. The operator shall attach a map (e.g., a USGS 7½" Quadrangle) for that portion of the area proposed. The operator shall also include any additional information as specified by the authorized officer and/or the SMA. If all required information is not included, the NOS will be returned to the operator for completion.

E. Processing Schedules

1. *Timetables.* The following tables summarize the important deadlines involved in processing most APD's. The schedules in the regulations at 43 CFR 3162.3–1 apply to a technically and administratively complete APD. If the APD is complete, it should be approved or rejected within 5 business days after the 30-day posting period except for unusual circumstances as outlined in E.2. below. The required information for NOSs and incomplete APDs also will be posted, but BLM may be required to either return the application unapproved or advised the applicant of the reasons why final action may be delayed within the same 30+5 day period (43 CFR 3162.3–1(h)). For operations on NFS lands, the FS is required to provide public notice 7 days before operations can commence. The following schedule itemizes the individual time frames:

a. APD Submitted. i. Public Notification—Begins as soon as the required information is posted in both the approving office and appropriate SMA office (if not BLM), and lasts for 30 days. Posting is not required for actions on Indian minerals.

ii. APD Completeness—Within 10 days of receipt of the APD, BLM will notify the operator as to whether or not the APD is technically and administratively complete, and identify any additional information necessary for the processing of the APD. Within 90 days of the predrill inspection, the APD package is required to be technically and administratively complete, or it will be returned and the entire APD process may have to be repeated.

iii. Pre-drill Inspection—Should be conducted within 15 days of receipt of the APD, assuming the information necessary to hold the inspection has been provided.

iv. Additional Requirements—Approval requirements for incorporation into the APD will be developed on site, or attached to the APD as COAs.

v. Complete Processing—If the APD is technically and administratively complete, it will be approved, or if not it will be returned disapproved, or the applicant advised in writing of any processing or other delay, within 5 business days after the 30-day posting period. For other SMAs not requiring a 30-day posting period, the applicant will be advised of the APD status within 35 days of receipt of a technically and administratively complete APD. However, a technically and administratively complete APD is

required to be filed with the BLM at least 10 business days prior to a decision.

b. NOS Option. i. Public Notification—Begins as soon as the required information is posted in both the approving office and appropriate SMA office (if not BLM), and lasts for 30 days. Posting is not required for actions on Indian minerals.

ii. Pre-drill Inspection—Should be conducted within 15 days of receipt of the NOS, assuming the information necessary to hold the inspection has been provided.

iii. Additional Requirements—Approval requirements for incorporation by the operator into the APD to be submitted will be developed on site at the pre-drill inspection or mailed to the operator within 7 days after the pre-drill inspection.

iv. APD Completeness—Within 10 days of receipt of the APD, BLM will notify the operator as to whether or not the APD is technically and administratively complete, and identify any additional information necessary for the processing of the APD. Within 90 days of the predrill inspection, a technically and administratively complete APD is required to be submitted or the NOS will be returned and the entire NOS/APD process may have to be repeated.

v. Complete Processing—If the APD is technically and administratively complete, it will be approved, or if not it will be returned disapproved, or the applicant advised in writing of any processing or other delay, within 5 business days after the 30-day posting period. For other SMAs not requiring a 30-day posting period, the applicant will be advised of the APD status within 35 days of receipt of a technically and administratively complete APD. However, a technically and administratively complete APD is required to be filed with the BLM at least 10 business days prior to a decision.

2. *Delays.* The above time frames together comprise the total time the BLM anticipates will be required to process the majority of APD's. However, the days of the period may not run consecutively if APD processing is delayed by incomplete or erroneous information in the submitted application. Such delays beyond control of the BLM and/or FS shall not be counted as part of the "30+5 days" allowed in the schedule. However, BLM and the FS will continue to process applications up to the point where missing information or an uncorrected deficiency renders further processing impractical or impossible. Additionally, delays in conducting pre-drill inspections within 15 days of receiving an NOS (or APD if an NOS is not filed) may occur during periods of adverse weather conditions. Processing delays may also occur for unique technical proposals or in areas of high environmental sensitivity, or where jurisdictional conflicts exist. Such areas include, but are not limited to:

(1) Certain individually or tribally owned Indian trust or restricted lands.

(2) Lands withdrawn for Federal reservoirs and Federal lands surrounding such reservoirs.

(3) Lands in formally designated wilderness areas or proposed for such designation, lands within Wilderness Study Areas, or lands within FS Further Planning Areas.

(4) National and State Parks, Wildlife Refuges, Monuments and Recreation Areas.

(5) Areas known to contain threatened or endangered species and/or their critical habitat, or that need additional surveys to delineate critical habitat.

(6) Areas where concern exists with respect to significant cultural/historic resources or where consultation with the State Historic Preservation Officer is necessary.

(7) Certain Federal lands in Alaska.

(8) Lands under jurisdiction of the Department of Defense.

(9) Areas within or near population centers.

(10) Areas subject to particular public concern.

The environmental analysis process may extend the "30+5 day" deadline for some APD's. Where the environmental analysis process results in an environmental impact statement, this schedule will always be exceeded.

The APD is required to be technically and administratively complete not less than 10 business days prior to the end of the "30+5 day" time frame established by regulation. If the APD is not complete within 10 business days prior to the end of this time frame, then additional processing time will be added to the "30+day" time frame. Operators are reminded that if the APD process begins less than 30 days prior to the desired date of commencement of operations, the process cannot be completed within the time desired, such as by the end of the lease term.

Approval of an APD is valid for one year from the date of the authorized officer approval, provided lease expiration does not occur. At the end of this period, the APD will be returned to the operators without prejudice if a well is not drilled, and any initial construction shall be reclaimed if required by the authorized officer or AFO. Should the operator still desire to drill the well, a new APD shall be submitted. Upon written request by the operator, a one-time 90 day extension to this time period may be granted by the authorized officer with concurrence of the appropriate SMA.

F. Environmental Requirements

1. *Pre-drill Inspection.* The pre-drill inspection is to ensure that the staked location (as specified in section III.A.), access roads, and other areas proposed for surface disturbance are acceptable, and that they will comply with all applicable Federal laws and regulations. This inspection should be scheduled and conducted by the BLM or FS within 15 days of receiving the applicant's NOS or APD. The FS will schedule, conduct, and follow up the pre-drill inspection for actions involving NFS lands. Because of the need for close coordination between the SUPO and the drilling plan, the BLM will ordinarily have a representative at pre-drill inspections conducted by FS. Representatives of the appropriate BLM and/or FS office, the operator, any other involved SMA, the appropriate Alaska Borough and/or Native Regional or Village Corporation (when a subsistence stipulation is part of the lease), the operator's dirt contractor and drilling contractor, if known, shall attend the predrill inspection. When private surface is involved, the operator shall furnish the name, address, and telephone number of the surface owner in the NOS submission and in the SUPO. The BLM will invite the surface owner to participate in the pre-drill inspection. If a surface owner or SMA is not able to participate at the desired time, the inspection may be rescheduled. In some circumstances, such as those listed in section III. A. and III.E.2., the BLM or FS may require the filling of a complete APD package prior to scheduling the pre-drill inspection.

Surface use and reclamation requirements will be reviewed, or if necessary, developed. In some cases, the requirements will be incorporated into the APD package at the pre-drill inspection. Otherwise, the requirements will be incorporated as Conditions of Approval to the APD package when approved.

If the NOS option is followed, these requirements will be provided to the operator within 7 days from the date of the pre-drill inspection, to be incorporated by the operator into the complete APD package, when filed. This does not, however, preclude the possibility of additional COA's being imposed as a result of the review of the complete APD package.

In accordance with 43 CFR 3101.1–2, the BLM may require reasonable modifications of a proposal, including, but not limited to, siting and design of facilities, timing of operations, and reclamation measures. Such modifications will not require alteration of the lease terms or stipulations. These usually require additional environmental documentation, provided the modifications do not require relocation of proposed operations by more than 200 meters of rescheduling by more than 60 days in a lease year, or require operations to be sited off the leasehold, or prohibit new surface disturbing operations. Should it be necessary to exceed the 200 meter/60 day standards, additional environmental analysis will be required. Requirements for compliance with nondiscretionary statutes may require modifications beyond these limits.

For operations on NFS lands, FS review of a SUPO at the pre-drill inspection will include development and inclusion of COAs necessary for conducting operations. For operations on Indian lands, the BIA will furnish COAs to the BLM. Within 7 days of the pre-drill inspection, the AFO will notify the operator and the appropriate BLM office in writing that the proposed SUPO is (1) approved as submitted, (2) approved subject to specific operating conditions, or (3) unapproved for the reasons stated. Any resubmissions of disapproved applications shall be forwarded by the operator through the BLM.

2. *Federal Responsibilities.* The information obtained during a pre-drill inspection will be utilized by the BLM/FS to identify the reasonably foreseeable environmental consequences of the proposed action and to prepare the required environmental document. Except for NFS lands, the BLM has the lead responsibility for completing the environmental review process, including cultural resource surveys and threatened and endangered species requirements, identification of other environmental concerns and known or potential surface geological hazards, and establishing the terms and conditions under which the APD package and associated R/W may be approved. For proposed actions on NFS lands, FS has the lead responsibility for compliance with environmental requirements and approval of the SUPO. In these cases, the BLM will be a cooperating agency under the provisions found at 40 CFR parts 1500 through 1508.

3. *Operator Responsibilities.* The operator shall conduct operations to minimize adverse effects to surface and subsurface resources and shall prevent unnecessary or unreasonable amounts of surface disturbance. Operators shall comply with the provisions of the approved APD and other requirements, including laws, regulations, and the following:

a. Cultural and Historic Resources. Cultural resource surveys shall be conducted prior to commencement of ground disturbing activities. The operator shall inform all personnel in the area associated with the project that they will be subject to prosecution for knowingly disturbing historic or archaeological sites or for collecting artifacts. If historic or archaeological materials are uncovered during construction, the operator shall immediately stop work that might further disturb such materials, and contact the BLM and, if appropriate, the FS or other SMA. BLM or FS will inform the operator within 5 working days at to whether the materials appear eligible for the National Register of Historic Places. If the materials appear eligible, the BLM or FS will provide the mitigation measures the operator will likely be required to undertake before the site can be used and initiate a review under 36 CFR 800.11 to confirm, through the State Historic Preservation Officer, that the BLM or FS findings are correct and the mitigation is appropriate.

If at any time the operator wishes to relocate activities on lease to avoid the expense of mitigation and/or the delays associated with the process, the BLM, FS, or appropriate SMA will assume responsibility for whatever recordation and stabilization of the exposed cultural material may be required. Otherwise, the operator shall be responsible for mitigation and stabilization costs. The BLM, FS, or appropriate SMA will provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the BLM or FS that the required mitigation has been completed, the operator will then be allowed to resume construction. Relocation of activities may subject the proposal to additional environmental review.

For activities on lands administered by other SMAs, procedures for preservation, recordation and/or avoidance of cultural resources discovered during construction shall be followed, according to appropriate SMA guidelines.

b. Endangered Species Act. The operator shall conduct all operations to avoid jeopardizing protected fisheries, wildlife, plants, and their habitats in compliance with the requirements of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.), and its implementing regulations (50 CFR part 402).

c. Watershed Protection. The operator shall not conduct operations in areas subject to mass soil movement, riparian areas, floodplains, lakeshores, and/or wetlands, except as otherwise provided in an approved SUPO. The operator shall also take measures to minimize or prevent erosion and sediment production. Such measures may include, but are not limited to, siting of structures, facilities, and other improvements to avoid steep slopes and excessive land clearing, and temporary suspension of operations when frozen ground, thawing, or other weather-related conditions warrant.

d. Safety Measures and Hazardous Materials. The operator shall maintain structures, facilities, improvements, and equipment is a safe manner in accordance with the approved APD, and also take appropriate measures, as specified in applicable laws, regulations, Orders, and Notices to Lessees, to protect the public from any hazardous material sites or conditions resulting from operations. Such measures include, but are not limited to, obtaining appropriate Federal and/or State permits, proper disposal, posting signs, building fences, or otherwise identifying the hazardous site or condition and preventing public access or exposure. The operator is encouraged to avoid using hazardous substances during operations. Releases of reportable quantities of hazardous substances, as specified in 40 CFR 302.4, shall be reported to the BLM, appropriate SMA if applicable, and the National Response Center (800–424-8802).

e. Environmental Information. The operator may be required to provide additional information regarding the proposed operation in order for the authorized officer or AFO, as appropriate, to assess the environmental effects.

IV. Split Estate (Private Surface/Federal Minerals or Private Surface/Indian Minerals)

No surface disturbing activity shall commence without an approved APD, or it will be considered a violation subject to 43 CFR 3162.3–1(c). When authorizing lease operations on private surface/Federal minerals and on private surface/Indian minerals, the BLM will ensure operator compliance with the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), the Endangered Species Act (ESA), and

related Federal statutes. For split estate lands within NFS administrative boundaries, the FS and BLM have joint responsibilities unless precluded by local agreements. In order to carry out these varied responsibilities, the BLM and FS may enter onto the leasehold for inspection and monitoring purposes. For any split estate situation involving Indian lands, refer to section V.

A Surface Owner Agreement (SOA) between the operator and the surface owner shall be submitted to the authorized officer or AFO in accordan with local agreements. The SOA shall contain a surface use agreement providing for protection of the environment and/or mitigation of impacts, and shall include a reclamation plan. If the operator and surface owner are unable to reach an agreement concerning surface protection and reclamation, the BLM or FS will provide appropriate requirements.

A. Environmental Protection of Resources

The BLM and/or FS will conduct an environmental analysis of the proposed action, using the agreement between the operator and the surface owner as the basis for mitigation. If the BLM or FS determines that the operations will cause unacceptable environmental impacts, the operator will be required to comply with additional mitigating measures to reduce environmental impacts to an acceptable level.

The BLM and/or FS will ensure compliance with section 106 of the NHPA for the area involved in the application. If approval from the surface owner cannot be obtained to enter the land for a survey, it may be necessary as a last resort for the BLM, the operator, or both to obtain a court order to be allowed access to perform the necessary survey.

Under the ESA, operations on split estate lands constitute Federal actions. As such, the requirements and procedures of the ESA apply to split estate lands as they do to Federal lands, including, as appropriate, preparation of biological assessments and conduct of consultations. If the surface owner refuses access to the lands, the BLM and/or FS will review existing records and inventories of the general area to determine if the lands are in an area that normally contains habitat for threatened and endangered species. If the review indicates that no habitat is present, the permit may be approved as to this resource.

If it is necessary to enter onto private surface to comply with the ESA, every effort will be made to obtain the surface owner's cooperation. If these efforts are not successful, an order from the district court may be necessary for entry. Section 7 consultation with the U.S. Fish and Wildlife Service may also be appropriate, based on the biological assessment. BLM will incorporate mitigation into the APD approval that will protect threatened and endangered species and habitat. The APD package will not be approved until all ESA requirements have been met. The surface use agreement and reclamation plan, contained in the required SOA, will be reviewed by BLM or FS to determine the environmental protection afforded and adequacy of the reclamation plan. If it is determined that additional protection is necessary and/or the reclamation plan is inadequate, additional mitigation measures will be required by the BLM or FS.

In the event that an agreement cannot be reached between the surface owner and the operator, the authorized officer may approve the permit if (1) the operator certifies that a good faith effort has been made to reach an agreement with the surface owner, (2) adequate bonding has been posted to pay for required reclamation, and (3) there is no legal obstacle to conducting operations in the absence of surface owner consent. The SUPO and the APD's Conditions of Approval will provide the reclamation requirements.

B. Bonding

Oil and gas operators may either obtain consent from surface owners or enter into an agreement with them to provide for surface owner compensation. If a good faith effort to accomplish these options has been made, but the options are not possible, the operator shall post, in accordance with 43 CFR parts 3813 or 3814, a bond sufficient to cover destruction of surface improvements, tangible crops, and environmental damages. BLM will establish the amount of this bond, taking into consideration the surface owner's needs. In most cases, the lease bond submitted in accordance with 43 CFR part 3104 will be sufficient to meet these requirements. If it appears to the authorized officer that the minimum coverage required for operations on a Federal oil and gas lease or an Indian lease or agreement under a lease bond is not adequate to protect the surface owner improvements or the local environment, the bond amount may be increased.

The procedures for termination of the period of liability of a bond are the same regardless of whether the surface ownership is Federal or private. Where private surface is involved, the authorized officer will contact the surface owner to determine what arrangements were made by the operator, and any objections or problems the surface owner may have. The operator is required to satisfy the terms and conditions of the lease, regardless of any arrangements made with the surface owner.

V. Indian Oil and Gas Leases

A. Approval of Operations

BLM will normally process APDs and Sundry Notices on Indian tribal and allotted oil and gas leases and Indian Mineral Development Act agreements in a manner similar to Federal leases. However, the processing procedures, including environmental and archaeological clearance procedures, may vary between reservations. For the purpose of processing such applications, the Bureau of Indian Affairs (BIA) and/or Tribe are considered the SMA. Operators are responsible for obtaining any special use or access permits from appropriate BIA and Tribal offices, if Tribal lands are involved. Unlike Federal leases, posting for public notification of APD's is not required on Indian leases.

B. Surface Use

Where the wellsite and/or access road are proposed on surface held in trust for an Indian tribe or for an individual Indian, the operator is responsible for reaching a surface use agreement with the Indian tribe or individual Indian and the BIA. This agreement is required to specify the requirements for protection of surface resources, mitigation requirements, and requirements for reclamation of disturbed areas. The BIA, the Tribe, and BLM will develop the COAs.

VI. Subsequent Operations/Sundry Notices

Subsequent operations shall be conducted in accordance with 43 CFR part 3160. However, where the proposed subsequent operation will result in the well being converted for injection purposes (disposal or production enhancement), operators shall obtain an Underground Injection Control permit from EPA, or from the State where the State has achieved primacy. Any information submitted in support of obtaining that permit shall be accepted by the authorized officer to the extent that it satisfies the information submittal requirements of this Order.

Within 30 days after initial completion, the operator shall file a copy of a Well Completion or Recompletion Report, Form 3160–4, along with a copy of all well logs, with

authorized officer. Pursuant to 43 CFR 3162.3–2, a proposal for additional well operations shall be submitted by the operator on a Sundry Notice, Form 3160–5, to the authorized officer for approval prior to commencing the following: Casing repairs, nonroutine fracturing jobs, recompletion in a different interval, water shut-off, commingling production between intervals, and/or conversion to injection. A Notice of Intent on Form 3160–5 is valid for 90 days. If additional surface disturbance is involved, the proposal shall include an amendment to the SUPO. For lands under the jurisdiction of FS, this amended SUPO will require their approval. Additional environmental review may be required by SMAs for an amendment to the SUPO and for certain Sundry Notices involving additional surface disturbance. The authorized officer may prescribe that each proposal contain all or a portion of the information as set forth in 43 CFR 3162.3–1. Within 30 days of the completion of such operations, a subsequent report shall be filed on Form 3160–5, and if the well is recompleted, a recompletion report shall be filed on Form 3160–4. Additionally, if a plat showing the production facility layout is not provided at the APD stage, as required by Section III.C.2., the information is now required to be submitted for approval.

Routine fracturing jobs, acidizing jobs, or recompletions in the same interval will not require prior approval by the authorized officer, unless additional surface disturbance is involved, and/or if the operations do not conform to the standard of prudent operation practice. However, a subsequent report on these operations is required to be filed within 30 days of completion on Form 3160–5. No prior approval or subsequent report is required for well cleanout work, routine well maintenance, or bottom-hole pressure surveys. The modification of any production, treating, and/or measurement facilities shall require submission of a revised schematic diagram within 60 days pursuant to Onshore Order No. 3.

VII. Reclamation and Abandonment

A. Reclamation

The surface reclamation plan will be a part of the SUPO, as specified in paragraph 10 of section III.C.2., and will be designed to return the disturbed area to productive use to meet the objectives of the land and resource management plan. The operator shall commence and complete reclamation as soon as possible. Dirtwork shall be completed within one year of completion of drilling/testing or plugging, and revegetation shall be completed within the time period specified by the authorized officer or AFO. Unless otherwise provided for in an approved SUPO, reclamation shall be conducted concurrently with other operations. The operator may request the authorized officer or AFO, as appropriate, to approve a reduction in the amount of an individual lease bond, if partial reclamation of the site has been completed to the satisfaction of the SMA.

All pits and pads shall be reclaimed to a satisfactorily revegetated safe and stable condition. Pits containing fluid shall not be breached (cut) or filled (squeezed). The use of chemicals to aid in fluid evaporation, stabilization, or solidification shall have prior approval. Pit fluids or other contents, removed offsite, shall be disposed of in accordance with appropriate local, State, or Federal requirements. Pits shall be dry or solidified prior to backfilling. Synthetic pit liners shall be removed or otherwise disposed of as directed by the authorized officer or AFO.

B. Abandonment

No well plugging and abandonment operations shall be commenced without the prior written approval of the authorized officer. In the case of newly drilled dry holes or failures and in emergency situations, oral approval for plugging may be obtained from the authorized officer, subject to prompt written confirmation. for old wells not having an approved abandonment plan, a sketch showing the disturbed area and roads to be abandoned, along with the proposed reclamation measures in accordance with Section VII.A. of this Order, shall be submitted with Form 3160–5. On Federal and Indian surface, the appropriate SMA may request additional reclamation measures at abandonment, which shall be made part of BLM's approval of the abandonment.

1. NIA/SRA/FAN. Prior to commencing well abandonment operations, the operator shall submit a Notice of Intent to Abandon (NIA) on Form 3160–5, in accordance with the requirements of 43 CFR 3162.3–4, for approval by the authorized officer. Within 30 days following completion of well abandonment procedures, the lessee or operator shall file with BLM a Subsequent Report of Abandonment (SRA), also on Form 3160–5. Upon completion of reclamation operations, the operator shall notify the authorized officer when the location is ready for inspection via an additional Form 3160–5, Final Abandonment Notice (FAN). For wells involving other SMAs, a copy of the NIA/SRA/FAN shall be forwarded to the appropriate SMA office by the BLM. Final abandonment shall not be approved until the surface reclamation work required by the approved drilling permit or approved abandonment notice has been completed to the satisfaction of the involved SMA. The operator may request the authorized officer or AFO to approve a reduction in the amount of an individual lease bond following partial reclamation. On Indian lands, abandonment of a well may not be approved if a tribe determines to take over the operation of the well rather than have the well abandoned. Negotiation for transfer of ownership will be necessary and the operator will be relieved of any further obligations for the well.

2. Onshore Orders No. 2 and 8. Onshore Oil and Gas Order Number 2 specifically addresses drilling abandonment requirements, while Onshore Oil and Gas Order Number 8 addresses abandonments of depleted wells. Both orders establish minimum standards for abandonment involving both cased hole and open hole completions, including lengths, locations, and quality of cement plugs, surface caps, and mud to be used between plugs. The minimum standards of Orders 2 and 8 will be applicable. Approval of abandonment operations pursuant to this Order shall not constitute a variance from Orders 2 and 8.

C. List of Operators Found to be in Material Noncompliance

Operations shall be conducted in accordance with the lease and its stipulations, an approved SUPO, and all applicable Federal regulations. When an operator fails or refuses to comply with a reclamation requirement or other standard included in a lease, the operator will be notified in writing and given an opportunity to correct the noncompliance or take other action to reach an agreement with the authorized officer and/or AFO to remedy the noncompliance. When an operator does not correct or take other action to remedy the noncompliance, the procedures found at 43 CFR 3102.5–1(f) and 36 CFR 228.113–.114, will be applied. A list of operators found to be in material noncompliance with reclamation requirements and other standards will be compiled and maintained by the BLM and the FS. Operators who have been so identified will not be eligible to obtain Federal oil and gas leases in the future, until they have complied with the reclamation requirement or other standard involved.

Such operators may also be subject to other penalties as prescribed by Federal statutes or regulations.

D. Well Conversions

When subsequent operations will result in a well being converted for disposal or injection purposes on lease, the operator shall file a Notice of Intent to Convert to Injection on Form 3160–5 with the appropriate BLM or FS office (see Onshore Oil and Gas Order No. 7). Pursuant to part VI.A of this Order, operators shall also obtain an Underground Injection Control permit from EPA, or from the State, in cases where it has achieved primacy. A copy of all supporting data, including that submitted to the EPA, Indian tribe, or State, shall be attached to Form 3160–5. BLM will review the information to insure its technical and administrative accuracy. The authorized officer will either approve, approve with modifications, or disapprove the application based on the results of such review.

Where conversion operations involve waste water disposal wells which are used for more than one lease or for off-lease fluids, the operator shall file an application for a R/W or SUP with the appropriate SMA office. If the disposal well is located on a Federal oil and gas lease, the operator may attach a rider to an existing oil and gas lease bond. Disposal wells not covered by an existing bond or rider require separate bonds.

The complete abandonment of a well shall not be approved if the SMA or surface owner commits to acquiring the well for water use purposes. Conditions under which this may occur include:

(1) The well was drilled as a water supply source in support of exploration, development, and producing operations and is no longer needed by the operator;

(2) The well encountered usable water but was unsuccessful in discovering commercial quantities of oil and/or gas and is to be plugged and abandoned; or,

(3) The well encountered usable water and is to be plugged and abandoned because it is no longer capable of producing oil or gas in commercial quantities.

In these cases, the SMA or surface owner shall inform the appropriate BLM office of its decision prior to approval of the APD if possible. The operator shall abandon the well from the bottom hole to the base of the deepest usable water zone of interest, as required by the authorized officer, and shall complete the surface cleanup and reclamation, as required by the approved APD or approved NIA immediately upon completion of conversion operations. The SMA or surface owner shall reach agreement with the operator as to the satisfactory completion of reclamation operations. The authorized officer's subsequent approval of the partial abandonment fully relieves the operator of further obligation. When an SMA desires to acquire the well, that agency will take over responsibility for all monitoring, testing, and other actions necessary to ensure that the water quality of the well is in compliance with relevant regulations and laws.

VIII. Variances

An operator may request the authorized officer or AFO to approve a variance from any of the provisions and/or minimum standards in this or other Orders. All such requests shall be submitted in writing to the authorized officer or AFO and shall be accompanied by information as to the circumstances which warrant approval of the variance. The request should also indicate how the proposed alternative will satisfy the related provisions/standards of the corresponding Order. After any necessary concurrence or approval of the SMA, the authorized officer may approve the requested variance, if it is determined that the proposed alternative meets or exceeds the objectives of the applicable provisions/standards, the variance does not conflict with statutory or regulatory requirements, and, where necessary, the public is given notification of the variance.

Requests for variance may be oral in emergency or other situations of an immediate nature that could not be reasonably foreseen, either at the time of subsequent operation approval or during routine subsequent operations. However, such requests shall be followed by a written notice filed not later than 7 days following the oral request. Variances in such situations may be approved orally, with confirmation in writing within a reasonable time.

Attachment A

SAMPLE FORMAT

Notice of Staking
(Not to be used in place of Application for Permit to Drill Form 3160–3)
1. Oil Well ☐
Gas Well ☐
Other (Specify)
2. Name, Address & Phone No. of Operator.
3. Name & Phone No. of Specific Contact Person:
4. Surface Location of Well:
Attach:

SAMPLE FORMAT—Continued

(a) Sketch showing road entry onto pad, pad dimensions, and reserve pit.
(b) Topographical or other acceptable map showing location, access road, and lease boundaries.
5. Lease Number.
6. If Indian, Allotee or Tribe Name.
7. Unit Agreement Name.
8. Well Name and No.
9. API Well No.
10. Field Name or Wildcat.
11. Sec., T., R., M., or Blk and Survey or Area.
12. County, Parish or Borough.
13. State.
14. Name and depth of Formation Objective(s)
15. Estimated Well Depth
16. Additional Information (as appropriate; shall include surface owner's name, address and, if known, telephone number)
17. Signed _____
Title _____
Date _____
Note: Upon receipt of this Notice, the Bureau of Land Management (BLM) will schedule the date of the on site predrill inspection and notify you accordingly. The location must be staked and access road must be flagged prior to the onsite. Operators must consider the following prior to the onsite:

(a) H_2S Potential.
(b) Cultural Resources (Archeology).
(c) Federal Right of Way or Special Use Permit.

[FR Doc. 92–17336 Filed 7–22–92; 8:45 am]
BILLING CODE 4310–84–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 31 and 52

[FAR Case 91–12]

Federal Acquisition Regulation; Precontract Costs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Withdrawal of proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are withdrawing the proposed Federal Acquisition Regulation (FAR) rule regarding precontract costs published for public comment in the **Federal Register** on April 8, 1991 (56 FR 14302).

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson at (202) 501–3221 in

**Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases;
Onshore Oil and Gas Order No. 2, Drilling Operations**

I. Introduction.

A. Authority.
B. Purpose.
C. Scope.
D. General.

II. Definitions.

III. Requirements.

A. Well Control Requirements.
B. Casing and Cementing Requirements.
C. Mud Program Requirements.
D. Drill Stem Testing Requirements.
E. Special Drilling Operations.
F. Surface Use.
G. Drilling Abandonment.

IV. Variances from Minimum Standards.

Attachments.

I. Diagrams of Choke Manifold Requirements.

I-1 2M Choke Manifold Equipment
I-2 3M Choke Manifold Equipment
I-3 5M Choke Manifold Equipment

BUREAU OF LAND MANAGEMENT
43 FR PART 3160 (as of 3/7/97)

Federal Register / Vol. 53, No. 223
Friday, November 18, 1988
Effective date: December 19, 1988

Onshore Oil and Gas Order No. 2
Drilling Operations on Federal and Indian Oil and Gas Leases

I. Introduction

A. Authority

This order is established pursuant to the authority granted to the Secretary of the Interior pursuant to various Federal and Indian mineral leasing statutes and the Federal Oil and Gas Royalty Management Act of 1982. This authority has been delegated to the Bureau of Land Management and is implemented by the onshore oil and gas operating regulations contained in 43 CFR Part 3160. Section 3164.1 thereof specially authorizes the Director, Bureau of Land Management, to issue Onshore Oil and Gas Orders when necessary to implement and supplement the operating regulations and provides that all such Orders shall be binding on the lessees and operators of Federal and restricted Indian (except Osage tribe) oil and gas leases that have been, or may hereafter be issued.

Specific authority for the provisions contained in this Order is found at: §3162.3-1 *Drilling* ***Applications and Plans***; §3162.3-4 *Well* ***Abandonment***; §3162.4-1 *Well* ***Records and Reports***; ***§3162.4-3*** Samples, **Tests, and Surveys**; §3162.5-1 *Environmental* ***Obligations***; §3162.5-2 *Control of* ***Wells***; §3162.5-2(a) *Drilling* ***Wells***; §3162.5-3 *Safety* ***Precautions***; and Subpart 3163 ***Noncompliance and Assessment.***

B. Purpose

This Order details the Bureau's uniform national standards for the minimum levels of performance expected from lessees and operators when conducting drilling operations on Federal and Indian lands (except Osage Tribe) and for abandonment immediately following drilling. The purpose also is to identify the enforcement actions that will result when violations of the minimum standards are found, and when those violations are not abated in a timely manner.

I-4 10M and 15M Choke Manifold Equipment

Updated on March 25, 1997 by John Broderick

You are visitor # to this page since March 25, 1997.

C. Scope

This Order is applicable to all onshore Federal and Indian (except Osage Tribe) oil and gas leases.

D. General

1. If an operator chooses to use higher rated equipment than that authorized in the ***Application for Permit to Drill*** (APD), testing procedures shall apply to the approved working pressures, not the upgraded higher working pressures.
2. Some situations may exist either on a well-by-well or field-wide basis whereby it is commonly accepted practice to vary a particular minimum standard(s) established in this Order. This situation may be resolved by requesting a variance (See section IV of this Order), by the inclusion of a stipulation to the APD, or by the issuance of Notice to Lessees and Operators (NTL) by the appropriate BLM office.
3. When a violation is discovered and if it does not cause or threaten immediate substantial and adverse impact on public health and safety, the environment, production accountability or royalty, it will be classified as minor. The violation may be reissued as a major violation if not corrected during the abatement period and continued drilling has changed the adverse impact of the violation so that it meets the specific definition of a major violation.
4. This Onshore Order is not intended to circumvent the reporting requirements or compliance aspects that may be stated elsewhere in ***Existing*** NTL's, Onshore Orders, etc. A lessee's compliance with the requirements of the regulations in this Part shall not relieve the lessee of the obligation to comply with other applicable laws and regulations in accordance with 43 CFR 3162.5-1(c). Lessee's should give special attention to the automatic assessment provisions in 43 CFR 3163.1(b).
5. This Order is based upon the assumption that operations have been approved in accordance with 43 CFR Part 3160 and Onshore Oil and Gas Order No.1. Failure to obtain approval prior to commencement of drilling or related operations shall subject the operator to immediate assessment under 43 CFR 3163.1(b)(2).

II. Definitions.

A. Abnormal Pressure Zone means a zone that has either pressure above or below the normal gradient for an area and/or depth.

B. Bleed Line means the vent line that bypasses the chokes in the choke manifold system; also referred to as Panic Line.

C. Blooie Line means a discharge line used in conjunction with a rotating head.

D. Drilling Spool means a connection component with both ends either flanged or hubbed with an internal diameter at least equal to the bore of the casing, and with smaller side outlets for connecting auxiliary lines.

E. Exploratory Well means any well drilled beyond the known producing limits of a pool.

F. Filled-up Line means the line used to fill the hole when the drill pipe is being removed from the well. It is usually connected to a 2-inch collar that is welded into a drilling nipple.

G. Flare Line means a line used to carry gas from the rig to be burned at a safer location. The gas comes from the degasser, gas buster, separator, or when drill stem testing, directly from the drill pipe.

H. Functionally Operated means activating equipment without subjecting it to well-bore pressure.

I. Isolating means using cement to protect, separate, or segregate usable water and mineral resources.

J. Lease means any contact, profit-share agreement, joint venture, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, extraction of, or removal of oil or gas (See 43 CFR 3160.0-5).

K. Lessee means a person holding record title in a lease issued by the United States (See 43 CFR 3160.0-5).

L. Make-up Water means water that is used in mixing slurry for cement jobs and plugging operations, and is compatible with cement constituents being used.

M. Manual Locking Device means any manually activated device, such as a hand wheels, etc., that is used for the purpose of locking the preventer in the closed position.

N. Mud for Plugging Purposes means a slurry of bentonite of similar flocculent/viscosifier, water, and additive needed to achieve the desired weight and consistency to stabilize the hole.

O. Mudding Up means adding materials and chemicals to water to control the viscosity, weight, and filtrate loss of the circulating system.

P. Operating Rights Owner (or Owner) means a person or entity

holding operating rights in a lease issued by the United States. A lessee also may be an operating rights owner if the operating rights in a lease or portion thereof have not been severed from record title.

Q. Operational means capable of functioning as designed and installed without undue force or further modification.

R. Operator means any person or entity, including but not limited to the lessee or operating rights owner, who has stated in writing to the authorized officer his/her responsibility for the operations conducted in the leased lands or a portion thereof.

S. Precharge Pressure means the nitrogen pressure remaining in the accumulator after all the hydraulic fluid has been expelled from beneath the movable barrier.

T. Prompt Correction means immediate correction of violations, with drilling suspended if required in the discretion of the authorized officer.

U. Prospectively Valuable Deposit of Minerals means any deposit of minerals that the authorized officer determines to have characteristics of quantity and quality that warrant its protection.

V. Tagging the Plug means running in the hole with a string of tubing or drill pipe and placing sufficient weight on the plug to insure its integrity. Other methods of tagging the plug may be approved by the authorized officer.

W. Targeted Tee or Turn means a fitting used in pressure piping in which a bull plug or blind flange of the same pressure rating as the rest of the approved system is installed at the end of a tee or cross, opposite the fluid entry arm, to change the direction of flow and to reduce erosion.

X. 2M, 3M, 5M, 10M, and 15M mean the pressure ratings used for equipment with a working pressure rating of the equivalent thousand pounds per square inch (psi) (2M=2,000 psi, 3M=3,000 psi, etc.)

Y. Usable Water means generally those waters containing up to 10,000 ppm of total dissolved solids.

Z. Weep Hole means a small hole that allows pressure to bleed off through the metal plate, used in covering well bores after abandonment operations.

[57 FR 3025, Jan. 27, 1992]

III. Requirements

A. Well Control Requirements

1. Blowout preventer (BOP) and related equipment (BOPE) shall be installed, used, maintained, and tested in a manner necessary to assure well control and shall be in place and operational prior to drilling the surface casing shoe unless otherwise approved by the APD. Commencement of drilling without the approved BOPE installed, unless otherwise approved, shall subject the operator to immediate assessment under 43 CFR 3163.1(b)(1). The BOP and related control equipment shall be suitable for operations in those areas which are subject to sub-freezing conditions. The BOPE shall be based on known or anticipated sub-surface pressures, geologic conditions, accepted engineering practice, and surface environment. Item number 7 of the eight point plan in the APD specifically addresses expected pressures. The working pressure of all BOPE shall exceed the anticipated surface pressure to which it may be subjected, assuming a partially evacuated hole with a pressure gradient of 0.22 psi/ft.

2. The gravity of the violations for many of the well control minimum standards listed below are shown as minor. However, very short abatement periods in this Order are often specified in recognition that by continuing to drill, the violation which was originally determined to be of a minor nature may cause or threaten immediate, substantial and adverse impact on public health and safety, the environment, production accountability, or royalty income, which would require its reclassification as a major violation.

a. *Minimum standards and enforcement provisions for well control equipment.*

i. A well control device shall be installed at the surface that is capable of complete closure of the well bore. This device shall be closed whenever the well is unattended.

Violation:	Major.
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	Prompt correction required.

ii. 2M system:

- Annular preventer, or double ram, or two rams with one being blind and one being a pipe ram*
- kill line (2 inch minimum)
- 1 kill line valve (2 inch minimum)
- 1 choke line valve
- 2 chokes (refer to diagram in Attachment 1)

- Upper kelly cock valve with handle available
- Safety valve and subs to fit all drill strings in use
- Pressure gauge on choke manifold
- 2 inch minimum choke line
- Fill-up line above the uppermost preventer.

Violation:	Minor (all items unless
Corrective Action:	marked by asterisk).
Normal Abatement Period:	Install the equipment as specified. 24 hours.
*Violation:	Major.
Corrective Action:	Install the equipment as
Normal Abatement Period:	specified. Prompt correction required.

iii. 3M system:

- Annular preventers*
- Double ram with blind rams and pipe rams*
- Drilling spool, or blowout preventer with 2 side outlets (choke side shall be a 3-inch minimum diameter, kill side shall be at least 2-inch diameter)*
- Kill line (2 inch minimum)
- A minimum of 2 choke line valves (3 inch minimum)*
- 3 inch diameter choke line
- 2 kill line valves, one of which shall be a check valve (2 inch minimum)*
- 2 chokes (refer to diagram in Attachment 1)
- Pressure gauge on choke manifold
- Upper kelly cock valve with handle available
- Safety valve and subs to fit all drill string connections in use
- All BOPE connections subjected to well pressure shall be flanged, welded, or clamped*
- Fill-up line above the uppermost preventer.

Violation:	Minor (all items unless
Corrective Action:	marked by asterisk).
Normal Abatement Period:	Install the equipment as specified. 24 hours.

*Violation:	Major.
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	Prompt correction required.

iv. 5M system:

- Annular preventer*
- Pipe ram, blind ram, and, if conditions warrant, as specified by the authorized officer, another pipe ram shall also be required*
- A second pipe ram preventer shall be used with a tapered drill string
- Drilling spool, or blowout preventer with 2 side outlets (choke side shall be a 3-inch minimum diameter, kill side shall be at least 2-inch diameter)*
- 3 inch diameter choke line
- 2 choke line valves (3 inch minimum)*
- Kill line (2 inch minimum)
- 2 chokes with 1 remotely controlled from rig floor (refer to diagram in Attachment 1)
- 2 kill line valves and a check valve (2 inch minimum)*
- Upper kelly cock valve with handle available
- When the expected pressures approach working pressure of the system, 1 remote kill line tested to stack pressure (which shall run to the outer edge of the substructure and be unobstructed)
- Lower kelly cock valve with handle available
- Safety valve(s) and subs to fit all drill string connections in use
- Inside BOP or float sub available
- Pressure gauge on choke manifold
- All BOPE connections subjected to well pressure shall be flanged, welded, or clamped*
- Fill-up line above the uppermost preventer.

Violation:	Minor (all items unless marked by asterisk).
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	24 hours

*Violation:	Major.
Corrective Action:	Install the equipment as
Normal Abatement Period:	specified. Prompt correction required.

v. 10M & 15M system:

- Annular preventer*
- 2 pipe rams*
- Blind rams*
- Drilling spool, or blowout preventer with 2 side outlets (choke side shall be a 3-inch minimum diameter, kill side shall be at least 2-inch diameter)*
- 3 inch choke line*
- 2 kill line valves (2 inch minimum) and check valve*
- Remote kill line (2 inch minimum) shall run to the outer edge of the substructure and be unobstructed
- Manual and hydraulic choke line valve (3 inch minimum)*
- 3 chokes, 1 being remotely controlled (refer to diagram in Attachment 1)
- Pressure gauge on choke manifold
- Upper kelly cock valve with handle available
- Lower kelly cock valve with handle available
- Safety valves and subs to fit all drill string connections in use
- Inside BOP or float sub available
- Wear ring in casing head
- All BOPE connections subjected to well pressure shall be flanged, welded, or clamped*
- Fill-up line installed above the uppermost preventer.

Violation:	Minor (all items unless
Corrective Action:	marked by asterisk).
Normal Abatement Period:	Install the equipment as specified. 24 hours.
*Violation:	Major.
Corrective Action:	Install the equipment as
Normal Abatement Period:	specified. Prompt correction required.

vi. If repair or replacement of the BOPE is required after testing, this work shall be performed prior to drilling out the casing shoe.

Violation:	Major.
Corrective Action:	Install the equipment as
Normal Abatement Period:	specified.
	Prompt correction required.

vii. When the BOPE cannot function to secure the hole, the hole shall be secured using cement, retrievable packer or a bridge plug packer, bridgeplug, or other acceptable approved method to assure safe well conditions.

Violation:	Major.
Corrective Action:	Install the equipment as
Normal Abatement Period:	specified.
	Prompt correction required.

[54 FR 39528, Sept. 27, 1989]

b. *Minimum standards and enforcement provisions for choke manifold equipment.*

i. All choke lines shall be straight lines unless turns use tee blocks or are targeted with running tees, and shall be anchored to prevent whip and reduce vibration.

Violation:	Minor.
Corrective Action:.	Install the equipment as
Normal Abatement Period:	specified
	24 hours.

ii. Choke manifold equipment configuration shall be functionally equivalent to the appropriate example diagram shown in Attachment 1 of this Order. The configuration of the chokes may vary.

Violation:	Minor.
Corrective Action:	Install the equipment as
Normal Abatement Period:	specified.
	Prompt correction required.

iii. All valves (except chokes) in the kill line, choke manifold, and choke line shall be a type that does not restrict the flow (full opening) and that allows a straight through flow (same enforcement as item ii).

iv. Pressure gauges in the well control system shall be a type designed for drilling fluid service (same enforcement as above).

[57 FR 3025, Jan. 27, 1992]

c. *Minimum standards and enforcement provisions for pressure accumulator system.*

i. 2M system - accumulator shall have sufficient capacity to close all BOP's and retain 200 psi above precharge. Nitrogen bottles

that meet manufacturer's specifications may be used as the backup to the required independent power source.

Violation:	Minor.
Corrective Action:	Install the equipment as
Normal Abatement Period:	specified.
	24 hours.

ii. 3M system - accumulator shall have sufficient capacity to open the hydraulically-controlled choke line valve(if so equipped), close all rams plus the ***annual*** preventer, and retain a minimum of 200 psi above precharge on the closing manifold without the use of the closing unit pumps. This is a minimum requirement. The fluid reservoir capacity shall be double the usable fluid volume of the accumulator system capacity and the fluid level shall be maintained at the manufacturer's recommendations. The 3M system shall have 2 independent power sources to close the preventers. Nitrogen bottles (3 minimum) may be 1 of the independent power sources and, if so, shall maintain a charge equal to the manufacturer's specifications.

Violation:	Minor
Corrective Action:	Install the equipment as
Normal Abatement Period:	specified.
	24 hours.

iii. 5M and higher system - accumulator shall have sufficient capacity to open the hydraulically-controlled gate valve (if so equipped) and close all rams plus the annular preventer (for 3 ram systems add a 50 percent safety factor to compensate for any fluid loss in the control system or preventers) and retain a minimum pressure of 200 psi above precharge on the closing manifold without use of the closing unit pumps. The fluid reservoir capacity shall be double the usable fluid volume of the accumulator system capacity and the fluid level of the reservoir shall be maintained at the manufacturer's recommendations. Two independent sources of power shall be available for powering the closing unit pumps. Sufficient nitrogen bottles are suitable as a backup power source only, and shall be recharged when the pressure falls below manufacturer's specifications.

Violation:	Minor.
Corrective Action:	Install the equipment as
Normal Abatement Period:	specified.
	24 hours.

[57 FR 3025, Jan. 27, 1992]

d. *Minimum standards and enforcement provisions for accumulator precharge pressure test.* This test shall be conducted prior to connecting

the closing unit to the BOP stack and at least once every 6 months. The accumulator pressure shall be corrected if the measured precharge pressure is found to be above or below the maximum or minimum limit specified below (only nitrogen gas may be used to precharge):

Accumulator working pressure rating	Minimum acceptable operating pressure	Desired precharge pressure	Maximum acceptable precharge pressure	Minimum acceptable precharge pressure
1,500 psi	1,500 psi	750 psi	800 psi	700 psi
2,000 psi	2,000 psi	1,000 psi	1,100 psi	900 psi
3,000 psi	3,000 psi	1,000 psi	1,100 psi	900 psi
Violation:		Minor.		
Correction Action:		Perform test.		
Normal Abatement Period:		24 hours.		

e. *Minimum standards and enforcement provisions for power availability.* Power for the closing unit pumps shall be available to the unit at all times so that the pumps shall automatically start when the closing valve manifold pressure has decreased to the pre-set level.

Violation:	Major.
Corrective Action:	Install the equipment as
Normal Abatement Period:	specified.
	Prompt correction required.

f. Minimum standards and enforcement provisions for accumulator pump capacity. Each BOP closing unit shall be equipped with sufficient number and sizes of pumps so that, with the accumulator system isolated from service, the pumps shall be capable of opening the hydraulically-operated gate valve (if so equipped), plus closing the annular preventer on the smallest size drill pipe to be used within 2 minutes, and obtain a minimum of 200 psi above specified accumulator precharge pressure.

Violation:	Minor.
Corrective Action:	Install the equipment as
Normal Abatement Period:	specified.
	24 hours.

g. *Minimum standards and enforcement provisions for locking devices.* A manual locking device (i.e., hand wheels) or automatic locking devices shall be installed on all systems of 2M or greater. A valve shall

be installed in the closing line as close as possible to the annular preventer to act as a locking device. This valve shall be maintained in the open position and shall be closed only when the power source for the accumulator system is inoperative.

Violation:	Minor.
Corrective Action:	Install the equipment as
Normal Abatement Period:	specified.
	24 hours.

h. *Minimum standards and enforcement provisions for remote controls.* Remote controls shall be readily accessible to the driller. Remote controls for all 3M or greater systems shall be capable of closing all preventers. Remote controls for 5M or greater systems shall be capable of both opening and closing all preventers. Master controls shall be at the accumulator and shall be capable of opening and closing all preventers and the choke line valve (if so equipped). No remote control for a 2M system is required.

Violation:	Minor.
Correction Action:	Install the equipment as
Normal Abatement Period:	specified.
	24 hours.

i. *Minimum standards and enforcement provisions for well control equipment testing.*

i. Perform all tests described below using clear water or an appropriate clear liquid for subfreezing temperatures with a viscosity similar to water.

ii. Ram type preventers and associated equipment shall be tested to approved (see item I.D.1. of this order) stack working pressure if isolated by test plug or to 70 percent of internal yield pressure of casing if BOP stack is not isolated from casing. Pressure shall be maintained for at least 10 minutes or until requirements of test are met, whichever is longer. If a test plug is utilized, no bleed-off of pressure is acceptable. For a test not utilizing a test plug, if a decline in pressure of more than 10 percent in 30 minutes occurs, the test shall be considered to have failed. Valve on casing head below test plug shall be open during test of BOP stack.

iii. Annular type preventers shall be tested to 50 percent of rated working pressure. Pressure shall be maintained at least 10 minutes or until provisions of test are met, whichever is longer.

iv. As a minimum, the above test shall be performed:

A. when initially installed:
B. whenever any seal subject to test pressure is broken:
C. following related repairs: and
D. at 30-day intervals.

v. Valves shall be tested from working pressure side during BOPE tests with all down stream valves open.

vi. When testing the kill line valve(s), the check valve shall be held open or the ball removed.

vii. Annular preventers shall be functionally operated at least weekly.

viii. Pipe and blind rams shall be activated each trip, however, this function need not be performed more than once a day.

ix. A BOPE pit level drill shall be conducted weekly for each drilling crew.

x. Pressure tests shall apply to all related well control equipment.

xi. All of the above described tests and/or drills shall be recorded in the drilling log.

Violation:	Minor.
Corrective action:	Perform the necessary test or provide documentation.
Normal Abatement Period:	24 hours or next trip, as most appropriate.

[54 FR 39528, Sept. 27, 1989]

B. Casing and Cementing Requirements

The proposed casing and cementing programs shall be conducted as approved to protect and/or isolate all usable water zones, potentially productive zones, lost circulation zones, abnormally pressured zones, and any prospectively valuable deposits of minerals. Any isolating medium other than cement shall receive approval prior to use. The casing setting depth shall be calculated to position the casing seat opposite a competent formation which will contain the maximum pressure to which it will be exposed during normal drilling operations. Determination of casing setting depth shall be based on all relevant factors, including: presence/absence of hydrocarbons; fracture gradients; usable water zones; formation pressures; lost circulation zones; other minerals; or other unusual characteristics. All indications of usable water shall be reported.

- Minimum design factors for tensions, collapse, and burst that are incorporated into the casing design by an operator/lessee shall be submitted to the authorized operator for his review and approval along with the APD for all exploratory wells or as otherwise specified by the authorized officer.
- Casing design shall assume formation pressure gradients of 0.44 to 0.50 psi per foot for exploratory wells (lacking better data).
- Casing design shall assume fracture gradients from 0.70 to 1.00 psi per foot for exploratory wells (lacking better data).
- Casing collars shall have a minimum clearance of 0.422 inches on all sides in the hole/casing annulus, with recognition that variances can be granted for justified exceptions.
- All waiting on cement times shall be adequate to achieve a minimum of 500 psi compressive strength at the casing shoe prior to drilling out.

1. Minimum Standards and Enforcement Provisions for Casing and Cementing.

a. All casing, except the conductor casing, shall be new or reconditioned and tested casing. All casing shall meet or exceed API standards for new casing. The use of reconditioned and tested used casing shall be subject to approval by the authorized officer: approval will be contingent upon the wall thickness of any such casing being verified to be at least 87 ½ percent of the nominal wall thickness of new casing.

Violation:	Major.
Corrective Action:	Perform remedial action as specified by the authorized officer.
Normal Abatement Period:	Prompt correction required.

[57 FR 3025, Jan. 27, 1992]

b. For liners, a minimum of 100 feet of overlap between a string of casing and the next larger casing is required. The interval of overlap shall be sealed and tested. The liner shall be tested by a fluid entry or pressure test to determine whether a seal between the liner top and next larger string has been achieved. The test pressure shall be the maximum anticipated pressure to which the seal will be exposed. No test shall be required for liners that do not incorporate or need a seal mechanism.

Violation:	Minor.
Corrective Action:	Perform remedial action as specified by the authorized officer.
Upon determination of corrective action.	Upon determination of corrective action.

c. The surface casing shall be cemented back to surface either during the primary cement job or by remedial cementing.

Violation:	Major.
Corrective Action:	Perform remedial cementing.
Normal Abatement Period:	Prompt correction required.

d. All of the above described tests shall be recorded in the drilling log.

Violation:	Minor.
Corrective Action:	Perform the necessary test or provide documentation.
Normal Abatement Period:	24 hours.

e. All indications of usable water shall be reported to the authorized officer prior to running the next string of casing or before plugging orders are requested, whichever occurs first.

Violation:	Major.
Corrective Action:	Report information as required.
Normal Abatement Period:	Prompt correction required.

f. Surface casing shall have centralizers on the bottom 3 joints of the casing (a minimum of 1 centralizer per joint, starting with the shoe joint).

Violations:	Major.
Corrective Action:	Logging/testing may be required to determine the quality of the job.
Normal Abatement Period:	Recementing may then be specified. Prompt correction upon determination of corrective action.

[57 FR 3025, Jan. 27, 1992]

g. Top plugs shall be used to reduce contamination of cement by displacement fluid. A bottom plug or other acceptable technique, such as a preflush fluid, inner string cement method, etc., shall be utilized to help isolate the cement from contamination by the mud fluid being displaced ahead of the cement slurry.

Violation:	Major.
Correction Action:	Logging may be required to determine the quality of the cement job. Recementing or further recementing may then be specified.
Normal Abatement Period:	Based upon determination of corrective action.

h. All casing strings below the conductor shall be pressure tested to 0.22 psi per foot of casing string length or 1500 psi, whichever is greater, but not to exceed 70 percent of the minimum internal yield. If pressure declines more than 10 percent in 30 minutes, corrective action shall be taken.

Violation:	Minor.
Corrective Action:	Perform the test and/or remedial action as specified by the authorized officer.
Normal Abatement Period:	24 hours.

i. On all exploratory wells, and on that portion of any well approved for a 5M BOPE system or greater, a pressure integrity test of each casing shoe shall be performed. Formation at the shoe shall be tested to a minimum of the mud weight equivalent anticipated to control the formation pressure to the next casing depth or at total depth of the well. This test shall be performed before drilling more than 20 feet of new hole.

Violation:	Minor.
Corrective Action:	Perform the specified test.
Normal Abatement Period:	24 hours.

C. Mud Program Requirements

The characteristics, use, and testing of drilling mud and the implementation of related drilling procedures shall be designed to prevent the loss of well control. Sufficient quantities of mud materials

shall be maintained or readily accessible for the purpose of assuring well control.

Minimum Standards and Enforcement Provisions for Mud Program and Equipment

1. Record slow pump speed on daily drilling report after mudding up.

Violation:	Minor.
Corrective Action:	Record required
Normal Abatement Period:	information.
	24 hours.

2. Visual mud monitoring equipment shall be in place to detect volume changes indicating loss or gain of circulating fluid volume.

Violation:	Minor.
Corrective Action:	Install necessary equipment.
Normal Abatement Period:	24 hours.

3. When abnormal pressures are anticipated, electronic/mechanical mud monitoring equipment shall be required, which shall include as a minimum; pit volume totalizer (PVT); stroke counter; and flow sensor.

Violation:	Minor.
Corrective Action:	Install necessary
Normal Abatement Period:	instrumentation.
	24 hours.

4. A mud test shall be performed every 24 hours after mudding up to determine, as applicable: density, viscosity, gel strength, filtration, and pH.

Violation:	Minor.
Correction Action:	Perform necessary tests.
Normal Abatement Period:	24 hours.

5. A trip tank shall be used on 10M and 15M systems and on upgraded 5M systems as determined by the authorized officer.

Violation:	Minor.
Corrective Action:	Install necessary equipment.
Normal Abatement Period:	24 hours.

6. a. Gas detecting equipment shall be installed in the mud return system for exploratory wells or wells where abnormal pressure is

anticipated, and hydrocarbon gas shall be monitored for pore pressure changes.

b. Hydrogen sulfide safety and monitoring equipment requirements may be found in Onshore Oil and Gas Order No. 6 - Hydrogen Sulfide Operations.

Violation:	Minor.
Corrective Action:	Install necessary equipment.
Normal Abatement Period:	24 hours.

7. All flare systems shall be designed to gather and burn all gas. The flare line(s) discharge shall be located not less than 100 feet from the well head, having straight lines unless turns are targeted with running tees, and shall be positioned downwind of the prevailing wind direction and shall be anchored. The flare system shall have an effective method for ignition. Where noncombustible gas is likely or expected to be vented, the system shall be provided supplemental fuel for ignition and to maintain a continuous flare.

Violation:	Major.
Corrective Action:	Install equipment as specified.
Normal Abatement Period:	24 Hours.

8. A mud-gas separator (gas buster) shall be installed and operable for all systems of 10M or greater and for any system where abnormal pressure is anticipated beginning at a point at least 500 feet above any anticipated hydrocarbon zone of interest.

Violation:	Minor.
Corrective Action:	Install required equipment.
Normal Abatement Period:	Prompt correction required.

[54 FR 39528, Sept. 27, 1989, further amended at 57 FR 3026, Jan.27, 1992]

D. Drill Stem Testing Requirements

Initial opening of drill stem test tools shall be restricted to daylight hours unless specific approval to start during other hours is obtained from the authorized officer. However, DSTs may be allowed to continue at night if the test was initiated during daylight hours and the rate of flow is stabilized and if adequate lighting is available (i.e., lighting which is adequate for visibility and vapor-proof for safe operations). Packers can be released, but tripping shall not begin before daylight, unless prior approval is obtained from the authorized officer.

Closed chamber DSTs may be accomplished day or night.

Minimum Standards for Drill Stem Testing.

1. A DST that flows to the surface with evidence of hydrocarbons shall be either reversed out of the testing string under controlled surface conditions or displaced into the formation prior to pulling the test tool. This would involve providing some means for reserve circulation.

Violation:	Major.
Corrective Action:	Contingent on circumstances and as specified by the authorized officer.
Normal Abatement Period:	Prompt correction required.

2. Separation equipment required for the anticipated recovery shall be properly installed before a test starts.

Violation:	Major.
Corrective Action:	Install required equipment.
Normal Abatement Period:	Prompt correction required.

3. All engines within 100 feet of the wellbore that are required to "run" during the test shall have spark arresters or water cooled exhausts.

Violation:	Major.
Corrective Action:	Contingent on circumstances and as specified by the authorized officer.
Normal Abatement Period:	Prompt correction required.

E. Special Drilling Operations

1. In addition to the equipment already specified elsewhere in this onshore order, the following equipment shall be in place and operational during air/gas drilling:

- Properly lubricated and maintained rotating head*
- Spark arresters on engines or water cooled exhaust*
- Blooie line discharge 100 feet from well bore and securely anchored
- Straight run on blooie line unless otherwise approved
- Deduster equipment*

- All cuttings and circulating medium shall be directed into a reserve or blooie pit*
- Float valve above bit*
- Automatic igniter or continuous pilot light on the blooie line*
- Compressors located in the opposite direction from the blooie line a minimum of 100 feet from the well bore
- Mud circulating equipment, water, and mud materials (does not have to be premixed) sufficient to maintain the capacity of the hole and circulating tanks or pits

Violation:	Minor (unless marked by an asterisk).
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	24 hours.
*Violation:	Major.
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	Prompt correction required.

2. Hydrogen sulphide operation is specifically addressed under Onshore Oil and Gas Order No. 6.

F. Surface Use

Onshore Oil and Gas Order No. 1 specifically addresses surface use. That Order provides for safe operations, adequate protection of surface resources and uses, and other environmental components. The operator/lessee is responsible for, and liable for, all building, construction, and operating activities and subcontracting activities conducted in association with the APD. Requirements and special stipulations for surface use are contained in or attached to the approved APD.

Minimum Standards and Enforcement Provisions for Surface Use.

The requirements and stipulations of approval shall be strictly adhered to by the operator/lessee and any contractors.

Violation: If a violation is identified by the authorized officer he shall determine whether it is major or minor, considering the definitions in 43 CFR 3160.0-5, and shall specify the appropriate corrective action and abatement period.

G. Drilling Abandonment Requirements

The following standards apply to the abandonment of newly drilled dry or non-productive wells in accordance with 43 CFR 3162.3-4 and section V of Onshore Oil and Gas Order No. 1. Approval shall be obtained prior to the commencement of abandonment. All formations bearing usable-quality water, oil, gas, or geothermal resources, and/or a prospectively valuable deposit of minerals shall be protected. Approval may be given orally by the authorized officer before abandonment operations are initiated. This oral request and approval shall be followed by a written notice of intent to abandon filed not later than the fifth business day following oral approval. Failure to obtain approval prior to commencement of abandonment operations shall result in immediate assessment of under 43 CFR 3163.1(b)(3). The hole shall be in static condition at the time any plugs are placed (this does not pertain to plugging lost circulation zones). Within 30 days of completion of abandonment, a subsequent report of a abandonment shall be filed. Plugging design for an abandonment hole shall include the following:

1. Open Hole.

i. A cement plug shall be placed to extend at least 50 feet below the bottom (except as limited by total depth (TD) or plugged back total depth (PBTD)), to 50 feet above the top of:

a. Any zone encountered during which contains fluid or gas with a potential to migrate;

b. Any prospectively valuable deposit of minerals.

ii. All cement plugs, except the surface plug, shall have sufficient slurry volume to fill 100 feet of the hole, plus an additional 10 percent of slurry for each 1,000 feet of depth.

iii. No plug, except the surface plug, shall be less than 25 sacks without receiving specific approval from the authorized officer.

iv. Extremely thick sections of single formation may be secured by placing 100-foot plugs across the top and bottom of the formation, and in accordance with item ii hereof.

v. In the absence of productive zones or prospectively valuable deposits of minerals which otherwise require placement of cement plugs, long sections of open hole shall be plugged at least every 3,000 feet. Such plugs shall be placed across in-gauge sections of the hole, unless otherwise approved by the authorized officer.

2. Cased Hole. A cement plug shall be placed opposite all open perforation and extend to a minimum of 50 feet below (except as limited by TD or PBTD) to 50 feet above the perforated interval. All

cement plugs, except the surface plug, shall have sufficient slurry volume to fill 100 feet of hole, plus an additional 10 percent of slurry for each 1,000 feet of depth. In lieu of the cement plug, a bridge plug is acceptable, provided:

i. The bridge plug is set within 50 feet to 100 feet above the open perforations;

ii. The perforations are isolated from any open hole below; and

iii. The bridge plug is capped with 50 feet of cement. If a bailer is used to cap this plug, 35 feet of cement shall be sufficient.

3. Casing Removed from Hole. If any casing is cut and recovered, a cement plug shall be placed to extend at least 50 feet above and below the stub. The exposed hole resulting from the casing removal shall be secured as required in items 1i and 1ii hereof.

4. An additional cement plug placed to extend a minimum of 50 feet above and below the shoe of the surface casing for intermediate string, as appropriate).

5. Annular Space. No annular space that extends to the surface shall be left open to the drilled hole below. If this condition exists, a minimum of the top 50 feet of annulus shall be plugged with cement.

6. Isolating Medium. Any cement plug which is the only isolating medium for a usable water interval or a zone containing a prospectively valuable deposit of minerals shall be tested by tagging with the drill string. Any plugs placed where the fluid level will not remain static also shall be tested by either tagging the plug with the working pipe string, or pressuring to a minimum pump (surface) pressure of 1,000 psi, with no more than a 10 percent drop during a 15-minute period (cased hole only). If the integrity of any other plug is questionable, or if the authorized officer has specific concerns for which he/she orders a plug to be tested, it shall be tested in the same manner.

7. Silica Sand or Silica Flour. Silica sand or silica flour shall be added to cement exposed to bottom hole static temperatures above 230 F to prevent heat degradation of the cement.

8. Surface Plug. A cement plug of at least 50 feet shall be placed across all annuluses. The top of this plug shall be placed as near the eventual casing cutoff point as possible.

9. Mud. Each of the intervals between plugs shall be filled with mud of sufficient density to exert hydrostatic pressure exceeding the greatest formation pressure encountered while drilling such interval. In the ***absense***of other information at the time plugging is approved, a

minimum mud weight of 9 pounds per gallon shall be specified.

10. Surface Cap. All casing shall be cut-off at the base of the cellar or 3 feet below final restored ground level (whichever is deeper). The well bore shall then be covered with a metal plate at least 1/4 inch thick and welded in place, or a 4-inch pipe, 10-feet in length, 4 feet above ground and embedded in cement as specified by the authorized officer. The well location and identity shall be permanently inscribed. A weep hole shall be left if a metal plate is welded in place.

11. The cellar shall be filled with suitable material as specified by the authorized officer and the surface restored in accordance with the instructions of the authorized officer.

Minimum Standard

All plugging orders shall be strictly adhered to.

Violation:	Major.
Corrective Action:	Contingent upon
Normal Abatement Period:	circumstances.
	Prompt correction required.

[54 FR 39528, Sept. 27, 1989]

IV. Variances From Minimum Standard

An operator may request the authorized officer to approve a variance from any of the minimum standards prescribed in section III hereof. All such request shall be submitted in writing to the appropriate authorized officer and provide information as to the circumstances which warrant approval of the variance(s) requested and the proposed alternative methods by which the related minimum standard(s) are to be satisfied. The authorized officer, after considering all relevant factors, if appropriate, may approve the requested variance(s) if it is determined that the proposed alternative(s) meet or exceed the objectives of the applicable minimum standard(s).

Emergency or other situations of an immediate nature that could not be reasonably foreseen at the time of APD approval may receive oral approval. However, such requests shall be followed up by a written notice filed not later than the fifth business day following oral approval.

Note: The Order is in it's official form. However, there are some errors in the text of the Order that need correction. They are in "**bold**", "*italicized*", and are "underlined" and are as follows:

Applications and Plans should be applications and plans;

Abandonment should be abandonment:

Records and Reports should be records and reports:

§3162.4-3 should be 3162.4-2;

Obligations should be obligations;

Tests, and Surveys should be tests, and surveys

Wells, in two places, should be wells;

Precautions should be precautions; and

Noncompliance and Assessment. should be Noncompliance, Assessments, and Penalties.

Application for Permit to Drill should be Application for Permit to Drill, Deepen, or Plug Back;

Existing should be existing;

annual should be annular;

absense should be absence;

BUREAU OF LAND MANAGEMENT
43 FR PART 3160 (as of 3/7/97)

Federal Register / Vol. 53, No. 223
Friday, November 18, 1988
Effective date: December 19, 1988

Onshore Oil and Gas Order No. 2
Drilling Operations on Federal and Indian Oil and Gas Leases

I. Introduction

A. Authority

This order is established pursuant to the authority granted to the Secretary of the Interior pursuant to various Federal and Indian mineral leasing statutes and the Federal Oil and Gas Royalty Management Act of 1982. This authority has been delegated to the Bureau of Land Management and is implemented by the onshore oil and gas operating regulations contained in 43 CFR Part 3160. Section 3164.1 thereof specially authorizes the Director, Bureau of Land Management, to issue Onshore Oil and Gas Orders when necessary to implement and supplement the operating regulations and provides that all such Orders shall be binding on the lessees and operators of Federal and restricted Indian (except Osage tribe) oil and gas leases that have been, or may hereafter be issued.

Specific authority for the provisions contained in this Order is found at: §3162.3-1 *Drilling* ***Applications and Plans***; §3162.3-4 *Well* ***Abandonment***; §3162.4-1 *Well* ***Records and Reports***; ***§3162.4-3*** Samples, ***Tests, and Surveys***; §3162.5-1 *Environmental* ***Obligations****;* §3162.5-2 *Control of* ***Wells****;* §3162.5-2(a) *Drilling* ***Wells***; §3162.5-3 *Safety* ***Precautions***; and Subpart 3163 ***Noncompliance and Assessment.***

B. Purpose

This Order details the Bureau's uniform national standards for the minimum levels of performance expected from lessees and operators when conducting drilling operations on Federal and Indian lands (except Osage Tribe) and for abandonment immediately following drilling. The purpose also is to identify the enforcement actions that will result when violations of the minimum standards are found, and when those violations are not abated in a timely manner.

C. Scope

This Order is applicable to all onshore Federal and Indian (except Osage Tribe) oil and gas leases.

D. General

1. If an operator chooses to use higher rated equipment than that authorized in the ***Application for Permit to Drill*** (APD), testing procedures shall apply to the approved working pressures, not the upgraded higher working pressures.
2. Some situations may exist either on a well-by-well or field-wide basis whereby it is commonly

accepted practice to vary a particular minimum standard(s) established in this Order. This situation may be resolved by requesting a variance (See section IV of this Order), by the inclusion of a stipulation to the APD, or by the issuance of Notice to Lessees and Operators (NTL) by the appropriate BLM office.

3. When a violation is discovered and if it does not cause or threaten immediate substantial and adverse impact on public health and safety, the environment, production accountability or royalty, it will be classified as minor. The violation may be reissued as a major violation if not corrected during the abatement period and continued drilling has changed the adverse impact of the violation so that it meets the specific definition of a major violation.
4. This Onshore Order is not intended to circumvent the reporting requirements or compliance aspects that may be stated elsewhere in ***Existing*** NTL's, Onshore Orders, etc. A lessee's compliance with the requirements of the regulations in this Part shall not relieve the lessee of the obligation to comply with other applicable laws and regulations in accordance with 43 CFR 3162.5-1(c). Lessee's should give special attention to the automatic assessment provisions in 43 CFR 3163.1(b).
5. This Order is based upon the assumption that operations have been approved in accordance with 43 CFR Part 3160 and Onshore Oil and Gas Order No.1. Failure to obtain approval prior to commencement of drilling or related operations shall subject the operator to immediate assessment under 43 CFR 3163.1(b)(2).

II. Definitions.

A. Abnormal Pressure Zone means a zone that has either pressure above or below the normal gradient for an area and/or depth.

B. Bleed Line means the vent line that bypasses the chokes in the choke manifold system; also referred to as Panic Line.

C. Blooie Line means a discharge line used in conjunction with a rotating head.

D. Drilling Spool means a connection component with both ends either flanged or hubbed with an internal diameter at least equal to the bore of the casing, and with smaller side outlets for connecting auxiliary lines.

E. Exploratory Well means any well drilled beyond the known producing limits of a pool.

F. Filled-up Line means the line used to fill the hole when the drill pipe is being removed from the well. It is usually connected to a 2-inch collar that is welded into a drilling nipple.

G. Flare Line means a line used to carry gas from the rig to be burned at a safer location. The gas comes from the degasser, gas buster, separator, or when drill stem testing, directly from the drill pipe.

H. Functionally Operated means activating equipment without subjecting it to well-bore pressure.

I. Isolating means using cement to protect, separate, or segregate usable water and mineral resources.

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

of oil or gas (See 43 CFR 3160.0-5).

K. Lessee means a person holding record title in a lease issued by the United States (See 43 CFR 3160.0-5).

L. Make-up Water means water that is used in mixing slurry for cement jobs and plugging operations, and is compatible with cement constituents being used.

M. Manual Locking Device means any manually activated device, such as a hand wheels, etc., that is used for the purpose of locking the preventer in the closed position.

N. Mud for Plugging Purposes means a slurry of bentonite of similar flocculent/viscosifier, water, and additive needed to achieve the desired weight and consistency to stabilize the hole.

O. Mudding Up means adding materials and chemicals to water to control the viscosity, weight, and filtrate loss of the circulating system.

P. Operating Rights Owner (or Owner) means a person or entity holding operating rights in a lease issued by the United States. A lessee also may be an operating rights owner if the operating rights in a lease or portion thereof have not been severed from record title.

Q. Operational means capable of functioning as designed and installed without undue force or further modification.

R. Operator means any person or entity, including but not limited to the lessee or operating rights owner, who has stated in writing to the authorized officer his/her responsibility for the operations conducted in the leased lands or a portion thereof.

S. Precharge Pressure means the nitrogen pressure remaining in the accumulator after all the hydraulic fluid has been expelled from beneath the movable barrier.

T. Prompt Correction means immediate correction of violations, with drilling suspended if required in the discretion of the authorized officer.

U. Prospectively Valuable Deposit of Minerals means any deposit of minerals that the authorized officer determines to have characteristics of quantity and quality that warrant its protection.

V. Tagging the Plug means running in the hole with a string of tubing or drill pipe and placing sufficient weight on the plug to insure its integrity. Other methods of tagging the plug may be approved by the authorized officer.

W. Targeted Tee or Turn means a fitting used in pressure piping in which a bull plug or blind flange of the same pressure rating as the rest of the approved system is installed at the end of a tee or cross, opposite the fluid entry arm, to change the direction of flow and to reduce erosion.

X. 2M, 3M, 5M, 10M, and 15M mean the pressure ratings used for equipment with a working pressure rating of the equivalent thousand pounds per square inch (psi) (2M=2,000 psi, 3M=3,000 psi, etc.)

Y. Usable Water means generally those waters containing up to 10,000 ppm of total dissolved solids.

Z. Weep Hole means a small hole that allows pressure to bleed off through the metal plate, used in covering well bores after abandonment operations.

[57 FR 3025, Jan. 27, 1992]

III. Requirements

A. Well Control Requirements

1. Blowout preventer (BOP) and related equipment (BOPE) shall be installed, used, maintained, and tested in a manner necessary to assure well control and shall be in place and operational prior to drilling the surface casing shoe unless otherwise approved by the APD. Commencement of drilling without the approved BOPE installed, unless otherwise approved, shall subject the operator to immediate assessment under 43 CFR 3163.1(b)(1). The BOP and related control equipment shall be suitable for operations in those areas which are subject to sub-freezing conditions. The BOPE shall be based on known or anticipated sub-surface pressures, geologic conditions, accepted engineering practice, and surface environment. Item number 7 of the eight point plan in the APD specifically addresses expected pressures. The working pressure of all BOPE shall exceed the anticipated surface pressure to which it may be subjected, assuming a partially evacuated hole with a pressure gradient of 0.22 psi/ft.

2. The gravity of the violations for many of the well control minimum standards listed below are shown as minor. However, very short abatement periods in this Order are often specified in recognition that by continuing to drill, the violation which was originally determined to be of a minor nature may cause or threaten immediate, substantial and adverse impact on public health and safety, the environment, production accountability, or royalty income, which would require its reclassification as a major violation.

a. *Minimum standards and enforcement provisions for well control equipment.*

i. A well control device shall be installed at the surface that is capable of complete closure of the well bore. This device shall be closed whenever the well is unattended.

Violation:	Major.
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	Prompt correction required.

ii. 2M system:

- Annular preventer, or double ram, or two rams with one being blind and one being a pipe ram*
- kill line (2 inch minimum)
- 1 kill line valve (2 inch minimum)
- 1 choke line valve
- 2 chokes (refer to diagram in Attachment 1)
- Upper kelly cock valve with handle available
- Safety valve and subs to fit all drill strings in use
- Pressure gauge on choke manifold
- 2 inch minimum choke line
- Fill-up line above the uppermost preventer.

Violation:	Minor (all items unless marked by
Corrective Action:	asterisk).
Normal Abatement Period:	Install the equipment as specified. 24 hours.
*Violation:	Major.
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	Prompt correction required.

iii. 3M system:

- Annular preventers*
- Double ram with blind rams and pipe rams*
- Drilling spool, or blowout preventer with 2 side outlets (choke side shall be a 3-inch minimum diameter, kill side shall be at least 2-inch diameter)*
- Kill line (2 inch minimum)
- A minimum of 2 choke line valves (3 inch minimum)*
- 3 inch diameter choke line
- 2 kill line valves, one of which shall be a check valve (2 inch minimum)*
- 2 chokes (refer to diagram in Attachment 1)
- Pressure gauge on choke manifold
- Upper kelly cock valve with handle available
- Safety valve and subs to fit all drill string connections in use
- All BOPE connections subjected to well pressure shall be flanged, welded, or clamped*
- Fill-up line above the uppermost preventer.

Violation:	Minor (all items unless marked by
Corrective Action:	asterisk).
Normal Abatement Period:	Install the equipment as specified. 24 hours.
*Violation:	Major.
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	Prompt correction required.

iv. 5M system:

- Annular preventer*
- Pipe ram, blind ram, and, if conditions warrant, as specified by the authorized officer, another pipe ram shall also be required*
- A second pipe ram preventer shall be used with a tapered drill string
- Drilling spool, or blowout preventer with 2 side outlets (choke side shall be a 3-inch minimum diameter, kill side shall be at least 2-inch diameter)*
- 3 inch diameter choke line
- 2 choke line valves (3 inch minimum)*
- Kill line (2 inch minimum)

- 2 chokes with 1 remotely controlled from rig floor (refer to diagram in Attachment 1)
- 2 kill line valves and a check valve (2 inch minimum)*
- Upper kelly cock valve with handle available
- When the expected pressures approach working pressure of the system, 1 remote kill line tested to stack pressure (which shall run to the outer edge of the substructure and be unobstructed)
- Lower kelly cock valve with handle available
- Safety valve(s) and subs to fit all drill string connections in use
- Inside BOP or float sub available
- Pressure gauge on choke manifold
- All BOPE connections subjected to well pressure shall be flanged, welded, or clamped*
- Fill-up line above the uppermost preventer.

Violation:	Minor (all items unless marked by
Corrective Action:	asterisk).
Normal Abatement Period:	Install the equipment as specified. 24 hours
*Violation:	Major.
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	Prompt correction required.

v. 10M & 15M system:

- Annular preventer*
- 2 pipe rams*
- Blind rams*
- Drilling spool, or blowout preventer with 2 side outlets (choke side shall be a 3-inch minimum diameter, kill side shall be at least 2-inch diameter)*
- 3 inch choke line*
- 2 kill line valves (2 inch minimum) and check valve*
- Remote kill line (2 inch minimum) shall run to the outer edge of the substructure and be unobstructed
- Manual and hydraulic choke line valve (3 inch minimum)*
- 3 chokes, 1 being remotely controlled (refer to diagram in Attachment 1)
- Pressure gauge on choke manifold
- Upper kelly cock valve with handle available
- Lower kelly cock valve with handle available
- Safety valves and subs to fit all drill string connections in use
- Inside BOP or float sub available
- Wear ring in casing head
- All BOPE connections subjected to well pressure shall be flanged, welded, or clamped*

- Fill-up line installed above the uppermost preventer.

Violation:	Minor (all items unless marked by
Corrective Action:	asterisk).
Normal Abatement Period:	Install the equipment as specified.
	24 hours.
*Violation:	Major.
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	Prompt correction required.

vi. If repair or replacement of the BOPE is required after testing, this work shall be performed prior to drilling out the casing shoe.

Violation:	Major.
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	Prompt correction required.

vii. When the BOPE cannot function to secure the hole, the hole shall be secured using cement, retrievable packer or a bridge plug packer, bridgeplug, or other acceptable approved method to assure safe well conditions.

Violation:	Major.
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	Prompt correction required.

[54 FR 39528, Sept. 27, 1989]

b. *Minimum standards and enforcement provisions for choke manifold equipment.*

i. All choke lines shall be straight lines unless turns use tee blocks or are targeted with running tees, and shall be anchored to prevent whip and reduce vibration.

Violation:	Minor.
Corrective Action:.	Install the equipment as specified
Normal Abatement Period:	24 hours.

ii. Choke manifold equipment configuration shall be functionally equivalent to the appropriate example diagram shown in Attachment 1 of this Order. The configuration of the chokes may vary.

Violation:	Minor.
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	Prompt correction required.

iii. All valves (except chokes) in the kill line, choke manifold, and choke line shall be a type that does not restrict the flow (full opening) and that allows a straight through flow (same enforcement as item ii).

iv. Pressure gauges in the well control system shall be a type designed for drilling fluid service (same enforcement as above).

[57 FR 3025, Jan. 27, 1992]

c. *Minimum standards and enforcement provisions for pressure accumulator system.*

i. 2M system - accumulator shall have sufficient capacity to close all BOP's and retain 200 psi above precharge. Nitrogen bottles that meet manufacturer's specifications may be used as the

backup to the required independent power source.

Violation:	Minor.
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	24 hours.

ii. 3M system - accumulator shall have sufficient capacity to open the hydraulically-controlled choke line valve(if so equipped), close all rams plus the ***annual*** preventer, and retain a minimum of 200 psi above precharge on the closing manifold without the use of the closing unit pumps. This is a minimum requirement. The fluid reservoir capacity shall be double the usable fluid volume of the accumulator system capacity and the fluid level shall be maintained at the manufacturer's recommendations. The 3M system shall have 2 independent power sources to close the preventers. Nitrogen bottles (3 minimum) may be 1 of the independent power sources and, if so, shall maintain a charge equal to the manufacturer's specifications.

Violation:	Minor
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	24 hours.

iii. 5M and higher system - accumulator shall have sufficient capacity to open the hydraulically-controlled gate valve (if so equipped) and close all rams plus the annular preventer (for 3 ram systems add a 50 percent safety factor to compensate for any fluid loss in the control system or preventers) and retain a minimum pressure of 200 psi above precharge on the closing manifold without use of the closing unit pumps. The fluid reservoir capacity shall be double the usable fluid volume of the accumulator system capacity and the fluid level of the reservoir shall be maintained at the manufacturer's recommendations. Two independent sources of power shall be available for powering the closing unit pumps. Sufficient nitrogen bottles are suitable as a backup power source only, and shall be recharged when the pressure falls below manufacturer's specifications.

Violation:	Minor.
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	24 hours.

[57 FR 3025, Jan. 27, 1992]

d. *Minimum standards and enforcement provisions for accumulator precharge pressure test.* This test shall be conducted prior to connecting the closing unit to the BOP stack and at least once every 6 months. The accumulator pressure shall be corrected if the measured precharge pressure is found to be above or below the maximum or minimum limit specified below (only nitrogen gas may be used to precharge):

Accumulator working pressure rating	Minimum acceptable operating pressure	Desired precharge pressure	Maximum acceptable precharge pressure	Minimum acceptable precharge pressure
1,500 psi	1,500 psi	750 psi	800 psi	700 psi
2,000 psi	2,000 psi	1,000 psi	1,100 psi	900 psi
3,000 psi	3,000 psi	1,000 psi	1,100 psi	900 psi

Violation:	Minor.
Correction Action:	Perform test.
Normal Abatement Period:	24 hours.

e. *Minimum standards and enforcement provisions for power availability.* Power for the closing unit pumps shall be available to the unit at all times so that the pumps shall automatically start when the closing valve manifold pressure has decreased to the pre-set level.

Violation:	Major.
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	Prompt correction required.

f. Minimum standards and enforcement provisions for accumulator pump capacity. Each BOP closing unit shall be equipped with sufficient number and sizes of pumps so that, with the accumulator system isolated from service, the pumps shall be capable of opening the hydraulically-operated gate valve (if so equipped), plus closing the annular preventer on the smallest size drill pipe to be used within 2 minutes, and obtain a minimum of 200 psi above specified accumulator precharge pressure.

Violation:	Minor.
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	24 hours.

g. *Minimum standards and enforcement provisions for locking devices.* A manual locking device (i.e., hand wheels) or automatic locking devices shall be installed on all systems of 2M or greater. A valve shall be installed in the closing line as close as possible to the annular preventer to act as a locking device. This valve shall be maintained in the open position and shall be closed only when the power source for the accumulator system is inoperative.

Violation:	Minor.
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	24 hours.

h. *Minimum standards and enforcement provisions for remote controls.* Remote controls shall be readily accessible to the driller. Remote controls for all 3M or greater systems shall be capable of closing all preventers. Remote controls for 5M or greater systems shall be capable of both opening and closing all preventers. Master controls shall be at the accumulator and shall be capable of opening and closing all preventers and the choke line valve (if so equipped). No remote control for a 2M system is required.

Violation:	Minor.
Correction Action:	Install the equipment as specified.
Normal Abatement Period:	24 hours.

i. *Minimum standards and enforcement provisions for well control equipment testing.*

i. Perform all tests described below using clear water or an appropriate clear liquid for subfreezing

temperatures with a viscosity similar to water.

ii. Ram type preventers and associated equipment shall be tested to approved (see item I.D.1. of this order) stack working pressure if isolated by test plug or to 70 percent of internal yield pressure of casing if BOP stack is not isolated from casing. Pressure shall be maintained for at least 10 minutes or until requirements of test are met, whichever is longer. If a test plug is utilized, no bleed-off of pressure is acceptable. For a test not utilizing a test plug, if a decline in pressure of more than 10 percent in 30 minutes occurs, the test shall be considered to have failed. Valve on casing head below test plug shall be open during test of BOP stack.

iii. Annular type preventers shall be tested to 50 percent of rated working pressure. Pressure shall be maintained at least 10 minutes or until provisions of test are met, whichever is longer.

iv. As a minimum, the above test shall be performed:

A. when initially installed:
B. whenever any seal subject to test pressure is broken:
C. following related repairs: and
D. at 30-day intervals.

v. Valves shall be tested from working pressure side during BOPE tests with all down stream valves open.

vi. When testing the kill line valve(s), the check valve shall be held open or the ball removed.

vii. Annular preventers shall be functionally operated at least weekly.

viii. Pipe and blind rams shall be activated each trip, however, this function need not be performed more than once a day.

ix. A BOPE pit level drill shall be conducted weekly for each drilling crew.

x. Pressure tests shall apply to all related well control equipment.

xi. All of the above described tests and/or drills shall be recorded in the drilling log.

Violation:	Minor.
Corrective action:	Perform the necessary test or provide documentation.
Normal Abatement Period:	24 hours or next trip, as most appropriate.

[54 FR 39528, Sept. 27, 1989]

B. Casing and Cementing Requirements

The proposed casing and cementing programs shall be conducted as approved to protect and/or isolate all usable water zones, potentially productive zones, lost circulation zones, abnormally pressured zones, and any prospectively valuable deposits of minerals. Any isolating medium other than cement shall receive approval prior to use. The casing setting depth shall be calculated to position the casing seat opposite a competent formation which will contain the maximum pressure to which it will be exposed during normal drilling operations. Determination of casing setting depth shall be based on all relevant factors,

including: presence/absence of hydrocarbons; fracture gradients; usable water zones; formation pressures; lost circulation zones; other minerals; or other unusual characteristics. All indications of usable water shall be reported.

- Minimum design factors for tensions, collapse, and burst that are incorporated into the casing design by an operator/lessee shall be submitted to the authorized operator for his review and approval along with the APD for all exploratory wells or as otherwise specified by the authorized officer.
- Casing design shall assume formation pressure gradients of 0.44 to 0.50 psi per foot for exploratory wells (lacking better data).
- Casing design shall assume fracture gradients from 0.70 to 1.00 psi per foot for exploratory wells (lacking better data).
- Casing collars shall have a minimum clearance of 0.422 inches on all sides in the hole/casing annulus, with recognition that variances can be granted for justified exceptions.
- All waiting on cement times shall be adequate to achieve a minimum of 500 psi compressive strength at the casing shoe prior to drilling out.

1. Minimum Standards and Enforcement Provisions for Casing and Cementing.

a. All casing, except the conductor casing, shall be new or reconditioned and tested casing. All casing shall meet or exceed API standards for new casing. The use of reconditioned and tested used casing shall be subject to approval by the authorized officer: approval will be contingent upon the wall thickness of any such casing being verified to be at least 87 ½ percent of the nominal wall thickness of new casing.

Violation:	Major.
Corrective Action:	Perform remedial action as specified by the authorized officer.
Normal Abatement Period:	Prompt correction required.

[57 FR 3025, Jan. 27, 1992]

b. For liners, a minimum of 100 feet of overlap between a string of casing and the next larger casing is required. The interval of overlap shall be sealed and tested. The liner shall be tested by a fluid entry or pressure test to determine whether a seal between the liner top and next larger string has been achieved. The test pressure shall be the maximum anticipated pressure to which the seal will be exposed. No test shall be required for liners that do not incorporate or need a seal mechanism.

Violation:	Minor.
Corrective Action:	Perform remedial action as specified by the authorized officer.
Upon determination of corrective action.	Upon determination of corrective action.

c. The surface casing shall be cemented back to surface either during the primary cement job or by remedial cementing.

Violation:	Major.
Corrective Action:	Perform remedial cementing.
Normal Abatement Period:	Prompt correction required.

d. All of the above described tests shall be recorded in the drilling log.

Violation:	Minor.
Corrective Action:	Perform the necessary test or provide documentation.
Normal Abatement Period:	24 hours.

e. All indications of usable water shall be reported to the authorized officer prior to running the next string of casing or before plugging orders are requested, whichever occurs first.

Violation:	Major.
Corrective Action:	Report information as required.
Normal Abatement Period:	Prompt correction required.

f. Surface casing shall have centralizers on the bottom 3 joints of the casing (a minimum of 1 centralizer per joint, starting with the shoe joint).

Violations:	Major.
Corrective Action:	Logging/testing may be required to determine the quality of the job. Recementing may then be specified.
Normal Abatement Period:	Prompt correction upon determination of corrective action.

[57 FR 3025, Jan. 27, 1992]

g. Top plugs shall be used to reduce contamination of cement by displacement fluid. A bottom plug or other acceptable technique, such as a preflush fluid, inner string cement method, etc., shall be utilized to help isolate the cement from contamination by the mud fluid being displaced ahead of the cement slurry.

Violation:	Major.
Correction Action:	Logging may be required to determine the quality of the cement job. Recementing or further recementing may then be specified.
Normal Abatement Period:	Based upon determination of corrective action.

h. All casing strings below the conductor shall be pressure tested to 0.22 psi per foot of casing string length or 1500 psi, whichever is greater, but not to exceed 70 percent of the minimum internal yield. If pressure declines more than 10 percent in 30 minutes, corrective action shall be taken.

Violation:	Minor.
Corrective Action:	Perform the test and/or remedial action as specified by the authorized officer.
Normal Abatement Period:	24 hours.

i. On all exploratory wells, and on that portion of any well approved for a 5M BOPE system or greater, a pressure integrity test of each casing shoe shall be performed. Formation at the shoe shall be tested to a minimum of the mud weight equivalent anticipated to control the formation pressure to the next casing depth or at total depth of the well. This test shall be performed before drilling more than 20 feet of new hole.

Violation:	Minor.
Corrective Action:	Perform the specified test.
Normal Abatement Period:	24 hours.

C. Mud Program Requirements

The characteristics, use, and testing of drilling mud and the implementation of related drilling procedures shall be designed to prevent the loss of well control. Sufficient quantities of mud materials shall be maintained or readily accessible for the purpose of assuring well control.

Minimum Standards and Enforcement Provisions for Mud Program and Equipment

1. Record slow pump speed on daily drilling report after mudding up.

Violation:	Minor.
Corrective Action:	Record required information.
Normal Abatement Period:	24 hours.

2. Visual mud monitoring equipment shall be in place to detect volume changes indicating loss or gain of circulating fluid volume.

Violation:	Minor.
Corrective Action:	Install necessary equipment.
Normal Abatement Period:	24 hours.

3. When abnormal pressures are anticipated, electronic/mechanical mud monitoring equipment shall be required, which shall include as a minimum; pit volume totalizer (PVT); stroke counter; and flow sensor.

Violation:	Minor.
Corrective Action:	Install necessary instrumentation.
Normal Abatement Period:	24 hours.

4. A mud test shall be performed every 24 hours after mudding up to determine, as applicable: density, viscosity, gel strength, filtration, and pH.

Violation:	Minor.
Correction Action:	Perform necessary tests.
Normal Abatement Period:	24 hours.

5. A trip tank shall be used on 10M and 15M systems and on upgraded 5M systems as determined by the authorized officer.

Violation:	Minor.
Corrective Action:	Install necessary equipment.
Normal Abatement Period:	24 hours.

6. a. Gas detecting equipment shall be installed in the mud return system for exploratory wells or wells where abnormal pressure is anticipated, and hydrocarbon gas shall be monitored for pore pressure changes.

b. Hydrogen sulfide safety and monitoring equipment requirements may be found in Onshore Oil and Gas Order No. 6 - Hydrogen Sulfide Operations.

Violation:	Minor.
Corrective Action:	Install necessary equipment.
Normal Abatement Period:	24 hours.

7. All flare systems shall be designed to gather and burn all gas. The flare line(s) discharge shall be located not less than 100 feet from the well head, having straight lines unless turns are targeted with running tees, and shall be positioned downwind of the prevailing wind direction and shall be anchored. The flare system shall have an effective method for ignition. Where noncombustible gas is likely or expected to be vented, the system shall be provided supplemental fuel for ignition and to maintain a continuous flare.

Violation:	Major.
Corrective Action:	Install equipment as specified.
Normal Abatement Period:	24 Hours.

8. A mud-gas separator (gas buster) shall be installed and operable for all systems of 10M or greater and for any system where abnormal pressure is anticipated beginning at a point at least 500 feet above any anticipated hydrocarbon zone of interest.

Violation:	Minor.
Corrective Action:	Install required equipment.
Normal Abatement Period:	Prompt correction required.

[54 FR 39528, Sept. 27, 1989, further amended at 57 FR 3026, Jan.27, 1992]

D. Drill Stem Testing Requirements

Initial opening of drill stem test tools shall be restricted to daylight hours unless specific approval to start during other hours is obtained from the authorized officer. However, DSTs may be allowed to continue at night if the test was initiated during daylight hours and the rate of flow is stabilized and if adequate lighting is available (i.e., lighting which is adequate for visibility and vapor-proof for safe operations). Packers can be released, but tripping shall not begin before daylight, unless prior approval is obtained from the authorized officer. Closed chamber DSTs may be accomplished day or night.

Minimum Standards for Drill Stem Testing.

1. A DST that flows to the surface with evidence of hydrocarbons shall be either reversed out of the testing string under controlled surface conditions or displaced into the formation prior to pulling the test tool. This would involve providing some means for reserve circulation.

Violation:	Major.
Corrective Action:	Contingent on circumstances and as specified by the authorized officer.
Normal Abatement Period:	Prompt correction required.

2. Separation equipment required for the anticipated recovery shall be properly installed before a test starts.

Violation:	Major.
Corrective Action:	Install required equipment.
Normal Abatement Period:	Prompt correction required.

3. All engines within 100 feet of the wellbore that are required to "run" during the test shall have spark arresters or water cooled exhausts.

Violation:	Major.
Corrective Action:	Contingent on circumstances and as specified by the authorized officer.
Normal Abatement Period:	Prompt correction required.

E. Special Drilling Operations

1. In addition to the equipment already specified elsewhere in this onshore order, the following equipment shall be in place and operational during air/gas drilling:

- Properly lubricated and maintained rotating head*
- Spark arresters on engines or water cooled exhaust*
- Blooie line discharge 100 feet from well bore and securely anchored
- Straight run on blooie line unless otherwise approved
- Deduster equipment*

- All cuttings and circulating medium shall be directed into a reserve or blooie pit*
- Float valve above bit*
- Automatic igniter or continuous pilot light on the blooie line*
- Compressors located in the opposite direction from the blooie line a minimum of 100 feet from the well bore
- Mud circulating equipment, water, and mud materials (does not have to be premixed) sufficient to maintain the capacity of the hole and circulating tanks or pits

Violation:	Minor (unless marked by an asterisk).
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	24 hours.
*Violation:	Major.
Corrective Action:	Install the equipment as specified.
Normal Abatement Period:	Prompt correction required.

2. Hydrogen sulphide operation is specifically addressed under Onshore Oil and Gas Order No. 6.

F. Surface Use

Onshore Oil and Gas Order No. 1 specifically addresses surface use. That Order provides for safe operations, adequate protection of surface resources and uses, and other environmental components. The operator/lessee is responsible for, and liable for, all building, construction, and operating activities and subcontracting activities conducted in association with the APD. Requirements and special stipulations for surface use are contained in or attached to the approved APD.

Minimum Standards and Enforcement Provisions for Surface Use.

The requirements and stipulations of approval shall be strictly adhered to by the operator/lessee and any contractors.

Violation: If a violation is identified by the authorized officer he shall determine whether it is major or minor, considering the definitions in 43 CFR 3160.0-5, and shall specify the appropriate corrective action and abatement period.

G. Drilling Abandonment Requirements

The following standards apply to the abandonment of newly drilled dry or non-productive wells in accordance with 43 CFR 3162.3-4 and section V of Onshore Oil and Gas Order No. 1. Approval shall be obtained prior to the commencement of abandonment. All formations bearing usable-quality water, oil, gas, or geothermal resources, and/or a prospectively valuable deposit of minerals shall be protected. Approval may be given orally by the authorized officer before abandonment operations are initiated. This oral request and approval shall be followed by a written notice of intent to abandon filed not later than the fifth business day following oral approval. Failure to obtain approval prior to commencement of abandonment operations shall result in immediate assessment of under 43 CFR 3163.1(b)(3). The hole shall be in static condition at the time any plugs are placed (this does not pertain to plugging lost circulation zones). Within 30 days of completion of abandonment, a subsequent report of a abandonment shall be filed. Plugging design for an abandonment hole shall include the following:

1. Open Hole.

i. A cement plug shall be placed to extend at least 50 feet below the bottom (except as limited by total depth (TD) or plugged back total depth (PBTD)), to 50 feet above the top of:

a. Any zone encountered during which contains fluid or gas with a potential to migrate;

b. Any prospectively valuable deposit of minerals.

ii. All cement plugs, except the surface plug, shall have sufficient slurry volume to fill 100 feet of the hole, plus an additional 10 percent of slurry for each 1,000 feet of depth.

iii. No plug, except the surface plug, shall be less than 25 sacks without receiving specific approval from the authorized officer.

iv. Extremely thick sections of single formation may be secured by placing 100-foot plugs across the top and bottom of the formation, and in accordance with item ii hereof.

v. In the absence of productive zones or prospectively valuable deposits of minerals which otherwise require placement of cement plugs, long sections of open hole shall be plugged at least every 3,000 feet. Such plugs shall be placed across in-gauge sections of the hole, unless otherwise approved by the authorized officer.

2. Cased Hole. A cement plug shall be placed opposite all open perforation and extend to a minimum of 50 feet below (except as limited by TD or PBTD) to 50 feet above the perforated interval. All cement plugs, except the surface plug, shall have sufficient slurry volume to fill 100 feet of hole, plus an additional 10 percent of slurry for each 1,000 feet of depth. In lieu of the cement plug, a bridge plug is acceptable, provided:

i. The bridge plug is set within 50 feet to 100 feet above the open perforations;

ii. The perforations are isolated from any open hole below; and

iii. The bridge plug is capped with 50 feet of cement. If a bailer is used to cap this plug, 35 feet of cement shall be sufficient.

3. Casing Removed from Hole. If any casing is cut and recovered, a cement plug shall be placed to extend at least 50 feet above and below the stub. The exposed hole resulting from the casing removal shall be secured as required in items 1i and 1ii hereof.

4. An additional cement plug placed to extend a minimum of 50 feet above and below the shoe of the surface casing for intermediate string, as appropriate).

5. Annular Space. No annular space that extends to the surface shall be left open to the drilled hole below. If this condition exists, a minimum of the top 50 feet of annulus shall be plugged with cement.

6. Isolating Medium. Any cement plug which is the only isolating medium for a usable water interval or a zone containing a prospectively valuable deposit of minerals shall be tested by tagging with the drill string. Any plugs placed where the fluid level will not remain static also shall be tested by either tagging the plug with the working pipe string, or pressuring to a minimum pump (surface) pressure of 1,000 psi, with no more than a 10 percent drop during a 15-minute period (cased hole only). If the integrity of any other plug is questionable, or if the authorized officer has specific concerns for which he/she orders a

plug to be tested, it shall be tested in the same manner.

7. Silica Sand or Silica Flour. Silica sand or silica flour shall be added to cement exposed to bottom hole static temperatures above 230 F to prevent heat degradation of the cement.

8. Surface Plug. A cement plug of at least 50 feet shall be placed across all annuluses. The top of this plug shall be placed as near the eventual casing cutoff point as possible.

9. Mud. Each of the intervals between plugs shall be filled with mud of sufficient density to exert hydrostatic pressure exceeding the greatest formation pressure encountered while drilling such interval. In the ***absense***of other information at the time plugging is approved, a minimum mud weight of 9 pounds per gallon shall be specified.

10. Surface Cap. All casing shall be cut-off at the base of the cellar or 3 feet below final restored ground level (whichever is deeper). The well bore shall then be covered with a metal plate at least 1/4 inch thick and welded in place, or a 4-inch pipe, 10-feet in length, 4 feet above ground and embedded in cement as specified by the authorized officer. The well location and identity shall be permanently inscribed. A weep hole shall be left if a metal plate is welded in place.

11. The cellar shall be filled with suitable material as specified by the authorized officer and the surface restored in accordance with the instructions of the authorized officer.

Minimum Standard

All plugging orders shall be strictly adhered to.

Violation:	Major.
Corrective Action:	Contingent upon circumstances.
Normal Abatement Period:	Prompt correction required.

[54 FR 39528, Sept. 27, 1989]

IV. Variances From Minimum Standard

An operator may request the authorized officer to approve a variance from any of the minimum standards prescribed in section III hereof. All such request shall be submitted in writing to the appropriate authorized officer and provide information as to the circumstances which warrant approval of the variance(s) requested and the proposed alternative methods by which the related minimum standard(s) are to be satisfied. The authorized officer, after considering all relevant factors, if appropriate, may approve the requested variance(s) if it is determined that the proposed alternative(s) meet or exceed the objectives of the applicable minimum standard(s).

Emergency or other situations of an immediate nature that could not be reasonably foreseen at the time of APD approval may receive oral approval. However, such requests shall be followed up by a written notice filed not later than the fifth business day following oral approval.

BUREAU OF LAND MANAGEMENT - - 43 CFR 3160
Federal Register / Vol. 54, No. 36
Friday, February 24, 1989
Effective date: March 27, 1989

Return to the Onshore Oil and Gas Operations Information Menu

Table of Contents

Site Security

I. Introduction.

A. Authority.
B. Purpose.
C. Scope.

II. Definition.

III. Requirements.

A. Storage and Sales Facilities - Seals.
B. Lease Automatic Custody Transfer (LACT) System - Seals.
C. Removal of Crude Oil from Storage Facilities by Means Otherthan through a LACT Unit.
D. By - Pass Around Meters.
E. Theft or Mishandling of Oil.
F. Self Inspection.
G. Recordkeeping.
H. Site Security Plan.
I. Site Facility Diagram.

IV. Federal Seals

V. Variances from Minimum Standards.

Attachments.

I. Diagrams.

Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases; Onshore Oil and Gas Order No. 3, Site Security

I. Introduction

A. Authority

This Order is established pursuant to the authority granted to the Secretary of the Interior pursuant to various Federal and Indian mineral leasing statutes and the Federal Oil and Gas Royalty Management Act of 1982. This authority has been delegated to the Bureau of Land Management and is implemented by the onshore oil and gas operating regulations contained in 43 CFR Part 3160. Section 3164.1 thereof specifically authorizes the Director, Bureau of Land Management, to issue Onshore Oil and Gas Orders when necessary to implement and supplement the operating regulations and provides that all such Orders shall be binding on the operators of Federal and restricted Indian oil and gas leases which have been, or may hereafter be, issued.

Specific authority for the provisions contained in this order is found at:
§ 3162.4-1, Well records and reports;
§ 3162.7-1, Disposition of Production;
§ 3182.7-5, Site Security on Federal and Indian (except Osage) Oil and Gas Leases; and subpart 3163, Noncompliance and Assessments.

B. Purpose

The purpose of this Order is to implement and supplement the regulations in 43 CFR 3162.7-1 and 3162.7-5. This Order establishes the minimum standards for site security by providing a system for production accountability and covers the use of seals, by-passes around meters, self inspection, transporters' documentation, reporting of incidents of unauthorized removal or mishandling of oil and condensate, facility diagrams, recordkeeping, and site security plans.

The Order identifies certain specific acts of noncompliance, rates them as to severity, establishes abatement periods for corrective action for such acts of noncompliance, and provides for variances. This Order serves as notice to any party cited for noncompliance that it may request from the authorized officer an extension of the abatement period for any violation, provided the request for extension is applied for and granted prior to the expiration of the abatement period previously allowed. Additionally, this Order serves as notice to any party aggrieved by an enforcement action taken pursuant to this Order, of that party's rights, pursuant to 43 CFR 3165.3, to administrative review, hearing on the record, and judicial review.

C. Scope

This Order is applicable to all Federal and Indian (except Osage) oil and gas leases. In addition, this Order is applicable to all wells and facilities on State or privately-owned mineral lands committed to a unit or communitization agreement that affects Federal or Indian interests, notwithstanding any provision of a unit or communitization agreement to the contrary.

II. Definitions

The following definitions apply for the purposes of this Order.

A. Access means the ability to enter into any tankage or piping system through a valve, valves or combination of valves and/or tankage which would permit the removal of oil; or to enter any component in a measuring system affecting the quality and/or quantity of the liquid being measured, without documentation as provided by this Order.

B. Appropriate Valves means those valves in a particular piping system that could provide unauthorized or undocumented access to stored or produced oil, i.e., fill lines, equalizer or overflow lines, sales lines, circulating lines, and drain lines that shall be sealed during a given operation.

C. Authorized Officer means any employee of the Bureau of Land Management authorized to perform the duties in Groups 3000 and 3100 of this title [43 CFR 3000.0-5(e)].

D. Authorized Representative means any entity or individual authorized by the Secretary to perform duties by cooperative agreement, delegation. or contract (See 43 CFR 3160.0-5).

E. Business Day means any day Monday through Friday excluding Federal holidays.

F. By-pass means any piping arrangement connected upstream and downstream of a meter which allows oil or gas to continue on the sales line without passing through the meter. Equipment which permits the changing of the orifice plate without bleeding the pressure off the gas meter run shall not be considered a by-pass.

G. Condensate means those natural gas liquids recovered in lease separators, dehydrators, or other production equipment and remaining in a liquid state at atmospheric pressure and temperature, consisting primarily of pentanes and heavier hydrocarbons.

H. Effectively Sealed means the placement of a seal in such a manner that the position of the sealed valve may not be altered, or a component in a measuring system affecting quality or quantity be accessed, without the seal being destroyed.

I. Facility means a site used to handle production and store oil and/or condensate produced from or allocated to Federal and Indian lands.

J. Gas is defined at 43 CFR 3000.0-5(a) to mean any fluid. either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at ordinary temperatures and pressure conditions.

K. Lease means any contract, profitshare arrangement, joint venture, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, extraction of. or removal of oil or gas (See 43 CFR 3160.0-5)

L. Lessee means a person or entity holding record title in a lease issued by the United States (43 CFR 3100.0-5 and 3160.0-5).

M. Major Violation means noncompliance which causes or threaten immediate, substantial, and adverse impacts on public health and safety, the environment. production accountability, or royalty

income.

N. Minor Violation means noncompliance which does not rise to the level of a "major violation."

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

P. Oil means all nongaseous hydrocarbon substances, other than those substances leasable as coal. oil shale or "gilsonite" (including all veintype solid hydrocarbons). However. condensate is excluded for the purposes of III.1.e.iv., of this Order. (See 43 CFR3000.0-5.)

P.1. Bad Oil means crude oil that is not marketable to normal purchasers but that can be treated economically to be marketable by use of heat chemicals. or other methods or combination of methods with existing or modifiedlease facilities or portable equipment.

P.2. Clean Oil/Pipeline Oil means crude oil or condensate that is of such quality that it is acceptable to mail purchasers

. P.3. Slop Oil means crude oil that is of such quality that is not acceptable to normal purchasers and which requires special treatment other than that which can economically be provided with existing or modified facilities or portable equipment and is usually sold to oil reclaimers.

P.4. Waste Oil means lease crude oil that has been determined by the authorized officer to be of such quality that it cannot be treated economically and put in a marketable condition with existing or modified lease facilities or portable equipment and cannot be sold to reclaimers and also has been determined by the authorized officer to have no economic value.

Q. Operator means any person or entity, including but not limited to the lessee or operating rights owner. who has stated in writing to the authorized officer that it is responsible under the terms and conditions of the lease for the operations conducted on the leased lands or a portion thereof (See 43 CFR 3160.0-5).

R. Piping means all tubular goods made of any material (e.g., metallic, plastic, fiberglass, and/or rubber).

S. 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.

T. Sales Phase means that period of time or mode of operation during which crude oil is removed from the storage facilities for sale, transportation. or other purposes.

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

III. Requirements

A. Storage and Sales Facilities - Seals

1. Minimum Standards.

a. The primary purpose for use of seals is to provide a means of documenting the removal of production for royalty purposes. Additionally, seals provide a means of detecting unauthorized entry to, and removal of, production. The seal requirements are based on American Petroleum Institute (API) recommended practice No. 12 R1, 4th Edition, dated *August 1, 1991*, entitled "API Recommended Practice for Setting, *Maintenance, Operation and Repair of Tanks in Production Service"*.

b. All lines entering or leaving all oil storage tanks shall have valves capable of being effectively sealed during the production and sales operations unless otherwise provided under the provisions of this Order. During the production phase, all valves that provide access to production shall be effectively sealed in the closed position. During the sales phase, and prior to taking the top gauge, all valves that would allow unmeasured production to enter or leave the sales tank shall be effectively sealed in the closed position. Any equipment needed for effective sealing, excluding the seals, shall be located at the site. If the sealing equipment is in the possession of the operator's representative or at a centralized field location, it shall be considered to be at the site. (See Attachment I). Each ineffectively sealed valve or appropriate valve not sealed shall be considered a separate violation.

c. Additionally. valves or combinations of valves and tankage that provide access to the production prior to measurement for sales or lease use purposes are considered appropriate valves and are subject to the seal requirements of this Order (See Attachment 1).

d. Valves on any tank which contains oil or is connected to the production equipment are considered appropriate valves and are subject to the seal requirements contained in this Order. except those valves on tanks which contain oil that has been determined by the authorized officer to be waste oil or valves on tanks used for the primary treatment of lease production (See Attachment 1). e. Exclusions to seal requirements contained in this Order shall be limited to the following:

i. Valves on production vessels and tanks used as production vessels (e.g., gun barrel, wash tanks, etc.);

ii. Valves on water tanks. provided the possibility of access does not exist through a common circulating, drain, or equalizer system to production in the sales and storage tanks;

iii. Sample cock valves utilizing piping of 1 inch of less in diameter.

iv. When a single tank is used for collecting small volumes of condensate produced from a gas well, the requirement Is waived for require the fill line valve to be sealed during shipment, but all other seal requirements of this Order shall apply;

v. Gas line valves of 1 inch or less used as tank bottom "roll" lines need not be sealed; provided there is no access to the contents of the storage tank and said lines cannot be used as equalizer lines;

vi. Tank heating systems which use a of fluid other than the contents of the storage tank, i.e., steam, water. glycol;

vii. Valves, connected directly to the pump body, used on pump bleed off lines of 1 inch or less in diameter; and

viii. Tank vent line valves.

f. For systems where production may only be removed through the lease automatic custody transfer (LACT) system, no sales or equalizer lines need to be sealed. However, any valves which allow access for the removal of oil prior to its measurement through the LACT shall be effectively sealed (See Attachment I).

g. For oil measured and sold by tank gauging, all appropriate valves shall be sealed during the production phase, and all valves that provide access to production shall be effectively sealed in a closed position. During the sales phase, and prior to taking the top gauge, all valves that would allow unmeasured production to enter or leave the sales tank shall be effectively sealed in the closed position. Circulating lines having valves which may allow access for the removal from storage and sales facilities to any other source except through the treating equipment back to storage facilities shall be effectively sealed as near the storage facility as possible (See Attachment 1).

2. Enforcement Provisions.

a. The following appropriate valves shall be effectively sealed during the production and sales phases or combination of production and sales phases:

-Sales valves*
-Circulating valves
-Drain valves
-Fill valve
-Equalizer valve

Violation: Minor (unless marked by an asterisk or otherwise meeting the criteria of a major violation)
Corrective Action: Seal as required.
Normal Abatement Period. 2 business days.

*Violation: Major
Corrective Action: Seal as required.
Normal Abatement period. 24 hours.

b. Devices used in conjunction with seals for effective sealing, excluding the seals, shall be located at the site. If the sealing equipment is in the possession of the operator's representative or at a centralized administrative location, it shall be considered to be at the site. The absence of each required sealing device shall be considered a separate violation. The classification of degree of violation, corrective action, and normal abatement period shall be the same as contained in a., above.

B. Lease Automatic Custody Transfer (LACT) Systems - Seals

This portion of the Order is predicated on the minimum requirements for the components to be used in a LACT system contained in Onshore Oil and Gas Order No. 4, LACT Components and General Operating Requirements; API Manual of Petroleum Measurement Standards, Chapter 6.1, 2nd Edition, 1991, or the latest revised standard; and API Spec 11N, 4th Edition, November 1, 1994, entitled "Lease Automatic Custody Transfer(LACT) Equipment."

1. Minimum Standards.

Each LACT unit shall employ meters that have non-resettable totalizers and there shall be no by-pass around the LACT unit. The seal requirements apply to the components used for volume or quality determination of the oil being shipped. Each missing or ineffective seal shall be considered a separate violation. During normal operations the following components shall be effectively sealed;

- sample probe
- sampler volume control
- All valves on lines entering or leaving the sample container excluding the safety pop-off valve (if so equipped). Each valve shall be sealed in the open or closed position, as appropriate.
- Meter assembly, including the counter head, meter head and, if so equipped, automatic temperature compensator (ATC) automatic temperature and gravity selection service(ATG)
- Temperature recorder (if so equipped)
- Back pressure valve downstream of the meter
- Any drain valves in the system
- Manual sampling valves (if so equipped).

Violation: Major.
Corrective Action: Seal as required.
Normal Abatement Period: 24 hours.

- Absence of non-resettable totalizer.

Violation: Major.
Corrective Action: Install a meter head that utilizes a non-resettable totalizer.
Normal Abatement Period: Install prior to sales or removal of production through the meter.

C. Removal of Crude Oil From Storage Facilities by Means Other Than Through a LACT unit

The determination of the volume and quality of crude oil removed and sold from a storage facility shall be made by the operator in accordance with the accepted procedures for the measurement of oil (See Onshore Oil and Gas Order No. 4, Part III.C., Oil Measurement by Tank Gauging).

[54 FR 39529, Sept. 27, 1989]

1. Minimum Standards.

a. The operator shall require the transporter/purchaser to record on a run ticket prior to sales or removal of any crude oil from the lease, as a minimum, the following:

- Name of the seller
- Federal or Indian lease number(s), or as appropriate. the communitization agreement number or the unit agreement name and number and participating area identification'
- The location of the tank by quarter section. section, township and range (public land surveys) or by the legal land description
- A unique number, the date, and the tank number and capacity
- Opening gauge and temperature*
- Name of gauger and operator representative. if present at time of sale
- Number of the seal removed*.

Violation: Minor (all items unless marked by asterisk).
Corrective Action: Complete missing information.
Normal Abatement Period: Upon request or within 3 business days of notice.

*Violation: Major.
Corrective Action: Submit completed run ticket
Normal Abatement Period: Upon request or 3 business days.

b. The operator shall require that the run ticket be completed upon the completion of the sales or removal of oil from the lease to show the following:

- Closing gauge (second gauge) and temperatures*
- Observed gravity* and sediment and water (S&W) content*
- Number of the seal installed
- Signature of the gauger
- Signature of the operator representative (within 2 business days after the sales or removal).

Violation: Minor (all items unless marked by asterisk).
Corrective Action: Complete missing information.
Normal Abatement Period: Upon request or within 3 business days of notice.

*Violation: Major.
Corrective Action: Submit completed run ticket
Normal Abatement Period: Upon request or 3 business days.

c. When a single truck load constitutes a completed sale, the driver shall have in his/her possession documentation containing the information required in a. and b.. above, during the period of shipment. When multiple truckloads are involved in a sale and the purchase is predicated on the difference between the opening and closing gauges (implying that the purchaser has purchased the

entire tank), only the driver of the last truck is required to have the documentation containing the information required in a. and b., above, and all of the other drivers shall have in their possession appropriate documentation in the form of a trip log or manifest. All valves on lines entering or leaving the sales tank(s) shall be effectively sealed. except the sales and vent line valves, between truck loads, but the sales valve shall be sealed at the time the sale is completed. In the event documentation of a sale arrangement prevents having all the information required, the operator may apply for a variance in accordance with Part V. "Variances from minimum standards" . Once the seals have been broken, the purchaser shall be responsible for the entire contents of the tank until resealed.

Violation: Major.
Corrective Action: Discontinue trucking operation until documentation is provided.
Normal Abatement Period: Prior to leaving the facility.

[54 FR 39529, Sept. 27, 1989]

D. By-Pass Around Meters

1. Minimum Standard.

There shall be no by-pass around gas meters or LACT unit meters.

Violation: Major.
Corrective Action: Remove by-pass.
Normal Abatement Action: Immediate correction required.

E. Theft or Mishandling of Oil

1. Minimum Standard.

a. The operator shall, not later than the next business day after discovery of an incident of apparent theft or mishandling of crude oil and/or condensate, report such incident to the authorized officer. All oral reports shall be followed up with a written report within 10 business days. The incident report shall supply the following:

- Company name and name of individual reporting the incident(s)
- Lease number, communitization agreement number, or unit agreement name and number and participating area, as appropriate
- Location of facility where the incident occurred by quarter, quarter section, section, township, and range or legal land description
- The estimated volume of oil or condensate removed
- The way access was obtained to the production or how the mishandling occurred
- The individual who discovered the incident
- Date and time of the discovery of the incident
- Whether the incident was or was not reported to local law enforcement agencies and company security.

Violation: Minor (failure to file a complete report).
Corrective Action: Submit complete report of incident.
Normal Abatement Period: Oral report upon request and complete written report within 10 business days after notice of failure to file a complete report.

*Violation: Major (failure to report incident).
Corrective Action: Submit report of incident.
Normal Abatement Period: Oral report upon request and written report within 10 business days after notice of failure to report incident.

F. Self Inspection

I. Minimum Standard.

Operators/Lessees shall establish an inspection program for all leases for the purpose of periodically measuring production volumes and assuring that there is compliance with the minimum site security requirements. The program shall include a record of such inspections showing the findings of the inspection and a record of the volume measurements.

Violation: Minor.
Corrective Action: Institute an inspection program that includes a record of such inspections and establishes a measurement schedule.
Normal Abatement Period: 20 business days after notice.

[54 FR 39529, Sept. 27, 1989]

G. Recordkeeping

1. Minimum Standard.

The operator shall establish and maintain for a minimum of 6 years a recordkeeping system which shall be readily available to the authorized officer or authorized representative upon request and which includes all of the following as a minimum:

- Documentation of the number of each seal and the valve on which the seal is used, the date of installation or removal of the seal(s) for each storage tank. including the reason for the removal or installation of each such seal
- Documentation of each seal used on the LACT unit showing the component sealed and the date the seal was installed and removed including the reasons(s) for such removal

Violation: Major
Corrective Action: Commence and maintain documentation.
Normal Abatement Period: 1 business day after notice.

H. Site Security Plan

1. Minimum Standard.

The operator shall establish a site security plan for all facilities. The plan need not be submitted to the authorized officer, but the authorized officer shall be notified of the location where the plan is maintained and the normal working hours of said location. The plan shall be available to the authorized officer upon request. The plan shall include, but is not limited to the following:

- A self inspection program that monitors production volumes and ensures compliance with all seal requirements at each storage and sale facility and each LACT unit, if applicable (See Section III F hereof)
- A system to ensure the maintenance of accurate seal records and the completion of accurate run tickets (See Section III A, B, and C hereof)
- A system to ensure the reporting of incidents of apparent theft or mishandling of oil (See Section III E hereof)
- A system to ensure that there are no by-pass of meters (See Section III D hereof)
- A list of the leases, communitization agreements, unit agreements, and specific facilities that are subject to each plan
- Documentation that the authorized officer has been notified of the completion of a plan and site facility diagram(s) and the leases. communication agreements. unit agreements, and specific facilities that are subject to each plan and diagram(s) Documentation that the authorized officer was notified within 60 days of completionof construction of a new facility or of commencement of first production or of inclusion of the production from a committed nonFederal well into a federally supervised unit or communitization agreement. whichever occurs first, whether that facility is covered by a specific existing plan or a new plan has been prepared.

Violation: Minor.
Corrective Action: Comply with requirements.
Normal Abatement Period: 20 business days after notice.

[54 FR 39529, Sept. 27, 1989]

I. Site Facility Diagram

1. Minimum Standard.

A facility diagram is required for all facilities, including those facilities not located on Federal or Indian lands but which are subject to Federal supervision through commitment to a federally approved unit agreement or communitization agreement. This requirement is not applicable to dry gas production facilities where no liquids are produced or stored. No format is prescribed for facility diagrams. However, the facility diagram should be prepared on 8½ x 11 paper, if possible, and should be legible and comprehensible to an individual with an ordinary working knowledge of oil field operations (See Attachment 1). The facility diagram shall:

- Accurately reflect the relative position of the production equipment, piping, and metering systems in relationship to each other, but need not be to scale
- Commencing with the header, identify the vessels, piping, and metering systems located on the site and shall include the appropriate valves and any other equipment used in the handling, conditioning, and disposal of oil. gas, andwater produced, including any water disposal pits or emergency pits. Inthose instances where pits are co-located, such pits may be shown in parentheses on the facility diagram
- Indicate which valve(s) shall be sealed and in what position during the production and sales phases and during the conduct of other production activities, i.e., circulating tanks, drawing off water, which may be shown by an attachment, if necessary
- Require as an addition. when describing co-located facilities operated by 2 different operators, a skeleton diagram of the co-located facility, showing only equipment. For co-located common storage facilities operated by 1 operator, one facility diagram shall be sufficient
- Be filed within 60 days of completion of construction of a new facility or when existing facilities are modified or when a non-Federal facility is included in a Federally supervised unit agreement or communitization agreement
- Clearly identify the lease to which it applies and the location of the facility covered by quarter section, section, township, and range or by a legal land description, with co-located facilities being identified by each lease and its facilities
- Clearly identify the site security plan covering the facility.

Violation: Minor.
Corrective Action: Prepare and/or furnish a complete and accurate facility diagram.
Normal Abatement Period: 10 business days after notice.

IV. Federal Seals

Federal seals are placed on any appropriate valve, sealing device, or LACT component not in compliance with the minimum standards contained in Part III, Requirements, sections A and B, whenever the operator is not present at the site to abate the noncompliance upon its discovery by the authorized officer, or refuses or is unable to abate the noncompliance. The position of the valve or component is not changed. The placement of a Federal seal on any valve, sealing device, or component does not constitute compliance with the minimum standards. The operator is required to take the action specified in the Notice of Incident of Noncompliance or written order of the authorized officer within the time allowed for abatement in order to meet the compliance requirement. The Notice of Incident of Noncompliance or written order includes a notice of the placement of the Federal seal. A card is attached to each Federal seal installed. identifying the Federal seal as such and advising that removal or violation of the seal without approval by the authorized officer shall result in an immediate assessment of $250. The name and telephone number of the authorized officer are shown on the card.

V. Variances from Minimum Standards

An operator may request the authorized officer to approve a variance from any of the minimum standards prescribed in section III hereof. All such requests shall be submitted in writing to the appropriate authorized officer and provide information as to the circumstances which warrant approval of the variances requested and the proposed alternative methods by which the related minimum standards are to be satisfied. The authorized officer, afterconsidering all relevant factors, if appropriate, may approve the requested variance(s) if it isdetermined that the proposed alternative(s) meet or exceed the objectives of the applicable minimum standard(s).

Bureau of Land Management (3/21/97) Final Rule
Federal Register / Vol. 54, No. 36, Friday, February 24, 1989, Rules and Regulation

Onshore Oil and Gas Operations, Federal and Indian Oil and Gas Leases Onshore Oil and Gas Order No. 4, Measurement of Oil

I. **Introduction**
- A. Authority
- B. Purpose
- C. Scope

II. **Definitions**

III. **Requirements**
- A. Required Recordkeeping
- B. General
- C. Oil Measurement by Tank Gauging
- D. Oil Measurement by Positive Displacement Metering System
- E. Oil Measurement by Other Methods or at Other Locations Acceptable to

ONSHORE OIL AND GAS ORDER NO. 4

Federal and Indian Oil and Gas Leases - Measurement of Oil

Effective date: August 23, 1989

I. Introduction

A. Authority

This Order is established pursuant the authority granted to the Secretary of the Interior under various Federal and Indian mineral leasing statutes and the Federal Oil and Gas Royalty Management Act of 1982. This authority has been delegated to the Bureau of Land Management and is implemented by the onshore oil and gas operations regulations, contained in Title 43 CFR Part 3160. Section 3164.1 specifically authorizes the Director, Bureau of Land Management, to issue Onshore Oil and Gas Orders when necessary to implement ***or*** supplement the operating regulations, and provides that all shall such Order shall be binding on the lessees and operators of Federal and restricted Indian oil and gas leases which have been, or may hereafter be, issued.

Specific authority for the provisions contained in this Order is found at §3162.7-1, ***Disposition of Production***; §3162.7-2, ***Measurement of Oil***; and Subpart 3163, ***Noncompliance and Assessment***.

B. Purpose

One purpose of this Order is to establish requirements and minimum standards for the measurement of oil, and to provide standard operating practices for lease oil storage and handling facilities, by the methods authorized in 43 CFR 3162.7-2, i.e., measurement by tank gauging, positive displacement metering system, or other methods acceptable to the authorized officer. Proper oil measurement ensures that the Federal Government and Indian mineral owners receive the royalties due, as specified in the governing oil and gas leases.

Another purpose of this Order is to establish abatement periods for corrective action when noncompliance with the minimum standards is detected. This Order also serves also serves as notice to any party cited for noncompliance that it may request from the authorized officer an

the Authorized Officer

F. Determination of Oil Volumes by Methods Other than Measurement

IV. **Variances from Minimum Standards**

Attachment

I. Sections from 43 CFR Subparts 3163 and 3165. (Open 3160 window)

Last Updated April 1, 1997 by John Broderick

You are visitor # to this page since April 1, 1997.

extension of the abatement period for any violation, provided that the request for extension is applied for and granted prior to the expiration of the abatement period previously allowed.

C. Scope.

This Order is applicable to all Federal and Indian (except Osage) oil and gas leases. In addition, this Order is also applicable to all wells and facilities on State or privately owned mineral lands committed to a unit or communitization agreement that affects Federal or Indian interests, notwithstanding any provision of a unit or communitization agreement to the contrary.

II. Definitions

A. Authorized officer means any employee of the Bureau of Land Management authorized to perform the duties described in Groups 3000 and 3100. (See 43 CFR 3000.0-5.)

B. Barrel (bbl) means 42 standard United States gallons of 231 cubic inches each.

C. Business day means any day Monday through Friday excluding Federal holidays.

D. Cpl. means the correction factor for the effect of pressure on liquid.

E. Cps. means the correction factor for the effect of pressure on steel.

F. Ctl. means the correction factor for the effect of temperature on liquid.

G. Cts. The correction factor for the effect of temperature on steel.

H. INC means incident of noncompliance, which serves as a Notice of Violation under 43 CFR Subpart 3163.

I. Lessee means a person or entity holding record title in a lease issued by the United States. (See 43 CFR 3160.0-5).

J. Major violation means noncompliance which causes or threatens immediate, substantial, and adverse impact on public health and safety, the environment, production accountability, or royalty income (see 43 CFR 3160.0-5).

K. Minor violation means noncompliance which does not rise to the level of a "major violation." (see 43 CFR 3160.0-5).

L. Operating rights owner means a person or entity holding operating rights in a lease issued by the United States. A lessee

also may be an operating rights owner if the operating rights in a lease or portion thereof have not been severed from record title. (see 43 CFR 3160.0-5).

M. Operator means any person or entity, including but not limited to the lessee or operating rights owner, who has stated in writing to the authorized officer that it is responsible under the terms and conditions of the lease for the operations conducted on the leased lands or portions thereof. (see 43 CFR 3160.0-5).

N. Oil, for the purposes of this Order, means all liquid hydrocarbons produced from or for the benefit of jurisdictional leases, including condensate and oil from tar sands that is measured as liquid.

N.1. Clean Oil/Pipeline Oil means crude oil or condensate that is of such as a quality that it is acceptable to normal purchasers.
N.2. Slop oil means crude oil that is such quality that it is not acceptable to normal purchasers and which requires special treatment other than that which can economically be provided at the existing or modified facilities or portable equipment and is usually sold to oil reclaimers.
N.3. Waste oil means lease crude oil that has been determined by the authorized officer to be of such quality that it cannot be treated economically and put in a marketable condition with existing or modified lease facilities or portable equipment and cannot be sold to reclaimer and also has been determined by the authorized officer to have no economic value and for which royalty is not due.

III. Requirements.

A. Required Recordkeeping.

The operator shall keep all test data, meter reports, charts/recordings, or other similar records for 6 years from the date they were generated, or if involved in an audit or investigation, the records shall be maintained until the record holder is released by the Secretary from the obligation to maintain them. The authorized officer may request these records any time within this period. Records submitted shall include all additional information used to compute volumes so that computations may be verified.

B. General (See 43 CFR 3162.7-2)

1. The regulations at 43 CFR 3162.7-2 authorize oil measurement

methods for production from leases, units, and communitization agreements subject to the jurisdiction of the Bureau of Land Management, as such jurisdiction is defined in 43 CFR 3161.1. The authorized oil measurement methods are tank gauging, positive displacement metering systems, and other methods acceptable to the authorized officer. The requirements and minimum standards for each of these methods are set forth below.

2. These requirements and minimum standards are based on the standards and practices recommended by the American Petroleum Institute (API). The API standards and recommended practices are considered by both the Department of the Interior and the oil and gas industry to be appropriate for proper oil measurement. The requirements and minimum standards set out herein are those necessary to promote conservation of natural resources and to ensure that oil production, except for waste oil, is properly measured for sales and allocation purposes, in order that the Federal Government and Indian mineral owners will receive the royalties due under governing oil and gas leases. When an infraction of the minimum standards in this Order is discovered it will be considered noncompliance and an incident of noncompliance (INC) will be issued. Operators who discover noncompliance with these minimum standards and take immediate corrective action will not be issued an INC. If the authorized officer or his representative is present when an operator discovers a malfunction or does not use correct procedures as specified in this Order, an INC will be issued unless immediate corrective action is taken.

   A major violation, as defined in this Order, will generally require an immediate shut-in of the metering device. However, where the non-recoupable loss is not significant or where damage to the resource is likely to occur if a shut-in is required, an abatement period of 24 hours may be given.

   The intent of these minimum standards is to ensure that when equipment malfunctions that could result in inaccurate measurement occur, that proper corrective actions are taken, the authorized officer is notified, and an amended production report is submitted.

   Equipment failure that is discovered by the operator and promptly corrected will not be considered a violation. However, the incidents of noncompliance that may result from equipment failure are considered violations, and a partial list is as follows:

   - Failure to install equipment properly.

- Failure to repair or correct equipment malfunction properly or in a timely manner.
- Failure to submit report of alternate method of measurement for sales.
- Failure to submit amended production reports in a timely manner.
- Failure to adhere to the minimum standard procedures specified in this Order.
- The use of improper equipment, when discovered, will be considered a violation, and an INC will be issued.

The use of improper procedures will be considered a violation and, when witnessed by the authorized officer or his representative, immediate corrective action will be required. In the event that proper procedures are then used as required by this Order, and prior to completing the operation, calibration, or proving, the violation will be considered as properly corrected. In this case, although the violation will be documented in the agency files, no formal INC will be issued.

All future sales and allocation facilities and sales or allocation facilities in existence on the effective date of this Order, unless covered by a valid variance, shall meet the minimum standards prescribed in this Order.

Meter installations constructed in accordance with the API standards in effect at that time shall not automatically be required to retrofit to meet revised API standards. The Bureau will review any revised API standards and, when deemed necessary, will amend the Order accordingly through the rulemaking process.

Any variances from these requirements and minimum standards shall be in accordance with Section IV. of this Order.

3. A violation of a minimum standard established by this Order shall be abated within the time period specified.

   Where abatement is required "prior to sales or removal," this means that necessary actions shall be taken so that no oil may be removed beyond the measurement point until properly measured.

If any such violation is not abated within required period, action shall be initiated in accordance with 43 CFR Subpart 3163.

C. Oil Measurement by Tank Gauging

Oil measurement by tank gauging shall accurately compute the volume of oil withdrawn from a properly calibrated sales tank by measuring the height of the oil level in the tank before delivery (opening gauge) and then measuring the height of the oil level in the tank after delivery (closing gauge). The opening and closing gauges are then used with the tank calibration charts (tank tables) to compute accurately the volume of oil withdrawn. Gauging may be accomplished by measuring the height of the oil level from the tank bottom or a fixed datum plate upward to the surface of the oil in the tank (innage gauging) or by measuring from a fixed reference point at the top of the tank downward to the surface of the oil in the tank (outage gauging). Samples shall be taken from the oil before gauging to determine API gravity and sediment and water content. Prior to gauging, the temperature of the oil shall be determined from measurements made in the tank. The measured oil volume shall then be corrected for sediment and water content, and to the standard sales temperature of 60 F.

The following requirements and minimum standards shall be accomplished in accordance with ***API Standard 2545 (ANSI/ASTM D-1085), "Method of Gauging Petroleum and Products," 1965, reaffirmed in 1987***, and ***(ANSI/ASTM D-1250), Tables 5A and 6A.***

[54 FR 39527, Sept. 27, 1989]

1. *Sales Tank Equipment.* Each oil storage tank to be used for oil sales by tank gauging shall be properly equipped for such gauging, using the "***API Recommended Practice for Setting Connecting, Maintenance, and Operation of Lease Tanks, API RP 12 R1," 1986.*** Tanks shall also be connected, maintained, and operated so as to comply with the Site Security Regulations, 43 CFR 3162.7-5, and Onshore Oil and Gas Order No. 3, and sales tanks shall meet the following requirements:

   a. Each sales tank shall be equipped with a pressure-vacuum thief hatch and/or vent-line valve.

Violation:	**Major.**
Corrective Action:	**Install proper thief hatch and/or vent line valve or drain.**
Abatement Period:	**30 days.30 days.**

   b. Each sales tank shall be set and maintained level and free of distortion in accordance with the above-referenced API recommended practice.

Violation:	**Major.**
Corrective Action:	**Level tanks.**
Abatement Period:	**Prior to sales or removal.**

   c. Pursuant to ***API Standard 2545 (ANSI/ASTM D-1085),***

"Method of Gauging Petroleum and Petroleum Products," October 1965 (reaffirmed August 1987), each tank shall be equipped with a gauging reference point, with a the height of the reference point stamped on a fixed bench-mark plate or stenciled on the tank near the gauging hatch.

Violation:	**Minor.**
Corrective Action:	**Affix a gauging reference point in gauging hatch and stamp on bench-mark plate or stencil on tank near gauging hatch.**
Abatement Period:	**30 days.**

2. *Sales Tank Calibrations.* Each oil storage tank to be used for oil sales by tank gauging shall be accurately calibrated for such gauging, using the API Standard 2550 (ANSI/ASTM D-1220), "*Method for Measurement and Calibration of Upright Cylindrical Tanks," 1965, reaffirmed August 1987*, and API RP 2556, "Correcting Gauge Tables for Incrustation," *August 1968*. The following minimum standards shall be satisfied:

   a. Sales tank capacities shall be determined by actual tank measurements by the method know as "tank calibration" and in accordance with the above-referenced API Standards.

Violation:	**Minor.**
Corrective Action:	**Make capacity determination and develop appropriate capacity table.**
Abatement Period:	**60 days.**

   b. A sales tank shall be recalibrated if it is relocated or repaired or the capacity is changed through denting, damage, or installation or removal of interior components, or otherwise.

Violation:	**Minor.**
Corrective Action:	**Recalibrate tank and develop new (revised) capacity table.**
Abatement Period:	**60 days.**

   c. Calibration charts (tank tables) shall be submitted to the authorized officer on request.

Violation:	**Minor.**
Corrective Action:	**Submit tables to authorized officer.**
Abatement Period:	**30 days.**

3. *Oil Sampling.* Sampling of oil to be sold from sales tank is required and shall be conducted in such fashion as to yield a representative sample of the oil for purposes of determining the

physical properties of the oil, following the "API Manual of Petroleum Measurement Standards, ***Chapter 8.1 - Manual Sampling" (ASTM D-4057), October 1981 (Reaffirmed August 1987)***, or Chapter 8.2 - Automatic Sampling of Petroleum and Petroleum Products, ***April 1983 (Reaffirmed August 1987)***, and shall meet the following minimum standard. All samples shall be taken from the contents of the sales tank prior to gauging, after allowing the tank contents to settle for at least 30 minutes following isolation of the tank, in accordance with the procedures specified in the above-referenced API Standard.

Violation:	**Major.**
Corrective Action:	**Repeat sampling procedure.**
Abatement Period:	**Prior to sales or removal.**

4. *Sales Tank Gauging.* Gauging of oil sales tanks is required and shall be accomplished in such fashion as to measure the contents of the tank accurately, following API ***Standard 2545 (ANSI/ASTM D-1085), "Method of Gauging Petroleum and Petroleum Products" 1965 (Reaffirmed August 1987)***, and shall meet the following minimum standards.

    a. Gauging shall be accomplished using gauging tapes made of steel or corrosion-resistant material with graduation clearly legible, not kinked or spliced, and traceable to the standards of the National Bureau of Standards and certified as accurate by either the manufacturer or an independent testing facility. Working tapes, when checked against a tape certified to NBS standards, will be allowed as NBS traceable.

Violation:	**Major.**
Corrective Action:	**Replace tape.**
Abatement Period:	**Prior to sales or removal.**

    b. Acceptable gauging requires 2 identical gauges to the nearest ¼-inch for tanks with a capacity of less than 1,000 barrels, and 2 identical gauges the nearest -inch for tanks with a capacity of 1,000 barrels or more.

Violation:	**Major.**
Corrective Action:	**Repeat gauging until 2 identical readings are obtained.**
Abatement Period:	**Prior to sales or removal.**

    c. The proper bob for innage gauging or outage gauging shall be used in accordance with the above-reference API standard.

Violation:	**Major.**
Corrective Action:	**Repeat gauging using proper bob.**

Abatement Period: **Prior to sales or removal.**

5. *Oil Gravity*. Tests for oil gravity are required, following the "API Manual of Petroleum Measurement Standards ***Chapter 9 - Density Determination" (ASTM D-1298-80) 1981, and (ASTM D-287-82) "Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products" (Hydrometer Method)***, and shall be performed on a representative sales tank oil sample obtained following "API Manual of Petroleum Measurement Standards, ***Chapter 8.1, "Manual Sampling of Petroleum and Petroleum Products" (ASTM D-4057) October 1981 (Reaffirmed 1987)***. Gravity tests shall meet the following minimum standards.

   a. All gravity determinations shall be completed before oil sales are made.

Violation: **Major.**
Corrective Action: **Obtain sample from sales tank and determine oil gravity.**
Abatement Period: **Prior to sales or removal.**

   b. Accuracy of all instruments used to determine oil gravity for oil sales purposes shall be traceable to the standards of the National Bureau of Standards and certified as accurate by either the manufacturer or independent testing facility.

Violation: **Major.**
Corrective Action: **Replace instruments.**
Abatement Period: **Prior to sales or removal.**

   c. The instrument used to obtain the oil gravity shall be clean, with no loose shot weights or detached gravity scale.

Violation: **Major.**
Corrective Action: **Clean and/or replace hydrometer.**
Abatement Period: **Prior to sales or removal.**

   d. The instrument used to obtain the oil gravity shall be calibrated for a gravity range that includes the observed gravity of the oil sample being tested.

Violation: **Major.**
Corrective Action: **Repeat gravity tests using hydrometer with proper scale.**
Abatement Period: **Prior to sales or removal.**

   e. Temperatures shall be measured and recorded to the nearest 1.0 F.

Violation: **Major.**
Corrective Action: **Repeat test, measuring and recording temperature to nearest 1.0 F.**

Abatement Period: **Prior to sales or removal.**

f. Liquid density (gravity) will be measured and recorded to the nearest 0.1 API gravity, making any necessary meniscus correction. The observed gravity shall be corrected to 60 F. using Table 5A, "Table 5A - Generalized Crude Oils" and JP-4, Correction of Observed Gravity to API Gravity at 60 F.

Violation: **Major.**
Corrective Action: **Repeat test, measuring and recording gravity to nearest 0.1 API gravity after making necessary correction for fluid meniscus.**
Abatement Period: **Prior to sales or removal.**

6. *Tank Temperature.* Determination of the temperature of oil contained in a sales tank is required following the "***API Standard 2543, Method of Measuring the Temperature of Petroleum and Petroleum Products" (ANSI/ASTM D - 1086) October 1965 (Reaffirmed August 1987)***, and shall meet the following minimum standards:

a. Accuracy of all thermometers used for oil sales purposes shall be traceable to the standards of the National Bureau of Standards and certified as accurate by either the manufacturer or independent testing facility. Working thermometers shall be checked against a thermometer certified accurate to NBS standards and their use shall be permitted.

Violation: **Major.**
Corrective Action: **Replace thermometer.**
Abatement Period: **Prior to sales or removal.**

b. Thermometers shall be kept clean and free of mercury separation. The temperature measurements shall be take by immersing the thermometer to the approximate vertical center of the fluid column, not less than 12 inches from the shell of the tank, for a minimum of 5 minutes and then read and recorded to the nearest 1 F.

Violation: **Major.**
Corrective Action: **Replace thermometer or repeat measurement as prescribed.**
Abatement Period: **Prior to sales or removal.**

7. *Sediment and Water (S&W).* Determinations of the sediment and water content of oil contained in sales tanks is required following the "API Manual of Petroleum Measurement Standards, ***Chapter 10 - Sediment and Water and Section 4 - Determination of***

Sediment and Water in Crude Oils by the Centrifuge Method (Field Procedure), Second Edition, May 1988 (ASTM 96-88), and shall meet the following minimum standards:

a. A thoroughly mixed oil sample-solvent combination, prepared in accordance with the procedure described in the above-referenced API Manual, shall be heated to at least 140 F. prior to centrifuging.

Violation:	**Major.**
Corrective Action:	**Repeat procedures using the defined standards.**
Abatement Period:	**Prior to sales or removal.**

b. The heated sample shall be whirled in the centrifuge for not less than 5 minutes, and at the conclusion of centrifuging, the temperature shall be a minimum of 115 F. without water- saturated diluent, and 125 F. with water-saturated diluent.

Violation:	**Major.**
Corrective Action:	**Repeat test as prescribed.**
Abatement Period:	**Prior to sales or removal.**

c. The combined volume of water and sediment at the bottom of the 100 ml. centrifuge tube shall be read:

(1) To the nearest 0.05 ml. in the range from 0.1 to 1 ml.
(2) To the nearest 0.1 ml. if above the 1 ml. graduation.
(3) Estimated to the nearest 0.025 ml. if the volume is less than 0.1 ml.

The water and sediment volume in the centrifuge tube thus determined shall be multiplied by the appropriate factor for the centrifuge tube size and oil sample-solvent ratio, as specified in the above-referenced API Manual, and the product recorded as the percentage of water and sediment.

Violation:	**Major.**
Corrective Action:	**Repeat test as specified or repeat procedures using specified factors.**
Abatement Period:	**Prior to sales or removal.**

D. Oil Measurement by Positive Displacement Metering System

Oil measurement by a positive displacement metering system, for purposes of oil sales, shall be accomplished by a Lease Automatic Custody Transfer (LACT) unit designed to provide for the unattended transfer of liquid hydrocarbons from a production facility to the

transporting carrier while providing proper and accurate means for the determination of net standard volume and quality, while also providing for fail-safe and tamper proof operations in accordance with the regulations at 43 CFR 3162.7-5 and Onshore Oil and Gas Order No. 3.

[54 FR 39527, Sept.27, 1989]

A positive displacement meter is one which registers the volume passing through said meter by a system which constantly and mechanically isolates the flowing liquid into segments of known volume.

LACT unit design shall follow API Spec. 11N "API Specifications for Lease Automatic Custody Transfer (LACT) Equipment," 1979, and API Manual of Petroleum Measurement Standards, ***Chapter 6 -Metering Assemblies, Section 1, LACT Systems, February 1981 (Reaffirmed August 1987)***. LACT units shall be constructed and operated so as to satisfy the following requirements and minimum standards:

1. *LACT Unit Components and General Operating Requirements.*

   a. Each LACT unit shall include all of the following listed components as a minimum:

      (1) Charging pump and motor.
      (2) Sampler, composite sample container and mixing system.
      (3) Stainer.
      (4) Positive displacement meter.
      (5) Meter proving connections.
      (6) Meter backpressure valve and check valve.
      (7) Air eliminator.
      (8) Diverter valve or shut-off valve.
      (9) Sediment and Water Monitor.
      (10) Automatic Temperature/Gravity Compensator.

Violation:	**Major: a.1.,2.,4., 5., 6., and 10.**
Corrective Action:	**Install component.**
Abatement Period:	**Prior to sales or removal.**
Violation:	**Minor: a.3., 7., 8., and 9.**
Corrective Action:	**Install component.**
Abatement Period:	**30 days.**

   b. All components of LACT unit shall be accessible for reasonable inspection by the authorized officer.

Violation:	**Minor.**
Corrective Action:	**Provide authorized officer with means of access to LACT.**
Abatement Period:	**30 days.**

   c. The authorized officer shall be notified of any LACT unit

failure, such as electrical, meter, or other failure that results in use of an alternate method of measurement.

Violation:	**Minor.**
Corrective Action:	**Notify authorized officer of alternate method used.**
Abatement Period:	**By 5th business day following use of alternate method.**

d. Any and all tests conducted on oil samples extracted from LACT samplers for determination of oil gravity and S & W content shall meet the same requirements and minimum standards specified in this Order with respect to oil measurement by tank gauging for all measurements taken of temperature, gravity, and S&W content (Section III.C.5., 6., and 7.)

Violation:	**Major.**
Corrective Action:	**Report tests for gravity, temperature, and/or S & W content per Section III.C.5., 6., and 7. minimum standards.**
Abatement Period:	**Prior to sales or removal.**

2. *Operating Requirements for LACT Unit Components.* All required LACT unit components shall be operated to satisfy the following minimum standards:

a. *Charging pump and motor.* The LACT unit shall include an electrically driven pump rated for a discharge pressure and rate that are compatible with the rating for the meter used and sized to assure turbulent flow in the LACT main stream piping.

Violation:	**Major.**
Corrective Action:	**Install properly designed pump and motor.**
Abatement Period:	**Prior to sales or removal.**

b. *Sampler.* The sampler probe shall extend into the center one-third of the flow piping in a vertical run, at least 3 pipe diameters downstream of any pipe fitting. The probe shall always be in a horizontal position.

Violation:	**Major.**
Corrective Action:	**Install component properly.**
Abatement Period:	**Prior to sales or removal.**

c. *Composite Sample Container.* The composite sample container shall be capable of holding sample under pressure and shall be equipped with a vapor proof top closure and operated to prevent the unnecessary escape of vapor, and the container shall be emptied upon completion of sample withdrawal.

Violation:	**Major.**
Corrective Action:	**Install component properly, and empty after each sample withdrawal.**
Abatement Period:	**Prior to sales or removal.**

d. *Mixing System*. The mixing system shall completely blend the sample into a homogeneous mixture before and during the withdrawal of a portion of sample for testing.

Violation:	**Major.**
Corrective Action:	**Repair mixing system.**
Abatement Period:	**Prior to sales or removal.**

e. *Strainer*. The strainer shall be constructed so that it may be depressurized, opened, and cleaned, be located upstream of the meter, and be made of corrosion resistant material of a mesh size no larger than ¼-inch.

Violation:	**Minor.**
Corrective Action:	**Replace with properly designed strainer, and install properly.**
Abatement Period:	**30 days.**

f. *Positive Displacement Meter*. The meter shall register volumes of oil passing through said meter determined by a system which constantly and mechanically isolates the flowing oil into segments of known volume, and be equipped with a non-resettable totalizer.

Violation:	**Major.**
Corrective Action:	**Replace or repair meter or the non-resettable totalizer.**
Abatement Period:	**Prior to sales or removal.**

g. *Meter Proving Connections.* All meter proving connections shall be installed downstream from the LACT meter, with the line valve(s) between the inlet and outlet of the prover loop having a double block and bleed design feature to provide for leak testing during proving operations.

Violation:	**Major.**
Corrective Action:	**Relocate prover loops downstream from LACT meter, and install block and bleed valve as specified.**
Abatement Period:	**Prior to proving LACT.**

h. Back Pressure and Check Valves. The back pressure valve and check valve shall be installed downstream from the LACT meter.

Violation:	**Major.**

Corrective Action:	**Install back pressure valve and check valve downstream from LACT meter.**
Abatement Period:	**Prior to sales or removal.**

i. *Air Eliminator*. The air eliminator shall be installed and prevent air/gas from entering the meter.

Violation:	**Minor.**
Corrective Action:	**Install air eliminator.**
Abatement Period:	**30 days.**

j. *Diverter Valve/Shut-off Valve*. The diverter valve/shut-off valve shall be activated by the Sediment and Water Monitor so that the valve moves to divert flow to the clean oil discharge only when it receives a positive signal, or provide a shut-off valve configured to shut off oil delivery upon failure to receive a positive signal from the Sediment and Water Monitor.

Violation:	**Minor.**
Corrective Action:	**Install diverter valve/shut-off valve.**
Abatement Period:	**30 days.**

k. *Sediment and Water (S and W) Monitor*. The Sediment and Water Monitor shall be an internally plastic coated capacitance probe, no smaller in diameter than the skid piping, and shall be mounted in a vertical pipe located upstream from the diverter valve/shut-off valve and the meter.

Violation:	**Minor.**
Corrective Action:	**Install S and W Monitor.**
Abatement Period:	**30 days.**

l. *Automatic Temperature/Gravity Compensator*. The automatic temperature/gravity compensator shall be sized according to the fluid characteristics being measured.

Violation:	**Major.**
Corrective Action:	**Install automatic temperature/gravity compensator.**
Abatement Period:	**Prior to sales or removal.**

3. *Sales Meter Proving Requirements*. LACT positive displacement meters shall be proved periodically. Meter provings shall follow "API Manual of Petroleum Measurement Standards, Chapter 4 - Proving Systems," ***1978***, and shall meet the following minimum standards.

a. The types of meter provers to be used, and the calibration requirements are as follows:

(1) The acceptable types of meter provers are pipe provers, tank provers, master meters, or other API recognized meter provers.

Violation:	**Minor.**
Corrective Action:	**Prove again with acceptable meter prover.**
Abatement Period:	**30 days.**

(2) The prover shall have available at the site for review by the authorized officer, evidence that the prover has been calibrated, with the certified calibration date identified by some unique number, i.e., serial number assigned to and inscribed on the prover. The calibration evidence for a pipe or tank prover shall show the certified volume as determined by the water draw method.

If a master meter is used, the most recent calibration report for said master meter shall be available. Said calibration report shall show that the master meter has been calibrated in accordance with API requirements, has an operating factor within the range from 0.9900 to 1.0100, and that 5 consecutive runs have been matched within a tolerance of 0.0002.

Violation:	**Minor.**
Corrective Action:	**Provide calibration certification.**
Abatement Period:	**Prior to proving.**

b. Minimum Proving Frequency. For all sales and allocation meters, the accuracy of the measuring equipment at the point of delivery or allocation shall be tested following initial meter installation or following repair, and if proven adequate, at least quarterly thereafter unless a longer period is approved in writing by the authorized officer.

Violation:	**Minor.**
Corrective Action:	**Notify authorized officer of scheduled proving and prove meter.**
Abatement Period:	**10 business days.**

(1) In the event that the total throughput exceeds 100,000 bbls per month, then proving shall be accomplished monthly.

Violation:	**Minor.**
Corrective Action:	**Notify authorized officer of scheduled proving.**
Abatement Period:	**By the 10th business day after discovery of the violation.**

c. In Establishing the Operating Meter Factor:

(1) At least 6 runs shall be made. Of these 6 runs, 5 consecutive runs shall match within a tolerance of 0.0005 (0.05 percent) between the highest and the lowest reading.

Violation:	**Major.**
Corrective Action:	**Notify authorized officer and reprove meter.**
Abatement Period:	**10 business days.**

(2) The arithmetic average of these 5 consecutive runs shall be used for computation of the meter factor.

Violation:	**Minor.**
Corrective Action:	**Compute meter factor using arithmetic average of the 5 consecutive runs.**
Abatement Period:	**Prior to completion of proving.**

(3) Meter factor computations shall also include the correction for the effect of pressure on steel (Cps) for provers; and the correction for the effect of temperature on steel (Cts) for provers; and the correction for the effect of temperature on liquid (Ctl), and the correction for the effect of pressure on liquid (Cpl). The Cps and Cts correction factors shall be determined using the "API Manual of Petroleum Measurement Standards, Chapter 12, Section 2," 1981, ***or latest revised standard,*** and the Ctl correction factor shall be obtained from the "API Standard 2540, Chapter 11.1, Volume I (ASTM D-1250-80), Table 6A," 1980, ***or latest revised standard,*** and the Cpl correction factor still be obtained from the "API Manual of Petroleum Measurement Standards, Chapter 11.2.1."

Violation:	**Minor.**
Corrective Action:	**Include proper correction factors.**
Abatement Period:	**Prior to completion of meter proving.**

(4) The initial meter factor for a new or repaired meter shall be within the range from 0.9950 to 1.0050, unless the deviation can be justified to the satisfaction of the authorized officer.

Violation:	**Minor.**
Corrective Action:	**Replace/repair/reprove meter or justify deviation from the brackets 0.9950 to 1.0050 to the authorized officer.**
Abatement Period:	**Prior to completion of proving.**

4. *Excessive Meter Factor Deviation*. Excessive meter factor deviation may be evidence of meter malfunction, and corrective action shall be taken upon discovery of meter malfunction. However, if the operator determines that the meter did not, in fact, malfunction, the lessee/operator shall submit, for approval by the authorized officer, a report as to the findings and reasons for the excessive meter factor deviation and the determination of no meter malfunction. In the event a malfunction occurred, the meter shall be immediately removed from service, checked for damage or wear, adjusted and/or repaired, and reproven prior to return to service. The arithmetic average of the malfunction factor and the previous factor shall be applied to the production measured through the meter between the date of the previous factor and the date of the malfunction factor. Malfunction meter factors shall be clearly indicated on the proving report, which shall also contain all appropriate remarks regarding subsequent repairs and/or adjustments.

   The minimum standards for evidence meter malfunction, and corrective action required, are as follows:

   Meter Factor Deviation.

   (1) Deviation in a meter factor not exceed ±0.0025 since the last proving of the meter unless explained by changing conditions, i.e., temperature or gravity or flow-rate.

Violation:	**Minor.**
Corrective Action:	**Repair or replace meter, or submit report to authorized officer for approval of the findings and reasons for the determination that there is no meter malfunction.**
Abatement Period:	**Prior to completion of meter proving.**

   (2) A meter factor shall not exceed 1 percent above or below unity, i.e., outside of the range from 0.9900 to 1.0100.

Violation:	**Minor.**
Corrective Action:	**Same as (1) above.**
Abatement Period:	**Prior to completion of meter proving.**

5. *Meter Reporting Require Requirements.* All meter provings, meter failures, and volume adjustments following meter malfunction shall be reported to the authorized officer, as follows:

   Meter Proving Reports. The meter proving report shall be filed

on one of the forms set out in "API Manual of Petroleum Measurement Standards, ***Chapter 12-Calculation of Petroleum Quantities, Section 2-Calculation of Liquid Petroleum Quantities Measured by Turbine or Displacement Meter," 1981 (Reaffirmed August 1987)***. Any similar format is acceptable provided all required data are included and proper calculation sequence is maintained.

Each meter proving report shall be identified by lease number, communitization agreement number, or unit participating area name, and the location of the facility.

Each meter proving report shall be filed with the authorized officer no later than 10 business days following the meter proving.

[54 FR 39527, Sept. 27, 1989]

Violation:	**Minor.**
Corrective Action:	**Submit proper proving report to authorized officer.**
Abatement Period:	**File the report with authorized officer no later than 10th business day following the proving.**

E. Oil Measurement by Other Methods or at Other Locations Acceptable to the Authorized Officer.

Any method of oil measurement, other than tank gauging or positive displacement metering system, requires prior approval, based on applicable API Standards, by the authorized officer. Other measurement methods include, but are not limited to: Turbine metering systems, Measurement by calibrated tank truck, Measurement by weight, and Net oil computer.

The requirements and minimum standards for oil measurement on the lease, unit, unit participating area, or communitized area by an alternate method, or at a location off the lease, unit, unit participating area, or communitized area by either an authorized or an alternate method of measurement, are as follows:

1. *Measurement on the Lease, Unit, Unit Participating Area, Communitized Area.*

   An application for approval of an alternate oil measurement method shall be submitted to the authorized officer and written approval obtained before any such alternate oil measurement method is operated. Any operator requesting approval of any

alternate oil sales measurement system shall submit performance data, actual field test results, or any other supporting data or evidence acceptable to the authorized officer, that will demonstrate that the proposed alternate oil sales measurement system will meet or exceed the objectives of the applicable minimum standard or does not adversely affect royalty income or production accountability.

[54 FR 39527, Sept. 27, 1989]

Violation:	**Major.**
Corrective Action:	**Shut in operations. Submit application for approval of desired method of oil measurement.**
Abatement Period:	**Prior to sales or removal.**

2. *Measurement at a Location Off the Lease, Unit, Unit Participating Area, or Communitized Area.*

   A. An application for off-lease measurement shall be submitted to the authorized officer and written approval obtained before any such off-lease oil measurement facilities are installed or operated. The application for written approval of off-lease measurement shall justify location of the measurement facilities at the off-lease location desired before approval will be granted, but no additional approval as to the oil measurement method is required, provided measurement is to be accomplished by tank gauging or positive displacement metering system, pursuant to the requirements and minimum standards of this Order.

Violation:	**Minor.**
Corrective Action:	**Submit application for written approval of off-lease measurement.**
Abatement Period:	**20 days.**

   B. If oil measurement is to be accomplished at a location off the lease, unit, unit participating area, or communitized area by any alternate measurement method (any method other than tank gauging or positive displacement metering system), then the application, in addition to justifying the location of the measurement facilities, shall also demonstrate the acceptability of the of the alternate measurement method, pursuant to Section III.E.1.

Violation:	**Major.**

Corrective Action:	**Submit application for approval of off-lease measurement and approval of desired method of measurement.**
Abatement Period:	**Prior to sales or removal.**

F. Determination of Oil Volumes by Methods Other Than Measurement.

Pursuant to 43 CFR 3162.7-2, when production cannot be measured due to spillage or leakage, the amount of production shall be determined in accordance with the methods approved or prescribed by the authorized officer. This category of production includes, but is not limited to, oil which is classified as slop oil or waste oil.

The minimum standards for determining the volume of oil that cannot be measured are as follows:

1. No oil located in an open pit or sump, in a stock tank, in a production vessel or elsewhere, may be classified or disposed of as waste oil unless it can be shown, to the satisfaction of the authorized officer, that it is not economically feasible to put the oil into marketable condition.

Violation:	**Major.**
Corrective Action:	**Put oil into marketable condition.**
Abatement Period:	**24 hours.**

2. No slop oil may be sold or otherwise disposed of without prior approval from the authorized officer. Following the sale or disposal, the authorized officer shall be notified as to the volume sold or disposed of, and the method used to compute the volume.hall be notified as to the volume sold or disposed of, and the method used to compute the volume.

Violation:	**Major.**
Corrective Action:	**Submit complete report of sale or disposal.**
Abatement Period:	**24 hours.**

IV. Variances From Minimum Standards.

An Operator any request that the authorized officer approve a variance from any of the minimum standards prescribed in Section III. All such requests shall be submitted in writing to the appropriate authorized officer and shall provide information as to the circumstances that warrant approval of the variance(s) requested and the proposed

alternative means by which the related minimum standard(s) will be satisfied. The authorized officer, after considering all relevant factors, shall approve the requested variance(s) on making a determination that the proposed alternative(s) meet or exceed the objectives of the applicable minimum standard(s), or does not adversely affect royalty income or production accountability. In addition, approval may be given orally by the authorized officer before the operator initiates actions that require a variance from minimum standards. The oral request, if granted, shall be followed by a written request not later than the fifth business day following oral approval, and written approval will then be appropriate.

The authorized officer also may, on his/her motion, issue NTLs that establish modified standards or variances for specific geographic areas of operations.

After notice to the operator, the authorized officer also may require compliance with standards that exceed those contained in this Order whenever such additional requirements are necessary to achieve protection of royalty income or production accountability. The rationale for any such additional requirements shall be documented in writing to the operator.

[54 FR 39527, sept. 27, 1989]

Attachment

I. Sections from 43 CFR Subparts 3163 and 3165 (not included with Federal Register publication).

Last Updated April 1, 1997 by John Broderick

Note: The Order is in it's official form. However, there are some errors in the text of the Order that need correction. Additionally, some changes should be made to match the text to that contained in 43 CFR 3160 and updates/replacements to show the latest API standards and recommended practices. They are in "**bold**", "*italicized*", and are "underlined" and are as follows:

---

or should be and

Disposition of Production should be Disposition of production

Measurement of Oil should be Measurement of oil

Noncompliance and Assessment should be Noncompliance, Assessments, and Penalties

---

Update ***API Standard 2545 (ANSI/ASTM D-1085), "Method of Gauging Petroleum and Products," 1965, reaffirmed in 1987*** to Chapter 3.1A, Standard Practice for the Manual Gauging of Petroleum and Petroleum Products, First Edition, 1994

Update ***(ANSI/ASTM D-1250), Tables 5A and 6A*** to Chapter 11.1, Volume I, Table 5A, Generalized Crude Oils and JP-4, Correction of Observed API Gravity to API Gravity at 60 F., 1980 (reaffirmed 1993), and Table 6A, Generalized Crude Oils and JP-4, Correction of Volume to 60 F. Against API Gravity at 60 F., 1980 (reaffirmed 1993)

Update ***API Recommended Practice for Setting Connecting, Maintenance, and Operation of Lease Tanks, API RP 12 R1," 1986*** to API's Recommended Practice for Setting, Maintenance, Operation, and Repair of Tanks in Production Service, RP 12R1, Fourth Edition, 1991;

Update ***Method for Measurement and Calibration of Upright Cylindrical Tanks," 1965, reaffirmed August 1987*** to Standard 2550 (ANSI/ASTM D 1220), Measurement and Calibration of Upright Cylindrical Tanks, First Edition, 1965 (reaffirmed 1992)

Update ***August 1968*** to Second Edition, 1993;

Update ***Chapter 8.1 - Manual Sampling" (ASTM D-4057), October 1981 (Reaffirmed August 1987)*** to Chapter 8.1, Manual Sampling of Petroleum and Petroleum Products, Third Edition, 1995

Update ***April 1983 (Reaffirmed August 1987)*** to Second Edition, 1995

Replace ***Standard 2545 (ANSI/ASTM D-1085), "Method of Gauging Petroleum and Petroleum Products" 1965 (Reaffirmed August 1987)*** with Chapter 3.1A, Standard Practice for the Manual Gauging of Petroleum and Petroleum Products, First Edition, 1994

Replace ***Chapter 9 - Density Determination" (ASTM D-1298-80) 1981, and (ASTM D-287-82) "Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products" (Hydrometer Method)*** with Chapter 9.1, Hydrometer Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products, First Edition, 1981 (reaffirmed 1992); or in Chapter 9.2, Pressure Hydrometer Test Method for Density or Relative Density, First Edition, 1982 (reaffirmed 1992); or in Chapter 9.3, Thermohydrometer Test Method for Density and API Gravity of Crude Petroleum and Liquid Petroleum Products, First Edition, 1994;

Replace ***API Standard 2543, Method of Measuring the Temperature of Petroleum and Petroleum Products" (ANSI/ASTM D - 1086) October 1965 (Reaffirmed August 1987)*** with Chapter 7.1, Static Temperature Determination Using Mercury-in-Glass Tank Thermometers, First Edition, 1991, or Chapter 18.1, Measurement Procedures for Crude Oil Gathered from Small Tanks by Truck, First Edition, September 1990 (reaffirmed 1996);

Replace ***Chapter 10 - Sediment and Water and Section 4 - Determination of Sediment and Water in Crude Oils by the Centrifuge Method (Field Procedure), Second Edition, May 1988 (ASTM 96-88)*** with Chapter 7.1, Static Temperature Determination Using Mercury-in-Glass Tank Thermometers, First Edition, 1991, or Chapter 18.1, Measurement Procedures for Crude Oil Gathered from Small Tanks by Truck, First Edition, September 1990 (reaffirmed 1996);

Replace ***"API Specifications for Lease Automatic Custody Transfer (LACT) Equipment," 1979*** with Lease Automatic Custody Transfer (LACT) Equipment, Fourth Edition, 1994;

Replace ***Chapter 6 -Metering Assemblies, Section 1, LACT Systems, February 1981 (Reaffirmed August 1987)*** with Chapter 6.1, Lease Automatic Custody Transfer (LACT) Systems, Second Edition, 1991 (reaffirmed 1996);

Replace ***1978*** with First Edition, 1988 (reaffirmed 1993);

---

delete ***or latest revised standard,***;

Update ***Chapter 12-Calculation of Petroleum Quantities, Section 2-Calculation of Liquid Petroleum Quantities Measured by Turbine or Displacement Meter," 1981 (Reaffirmed August 1987)*** to Chapter 12.2, Calculation of Liquid Petroleum Quantities Measured by Turbine or Displacement Meters, 1st Edition, Sept. 1981(reaffirmed May 1996) (ANSI/API MPMS 12.2-1981)

---

working should be business.

Last Updated April 1, 1997 by John Broderick

ONSHORE OIL AND GAS ORDER NO. 4

Federal and Indian Oil and Gas Leases - Measurement of Oil

Effective date: August 23, 1989

I. Introduction

A. Authority

This Order is established pursuant the authority granted to the Secretary of the Interior under various Federal and Indian mineral leasing statutes and the Federal Oil and Gas Royalty Management Act of 1982. This authority has been delegated to the Bureau of Land Management and is implemented by the onshore oil and gas operations regulations, contained in Title 43 CFR Part 3160. Section 3164.1 specifically authorizes the Director, Bureau of Land Management, to issue Onshore Oil and Gas Orders when necessary to implement ***or*** supplement the operating regulations, and provides that all shall such Order shall be binding on the lessees and operators of Federal and restricted Indian oil and gas leases which have been, or may hereafter be, issued.

Specific authority for the provisions contained in this Order is found at §3162.7-1, ***Disposition of Production***; §3162.7-2, ***Measurement of Oil***; and Subpart 3163, ***Noncompliance and Assessment***.

B. Purpose

One purpose of this Order is to establish requirements and minimum standards for the measurement of oil, and to provide standard operating practices for lease oil storage and handling facilities, by the methods authorized in 43 CFR 3162.7-2, i.e., measurement by tank gauging, positive displacement metering system, or other methods acceptable to the authorized officer. Proper oil measurement ensures that the Federal Government and Indian mineral owners receive the royalties due, as specified in the governing oil and gas leases.

Another purpose of this Order is to establish abatement periods for corrective action when noncompliance with the minimum standards is detected. This Order also serves also serves as notice to any party cited for noncompliance that it may request from the authorized officer an extension of the abatement period for any violation, provided that the request for extension is applied for and granted prior to the expiration of the abatement period previously allowed.

C. Scope.

This Order is applicable to all Federal and Indian (except Osage) oil and gas leases. In addition, this Order is also applicable to all wells and facilities on State or privately owned mineral lands committed to a unit or communitization agreement that affects Federal or Indian interests, notwithstanding any provision of a unit or communitization agreement to the contrary.

II. Definitions

A. Authorized officer means any employee of the Bureau of Land Management authorized to perform the duties described in Groups 3000 and 3100. (See 43 CFR 3000.0-5.)

B. Barrel (bbl) means 42 standard United States gallons of 231 cubic inches each.

C. Business day means any day Monday through Friday excluding Federal holidays.

D. Cpl. means the correction factor for the effect of pressure on liquid.

E. Cps. means the correction factor for the effect of pressure on steel.

F. Ctl. means the correction factor for the effect of temperature on liquid.

G. Cts. The correction factor for the effect of temperature on steel.

H. INC means incident of noncompliance, which serves as a Notice of Violation under 43 CFR Subpart 3163.

I. Lessee means a person or entity holding record title in a lease issued by the United States. (See 43 CFR 3160.0-5).

J. Major violation means noncompliance which causes or threatens immediate, substantial, and adverse impact on public health and safety, the environment, production accountability, or royalty income (see 43 CFR 3160.0-5).

K. Minor violation means noncompliance which does not rise to the level of a "major violation." (see 43 CFR 3160.0-5).

L. Operating rights owner means a person or entity holding operating rights in a lease issued by the United States. A lessee also may be an operating rights owner if the operating rights in a lease or portion thereof have not been severed from record title. (see 43 CFR 3160.0-5).

M. Operator means any person or entity, including but not limited to the lessee or operating rights owner, who has stated in writing to the authorized officer that it is responsible under the terms and conditions of the lease for the operations conducted on the leased lands or portions thereof. (see 43 CFR 3160.0-5).

N. Oil, for the purposes of this Order, means all liquid hydrocarbons produced from or for the benefit of jurisdictional leases, including condensate and oil from tar sands that is measured as liquid.

N.1. Clean Oil/Pipeline Oil means crude oil or condensate that is of such as a quality that it is acceptable to normal purchasers.

N.2. Slop oil means crude oil that is such quality that it is not acceptable to normal purchasers and which requires special treatment other than that which can economically be provided at the existing or modified facilities or portable equipment and is usually sold to oil reclaimers.

N.3. Waste oil means lease crude oil that has been determined by the authorized officer to be of such quality that it cannot be treated economically and put in a marketable condition with existing or modified lease facilities or portable equipment and cannot be sold to reclaimer and also has been determined by the authorized officer to have no economic value and for which royalty is not due.

III. Requirements.

A. Required Recordkeeping.

The operator shall keep all test data, meter reports, charts/recordings, or other similar records for 6 years from the date they were generated, or if involved in an audit or investigation, the records shall be maintained until the record holder is released by the Secretary from the obligation to maintain them. The authorized officer may request these records any time within this period. Records submitted shall include all additional information used to compute volumes so that computations may be verified.

B. General (See 43 CFR 3162.7-2)

1. The regulations at 43 CFR 3162.7-2 authorize oil measurement methods for production from leases, units, and communitization agreements subject to the jurisdiction of the Bureau of Land Management, as such jurisdiction is defined in 43 CFR 3161.1. The authorized oil measurement methods are tank gauging, positive displacement metering systems, and other methods acceptable to the authorized officer. The requirements and minimum standards for each of these methods are set forth below.
2. These requirements and minimum standards are based on the standards and practices recommended by the American Petroleum Institute (API). The API standards and recommended practices are considered by both the Department of the Interior and the oil and gas industry to be appropriate for proper oil measurement. The requirements and minimum standards set out herein are those necessary to promote conservation of natural resources and to ensure that oil production, except for waste oil, is properly measured for sales and allocation purposes, in order that the Federal Government and Indian mineral owners will receive the royalties due under governing oil and gas leases. When an infraction of the minimum standards in this Order is discovered it will be considered noncompliance and an incident of noncompliance (INC) will be issued. Operators who discover noncompliance with these minimum standards and take immediate corrective action will not be issued an INC. If the authorized officer or his representative is present when an operator discovers a malfunction or does not use correct procedures as specified in this Order, an INC will be issued unless immediate corrective action is taken.

   A major violation, as defined in this Order, will generally require an immediate shut-in of the metering device. However, where the non-recoupable loss is not significant or where damage to the resource is likely to occur if a shut-in is required, an abatement period of 24 hours may be given.

   The intent of these minimum standards is to ensure that when equipment malfunctions that could result in inaccurate measurement occur, that proper corrective actions are taken, the authorized officer is notified, and an amended production report is submitted.

   Equipment failure that is discovered by the operator and promptly corrected will not be considered a violation. However, the incidents of noncompliance that may result from equipment failure are considered violations, and a partial list is as follows:

   - Failure to install equipment properly.

- Failure to repair or correct equipment malfunction properly or in a timely manner.
- Failure to submit report of alternate method of measurement for sales.
- Failure to submit amended production reports in a timely manner.
- Failure to adhere to the minimum standard procedures specified in this Order.
- The use of improper equipment, when discovered, will be considered a violation, and an INC will be issued.

The use of improper procedures will be considered a violation and, when witnessed by the authorized officer or his representative, immediate corrective action will be required. In the event that proper procedures are then used as required by this Order, and prior to completing the operation, calibration, or proving, the violation will be considered as properly corrected. In this case, although the violation will be documented in the agency files, no formal INC will be issued.

All future sales and allocation facilities and sales or allocation facilities in existence on the effective date of this Order, unless covered by a valid variance, shall meet the minimum standards prescribed in this Order.

Meter installations constructed in accordance with the API standards in effect at that time shall not automatically be required to retrofit to meet revised API standards. The Bureau will review any revised API standards and, when deemed necessary, will amend the Order accordingly through the rulemaking process.

Any variances from these requirements and minimum standards shall be in accordance with Section IV. of this Order.

3. A violation of a minimum standard established by this Order shall be abated within the time period specified.

   Where abatement is required "prior to sales or removal," this means that necessary actions shall be taken so that no oil may be removed beyond the measurement point until properly measured.

If any such violation is not abated within required period, action shall be initiated in accordance with 43 CFR Subpart 3163.

C. Oil Measurement by Tank Gauging

Oil measurement by tank gauging shall accurately compute the volume of oil withdrawn from a properly calibrated sales tank by measuring the height of the oil level in the tank before delivery (opening gauge) and then measuring the height of the oil level in the tank after delivery (closing gauge). The opening and closing gauges are then used with the tank calibration charts (tank tables) to compute accurately the volume of oil withdrawn. Gauging may be accomplished by measuring the height of the oil level from the tank bottom or a fixed datum plate upward to the surface of the oil in the tank (innage gauging) or by measuring from a fixed reference point at the top of the tank downward to the surface of the oil in the tank (outage gauging). Samples shall be taken from the oil before gauging to determine API gravity and sediment and water content. Prior to gauging, the temperature of the oil shall be determined from measurements made in the tank. The measured oil volume shall then be corrected for sediment and water

content, and to the standard sales temperature of 60 F.

The following requirements and minimum standards shall be accomplished in accordance with ***API Standard 2545 (ANSI/ASTM D-1085), "Method of Gauging Petroleum and Products," 1965, reaffirmed in 1987***, and ***(ANSI/ASTM D-1250), Tables 5A and 6A.***

[54 FR 39527, Sept. 27, 1989]

1. *Sales Tank Equipment.* Each oil storage tank to be used for oil sales by tank gauging shall be properly equipped for such gauging, using the "***API Recommended Practice for Setting Connecting, Maintenance, and Operation of Lease Tanks, API RP 12 R1," 1986.*** Tanks shall also be connected, maintained, and operated so as to comply with the Site Security Regulations, 43 CFR 3162.7-5, and Onshore Oil and Gas Order No. 3, and sales tanks shall meet the following requirements:

   a. Each sales tank shall be equipped with a pressure-vacuum thief hatch and/or vent-line valve.

Violation:	**Major.**
Corrective Action:	**Install proper thief hatch and/or vent line valve or drain.**
Abatement Period:	**30 days.30 days.**

   b. Each sales tank shall be set and maintained level and free of distortion in accordance with the above-referenced API recommended practice.

Violation:	**Major.**
Corrective Action:	**Level tanks.**
Abatement Period:	**Prior to sales or removal.**

   c. Pursuant to ***API Standard 2545 (ANSI/ASTM D-1085), "Method of Gauging Petroleum and Petroleum Products," October 1965 (reaffirmed August 1987)***, each tank shall be equipped with a gauging reference point, with a the height of the reference point stamped on a fixed bench-mark plate or stenciled on the tank near the gauging hatch.

Violation:	**Minor.**
Corrective Action:	**Affix a gauging reference point in gauging hatch and stamp on bench-mark plate or stencil on tank near gauging hatch.**
Abatement Period:	**30 days.**

2. *Sales Tank Calibrations.* Each oil storage tank to be used for oil sales by tank gauging shall be accurately calibrated for such gauging, using the API Standard 2550 (ANSI/ASTM D-1220), "***Method for Measurement and Calibration of Upright Cylindrical Tanks," 1965, reaffirmed August 1987***, and API RP 2556, "Correcting Gauge Tables for Incrustation," ***August 1968***. The following minimum standards shall be satisfied:

   a. Sales tank capacities shall be determined by actual tank measurements by the method know as "tank calibration" and in accordance with the above-referenced API Standards.

Violation:	**Minor.**
Corrective Action:	**Make capacity determination and develop appropriate capacity table.**
Abatement Period:	**60 days.**

   b. A sales tank shall be recalibrated if it is relocated or repaired or the capacity is changed

through denting, damage, or installation or removal of interior components, or otherwise.

Violation:	**Minor.**
Corrective Action:	**Recalibrate tank and develop new (revised) capacity table.**
Abatement Period:	**60 days.**

c. Calibration charts (tank tables) shall be submitted to the authorized officer on request.

Violation:	**Minor.**
Corrective Action:	**Submit tables to authorized officer.**
Abatement Period:	**30 days.**

3. *Oil Sampling.* Sampling of oil to be sold from sales tank is required and shall be conducted in such fashion as to yield a representative sample of the oil for purposes of determining the physical properties of the oil, following the "API Manual of Petroleum Measurement Standards, ***Chapter 8.1 - Manual Sampling" (ASTM D-4057), October 1981 (Reaffirmed August 1987)***, or Chapter 8.2 - Automatic Sampling of Petroleum and Petroleum Products, ***April 1983 (Reaffirmed August 1987)***, and shall meet the following minimum standard. All samples shall be taken from the contents of the sales tank prior to gauging, after allowing the tank contents to settle for at least 30 minutes following isolation of the tank, in accordance with the procedures specified in the above-referenced API Standard.

Violation:	**Major.**
Corrective Action:	**Repeat sampling procedure.**
Abatement Period:	**Prior to sales or removal.**

4. *Sales Tank Gauging.* Gauging of oil sales tanks is required and shall be accomplished in such fashion as to measure the contents of the tank accurately, following API ***Standard 2545 (ANSI/ASTM D-1085), "Method of Gauging Petroleum and Petroleum Products" 1965 (Reaffirmed August 1987)***, and shall meet the following minimum standards.

a. Gauging shall be accomplished using gauging tapes made of steel or corrosion-resistant material with graduation clearly legible, not kinked or spliced, and traceable to the standards of the National Bureau of Standards and certified as accurate by either the manufacturer or an independent testing facility. Working tapes, when checked against a tape certified to NBS standards, will be allowed as NBS traceable.

Violation:	**Major.**
Corrective Action:	**Replace tape.**
Abatement Period:	**Prior to sales or removal.**

b. Acceptable gauging requires 2 identical gauges to the nearest ¼-inch for tanks with a capacity of less than 1,000 barrels, and 2 identical gauges the nearest -inch for tanks with a capacity of 1,000 barrels or more.

Violation:	**Major.**
Corrective Action:	**Repeat gauging until 2 identical readings are obtained.**
Abatement Period:	**Prior to sales or removal.**

c. The proper bob for innage gauging or outage gauging shall be used in accordance with the above-reference API standard.

Violation:	**Major.**

Corrective Action:	**Repeat gauging using proper bob.**
Abatement Period:	**Prior to sales or removal.**

5. *Oil Gravity.* Tests for oil gravity are required, following the "API Manual of Petroleum Measurement Standards ***Chapter 9 - Density Determination" (ASTM D-1298-80) 1981, and (ASTM D-287-82) "Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products" (Hydrometer Method)***, and shall be performed on a representative sales tank oil sample obtained following "API Manual of Petroleum Measurement Standards, ***Chapter 8.1, "Manual Sampling of Petroleum and Petroleum Products" (ASTM D-4057) October 1981 (Reaffirmed 1987)***. Gravity tests shall meet the following minimum standards.

   a. All gravity determinations shall be completed before oil sales are made.

Violation:	**Major.**
Corrective Action:	**Obtain sample from sales tank and determine oil gravity.**
Abatement Period:	**Prior to sales or removal.**

   b. Accuracy of all instruments used to determine oil gravity for oil sales purposes shall be traceable to the standards of the National Bureau of Standards and certified as accurate by either the manufacturer or independent testing facility.

Violation:	**Major.**
Corrective Action:	**Replace instruments.**
Abatement Period:	**Prior to sales or removal.**

   c. The instrument used to obtain the oil gravity shall be clean, with no loose shot weights or detached gravity scale.

Violation:	**Major.**
Corrective Action:	**Clean and/or replace hydrometer.**
Abatement Period:	**Prior to sales or removal.**

   d. The instrument used to obtain the oil gravity shall be calibrated for a gravity range that includes the observed gravity of the oil sample being tested.

Violation:	**Major.**
Corrective Action:	**Repeat gravity tests using hydrometer with proper scale.**
Abatement Period:	**Prior to sales or removal.**

   e. Temperatures shall be measured and recorded to the nearest 1.0 F.

Violation:	**Major.**
Corrective Action:	**Repeat test, measuring and recording temperature to nearest 1.0 F.**
Abatement Period:	**Prior to sales or removal.**

   f. Liquid density (gravity) will be measured and recorded to the nearest 0.1 API gravity, making any necessary meniscus correction. The observed gravity shall be corrected to 60 F. using Table 5A, "Table 5A - Generalized Crude Oils" and JP-4, Correction of Observed Gravity to API Gravity at 60 F.

Violation:	**Major.**
Corrective Action:	**Repeat test, measuring and recording gravity to nearest 0.1 API gravity after making necessary correction for fluid meniscus.**

Abatement Period:	**Prior to sales or removal.**

6. *Tank Temperature.* Determination of the temperature of oil contained in a sales tank is required following the "***API Standard 2543, Method of Measuring the Temperature of Petroleum and Petroleum Products" (ANSI/ASTM D - 1086) October 1965 (Reaffirmed August 1987)***, and shall meet the following minimum standards:

   a. Accuracy of all thermometers used for oil sales purposes shall be traceable to the standards of the National Bureau of Standards and certified as accurate by either the manufacturer or independent testing facility. Working thermometers shall be checked against a thermometer certified accurate to NBS standards and their use shall be permitted.

Violation:	**Major.**
Corrective Action:	**Replace thermometer.**
Abatement Period:	**Prior to sales or removal.**

   b. Thermometers shall be kept clean and free of mercury separation. The temperature measurements shall be take by immersing the thermometer to the approximate vertical center of the fluid column, not less than 12 inches from the shell of the tank, for a minimum of 5 minutes and then read and recorded to the nearest 1 F.

Violation:	**Major.**
Corrective Action:	**Replace thermometer or repeat measurement as prescribed.**
Abatement Period:	**Prior to sales or removal.**

7. *Sediment and Water (S&W).* Determinations of the sediment and water content of oil contained in sales tanks is required following the "API Manual of Petroleum Measurement Standards, ***Chapter 10 - Sediment and Water and Section 4 - Determination of Sediment and Water in Crude Oils by the Centrifuge Method (Field Procedure), Second Edition, May 1988 (ASTM 96-88)***, and shall meet the following minimum standards:

   a. A thoroughly mixed oil sample-solvent combination, prepared in accordance with the procedure described in the above-referenced API Manual, shall be heated to at least 140 F. prior to centrifuging.

Violation:	**Major.**
Corrective Action:	**Repeat procedures using the defined standards.**
Abatement Period:	**Prior to sales or removal.**

   b. The heated sample shall be whirled in the centrifuge for not less than 5 minutes, and at the conclusion of centrifuging, the temperature shall be a minimum of 115 F. without water-saturated diluent, and 125 F. with water-saturated diluent.

Violation:	**Major.**
Corrective Action:	**Repeat test as prescribed.**
Abatement Period:	**Prior to sales or removal.**

   c. The combined volume of water and sediment at the bottom of the 100 ml. centrifuge tube shall be read:

      (1) To the nearest 0.05 ml. in the range from 0.1 to 1 ml.
      (2) To the nearest 0.1 ml. if above the 1 ml. graduation.
      (3) Estimated to the nearest 0.025 ml. if the volume is less than 0.1 ml.

The water and sediment volume in the centrifuge tube thus determined shall be multiplied by the appropriate factor for the centrifuge tube size and oil sample-solvent ratio, as specified in the above-referenced API Manual, and the product recorded as the percentage of water and sediment.

Violation:	**Major.**
Corrective Action:	**Repeat test as specified or repeat procedures using specified factors.**
Abatement Period:	**Prior to sales or removal.**

D. Oil Measurement by Positive Displacement Metering System

Oil measurement by a positive displacement metering system, for purposes of oil sales, shall be accomplished by a Lease Automatic Custody Transfer (LACT) unit designed to provide for the unattended transfer of liquid hydrocarbons from a production facility to the transporting carrier while providing proper and accurate means for the determination of net standard volume and quality, while also providing for fail-safe and tamper proof operations in accordance with the regulations at 43 CFR 3162.7-5 and Onshore Oil and Gas Order No. 3.

[54 FR 39527, Sept.27, 1989]

A positive displacement meter is one which registers the volume passing through said meter by a system which constantly and mechanically isolates the flowing liquid into segments of known volume.

LACT unit design shall follow API Spec. 11N "API Specifications for Lease Automatic Custody Transfer (LACT) Equipment," 1979, and API Manual of Petroleum Measurement Standards, ***Chapter 6 -Metering Assemblies, Section 1, LACT Systems, February 1981 (Reaffirmed August 1987)***. LACT units shall be constructed and operated so as to satisfy the following requirements and minimum standards:

1. *LACT Unit Components and General Operating Requirements.*
   a. Each LACT unit shall include all of the following listed components as a minimum:

      (1) Charging pump and motor.
      (2) Sampler, composite sample container and mixing system.
      (3) Stainer.
      (4) Positive displacement meter.
      (5) Meter proving connections.
      (6) Meter backpressure valve and check valve.
      (7) Air eliminator.
      (8) Diverter valve or shut-off valve.
      (9) Sediment and Water Monitor.
      (10) Automatic Temperature/Gravity Compensator.

Violation:	**Major: a.1.,2.,4., 5., 6., and 10.**
Corrective Action:	**Install component.**
Abatement Period:	**Prior to sales or removal.**
Violation:	**Minor: a.3., 7., 8., and 9.**
Corrective Action:	**Install component.**

Abatement Period: **30 days.**

b. All components of LACT unit shall be accessible for reasonable inspection by the authorized officer.

Violation: **Minor.**
Corrective Action: **Provide authorized officer with means of access to LACT.**
Abatement Period: **30 days.**

c. The authorized officer shall be notified of any LACT unit failure, such as electrical, meter, or other failure that results in use of an alternate method of measurement.

Violation: **Minor.**
Corrective Action: **Notify authorized officer of alternate method used.**
Abatement Period: **By 5th business day following use of alternate method.**

d. Any and all tests conducted on oil samples extracted from LACT samplers for determination of oil gravity and S & W content shall meet the same requirements and minimum standards specified in this Order with respect to oil measurement by tank gauging for all measurements taken of temperature, gravity, and S&W content (Section III.C.5., 6., and 7.)

Violation: **Major.**
Corrective Action: **Report tests for gravity, temperature, and/or S & W content per Section III.C.5., 6., and 7. minimum standards.**
Abatement Period: **Prior to sales or removal.**

2. *Operating Requirements for LACT Unit Components.* All required LACT unit components shall be operated to satisfy the following minimum standards:

a. *Charging pump and motor.* The LACT unit shall include an electrically driven pump rated for a discharge pressure and rate that are compatible with the rating for the meter used and sized to assure turbulent flow in the LACT main stream piping.

Violation: **Major.**
Corrective Action: **Install properly designed pump and motor.**
Abatement Period: **Prior to sales or removal.**

b. *Sampler.* The sampler probe shall extend into the center one-third of the flow piping in a vertical run, at least 3 pipe diameters downstream of any pipe fitting. The probe shall always be in a horizontal position.

Violation: **Major.**
Corrective Action: **Install component properly.**
Abatement Period: **Prior to sales or removal.**

c. *Composite Sample Container.* The composite sample container shall be capable of holding sample under pressure and shall be equipped with a vapor proof top closure and operated to prevent the unnecessary escape of vapor, and the container shall be emptied upon completion of sample withdrawal.

Violation: **Major.**
Corrective Action: **Install component properly, and empty after each sample withdrawal.**
Abatement Period: **Prior to sales or removal.**

d. *Mixing System*. The mixing system shall completely blend the sample into a homogeneous mixture before and during the withdrawal of a portion of sample for testing.

Violation:	**Major.**
Corrective Action:	**Repair mixing system.**
Abatement Period:	**Prior to sales or removal.**

e. *Strainer*. The strainer shall be constructed so that it may be depressurized, opened, and cleaned, be located upstream of the meter, and be made of corrosion resistant material of a mesh size no larger than ¼-inch.

Violation:	**Minor.**
Corrective Action:	**Replace with properly designed strainer, and install properly.**
Abatement Period:	**30 days.**

f. *Positive Displacement Meter*. The meter shall register volumes of oil passing through said meter determined by a system which constantly and mechanically isolates the flowing oil into segments of known volume, and be equipped with a non-resettable totalizer.

Violation:	**Major.**
Corrective Action:	**Replace or repair meter or the non-resettable totalizer.**
Abatement Period:	**Prior to sales or removal.**

g. *Meter Proving Connections.* All meter proving connections shall be installed downstream from the LACT meter, with the line valve(s) between the inlet and outlet of the prover loop having a double block and bleed design feature to provide for leak testing during proving operations.

Violation:	**Major.**
Corrective Action:	**Relocate prover loops downstream from LACT meter, and install block and bleed valve as specified.**
Abatement Period:	**Prior to proving LACT.**

h. Back Pressure and Check Valves. The back pressure valve and check valve shall be installed downstream from the LACT meter.

Violation:	**Major.**
Corrective Action:	**Install back pressure valve and check valve downstream from LACT meter.**
Abatement Period:	**Prior to sales or removal.**

i. *Air Eliminator.* The air eliminator shall be installed and prevent air/gas from entering the meter.

Violation:	**Minor.**
Corrective Action:	**Install air eliminator.**
Abatement Period:	**30 days.**

j. *Diverter Valve/Shut-off Valve.* The diverter valve/shut-off valve shall be activated by the Sediment and Water Monitor so that the valve moves to divert flow to the clean oil discharge only when it receives a positive signal, or provide a shut-off valve configured to shut off oil delivery upon failure to receive a positive signal from the Sediment and Water Monitor.

Violation:	**Minor.**

Corrective Action:	**Install diverter valve/shut-off valve.**
Abatement Period:	**30 days.**

k. *Sediment and Water (S and W) Monitor*. The Sediment and Water Monitor shall be an internally plastic coated capacitance probe, no smaller in diameter than the skid piping, and shall be mounted in a vertical pipe located upstream from the diverter valve/shut-off valve and the meter.

Violation:	**Minor.**
Corrective Action:	**Install S and W Monitor.**
Abatement Period:	**30 days.**

l. *Automatic Temperature/Gravity Compensator*. The automatic temperature/gravity compensator shall be sized according to the fluid characteristics being measured.

Violation:	**Major.**
Corrective Action:	**Install automatic temperature/gravity compensator.**
Abatement Period:	**Prior to sales or removal.**

3. *Sales Meter Proving Requirements*. LACT positive displacement meters shall be proved periodically. Meter provings shall follow "API Manual of Petroleum Measurement Standards, Chapter 4 - Proving Systems," ***1978***, and shall meet the following minimum standards.

a. The types of meter provers to be used, and the calibration requirements are as follows:

(1) The acceptable types of meter provers are pipe provers, tank provers, master meters, or other API recognized meter provers.

Violation:	**Minor.**
Corrective Action:	**Prove again with acceptable meter prover.**
Abatement Period:	**30 days.**

(2) The prover shall have available at the site for review by the authorized officer, evidence that the prover has been calibrated, with the certified calibration date identified by some unique number, i.e., serial number assigned to and inscribed on the prover. The calibration evidence for a pipe or tank prover shall show the certified volume as determined by the water draw method.

If a master meter is used, the most recent calibration report for said master meter shall be available. Said calibration report shall show that the master meter has been calibrated in accordance with API requirements, has an operating factor within the range from 0.9900 to 1.0100, and that 5 consecutive runs have been matched within a tolerance of 0.0002.

Violation:	**Minor.**
Corrective Action:	**Provide calibration certification.**
Abatement Period:	**Prior to proving.**

b. Minimum Proving Frequency. For all sales and allocation meters, the accuracy of the measuring equipment at the point of delivery or allocation shall be tested following initial meter installation or following repair, and if proven adequate, at least quarterly thereafter unless a longer period is approved in writing by the authorized officer.

Violation:	**Minor.**
Corrective Action:	**Notify authorized officer of scheduled proving and prove meter.**

Abatement Period: **10 business days.**

(1) In the event that the total throughput exceeds 100,000 bbls per month, then proving shall be accomplished monthly.

Violation: **Minor.**
Corrective Action: **Notify authorized officer of scheduled proving.**
Abatement Period: **By the 10th business day after discovery of the violation.**

c. In Establishing the Operating Meter Factor:

(1) At least 6 runs shall be made. Of these 6 runs, 5 consecutive runs shall match within a tolerance of 0.0005 (0.05 percent) between the highest and the lowest reading.

Violation: **Major.**
Corrective Action: **Notify authorized officer and reprove meter.**
Abatement Period: **10 business days.**

(2) The arithmetic average of these 5 consecutive runs shall be used for computation of the meter factor.

Violation: **Minor.**
Corrective Action: **Compute meter factor using arithmetic average of the 5 consecutive runs.**
Abatement Period: **Prior to completion of proving.**

(3) Meter factor computations shall also include the correction for the effect of pressure on steel (Cps) for provers; and the correction for the effect of temperature on steel (Cts) for provers; and the correction for the effect of temperature on liquid (Ctl), and the correction for the effect of pressure on liquid (Cpl). The Cps and Cts correction factors shall be determined using the "API Manual of Petroleum Measurement Standards, Chapter 12, Section 2," 1981, ***or latest revised standard,*** and the Ctl correction factor shall be obtained from the "API Standard 2540, Chapter 11.1, Volume I (ASTM D-1250-80), Table 6A," 1980, ***or latest revised standard,*** and the Cpl correction factor still be obtained from the "API Manual of Petroleum Measurement Standards, Chapter 11.2.1."

Violation: **Minor.**
Corrective Action: **Include proper correction factors.**
Abatement Period: **Prior to completion of meter proving.**

(4) The initial meter factor for a new or repaired meter shall be within the range from 0.9950 to 1.0050, unless the deviation can be justified to the satisfaction of the authorized officer.

Violation: **Minor.**
Corrective Action: **Replace/repair/reprove meter or justify deviation from the brackets 0.9950 to 1.0050 to the authorized officer.**
Abatement Period: **Prior to completion of proving.**

4. *Excessive Meter Factor Deviation*. Excessive meter factor deviation may be evidence of meter malfunction, and corrective action shall be taken upon discovery of meter malfunction. However, if the operator determines that the meter did not, in fact, malfunction, the lessee/operator shall submit, for approval by the authorized officer, a report as to the findings and reasons for the

excessive meter factor deviation and the determination of no meter malfunction. In the event a malfunction occurred, the meter shall be immediately removed from service, checked for damage or wear, adjusted and/or repaired, and reproven prior to return to service. The arithmetic average of the malfunction factor and the previous factor shall be applied to the production measured through the meter between the date of the previous factor and the date of the malfunction factor. Malfunction meter factors shall be clearly indicated on the proving report, which shall also contain all appropriate remarks regarding subsequent repairs and/or adjustments.

The minimum standards for evidence meter malfunction, and corrective action required, are as follows:

Meter Factor Deviation.

(1) Deviation in a meter factor not exceed ±0.0025 since the last proving of the meter unless explained by changing conditions, i.e., temperature or gravity or flow-rate.

Violation:	**Minor.**
Corrective Action:	**Repair or replace meter, or submit report to authorized officer for approval of the findings and reasons for the determination that there is no meter malfunction.**
Abatement Period:	**Prior to completion of meter proving.**

(2) A meter factor shall not exceed 1 percent above or below unity, i.e., outside of the range from 0.9900 to 1.0100.

Violation:	**Minor.**
Corrective Action:	**Same as (1) above.**
Abatement Period:	**Prior to completion of meter proving.**

5. *Meter Reporting Require Requirements.* All meter provings, meter failures, and volume adjustments following meter malfunction shall be reported to the authorized officer, as follows:

Meter Proving Reports. The meter proving report shall be filed on one of the forms set out in "API Manual of Petroleum Measurement Standards, ***Chapter 12-Calculation of Petroleum Quantities, Section 2-Calculation of Liquid Petroleum Quantities Measured by Turbine or Displacement Meter," 1981 (Reaffirmed August 1987)***. Any similar format is acceptable provided all required data are included and proper calculation sequence is maintained.

Each meter proving report shall be identified by lease number, communitization agreement number, or unit participating area name, and the location of the facility.

Each meter proving report shall be filed with the authorized officer no later than 10 business days following the meter proving.

[54 FR 39527, Sept. 27, 1989]

Violation:	**Minor.**
Corrective Action:	**Submit proper proving report to authorized officer.**
Abatement Period:	**File the report with authorized officer no later than 10th business day following the proving.**

E. Oil Measurement by Other Methods or at Other Locations Acceptable to the Authorized Officer.

Any method of oil measurement, other than tank gauging or positive displacement metering system, requires prior approval, based on applicable API Standards, by the authorized officer. Other measurement methods include, but are not limited to: Turbine metering systems, Measurement by calibrated tank truck, Measurement by weight, and Net oil computer.

The requirements and minimum standards for oil measurement on the lease, unit, unit participating area, or communitized area by an alternate method, or at a location off the lease, unit, unit participating area, or communitized area by either an authorized or an alternate method of measurement, are as follows:

1. *Measurement on the Lease, Unit, Unit Participating Area, Communitized Area.*

   An application for approval of an alternate oil measurement method shall be submitted to the authorized officer and written approval obtained before any such alternate oil measurement method is operated. Any operator requesting approval of any alternate oil sales measurement system shall submit performance data, actual field test results, or any other supporting data or evidence acceptable to the authorized officer, that will demonstrate that the proposed alternate oil sales measurement system will meet or exceed the objectives of the applicable minimum standard or does not adversely affect royalty income or production accountability.

   [54 FR 39527, Sept. 27, 1989]

Violation:	**Major.**
Corrective Action:	**Shut in operations. Submit application for approval of desired method of oil measurement.**
Abatement Period:	**Prior to sales or removal.**

2. *Measurement at a Location Off the Lease, Unit, Unit Participating Area, or Communitized Area.*

   A. An application for off-lease measurement shall be submitted to the authorized officer and written approval obtained before any such off-lease oil measurement facilities are installed or operated. The application for written approval of off-lease measurement shall justify location of the measurement facilities at the off-lease location desired before approval will be granted, but no additional approval as to the oil measurement method is required, provided measurement is to be accomplished by tank gauging or positive displacement metering system, pursuant to the requirements and minimum standards of this Order.

Violation:	**Minor.**
Corrective Action:	**Submit application for written approval of off-lease measurement.**
Abatement Period:	**20 days.**

   B. If oil measurement is to be accomplished at a location off the lease, unit, unit participating area, or communitized area by any alternate measurement method (any method other than tank gauging or positive displacement metering system), then the application, in addition to justifying the location of the measurement facilities, shall also demonstrate the acceptability of the of the alternate measurement method, pursuant to Section III.E.1.

Violation:	**Major.**

Corrective Action:	**Submit application for approval of off-lease measurement and approval of desired method of measurement.**
Abatement Period:	**Prior to sales or removal.**

F. Determination of Oil Volumes by Methods Other Than Measurement.

Pursuant to 43 CFR 3162.7-2, when production cannot be measured due to spillage or leakage, the amount of production shall be determined in accordance with the methods approved or prescribed by the authorized officer. This category of production includes, but is not limited to, oil which is classified as slop oil or waste oil.

The minimum standards for determining the volume of oil that cannot be measured are as follows:

1. No oil located in an open pit or sump, in a stock tank, in a production vessel or elsewhere, may be classified or disposed of as waste oil unless it can be shown, to the satisfaction of the authorized officer, that it is not economically feasible to put the oil into marketable condition.

Violation:	**Major.**
Corrective Action:	**Put oil into marketable condition.**
Abatement Period:	**24 hours.**

2. No slop oil may be sold or otherwise disposed of without prior approval from the authorized officer. Following the sale or disposal, the authorized officer shall be notified as to the volume sold or disposed of, and the method used to compute the volume.hall be notified as to the volume sold or disposed of, and the method used to compute the volume.

Violation:	**Major.**
Corrective Action:	**Submit complete report of sale or disposal.**
Abatement Period:	**24 hours.**

IV. Variances From Minimum Standards.

An Operator any request that the authorized officer approve a variance from any of the minimum standards prescribed in Section III. All such requests shall be submitted in writing to the appropriate authorized officer and shall provide information as to the circumstances that warrant approval of the variance(s) requested and the proposed alternative means by which the related minimum standard(s) will be satisfied. The authorized officer, after considering all relevant factors, shall approve the requested variance(s) on making a determination that the proposed alternative(s) meet or exceed the objectives of the applicable minimum standard(s), or does not adversely affect royalty income or production accountability. In addition, approval may be given orally by the authorized officer before the operator initiates actions that require a variance from minimum standards. The oral request, if granted, shall be followed by a written request not later than the fifth business day following oral approval, and written approval will then be appropriate.

The authorized officer also may, on his/her motion, issue NTLs that establish modified standards or variances for specific geographic areas of operations.

After notice to the operator, the authorized officer also may require compliance with standards that

exceed those contained in this Order whenever such additional requirements are necessary to achieve protection of royalty income or production accountability. The rationale for any such additional requirements shall be documented in writing to the operator.

[54 FR 39527, sept. 27, 1989]

Attachment

I. Sections from 43 CFR Subparts 3163 and 3165 (not included with Federal Register publication).

Last Updated April 1, 1997 by John Broderick

Bureau of Land Management (3/25/97)
Final Rule
Federal Register / Vol. 54, No. 36, Friday, February 24, 1989, Rules and Regulation

Onshore Oil and Gas Operations, Federal and Indian Leases; Onshore Oil and Gas Order No. 5, Measurement of Gas

I. **Introduction.**
- A. Authority.
- B. Purpose.
- C. Scope.

II. **Definitions.**

III. **Requirements.**
- A. Required Recordkeeping.
- B. General.
- C. Gas Measurement by Orifice Meter
- D. Gas Measurement by Other Methods or at Other Locations Acceptable to the Authorized Officer.

IV. **Variances from Minimum Standards.**

Onshore Oil and Gas Order No. 5; Measurement of Gas on Federal and Indian Oil and Gas Leases

See ***Note*** regarding corrections to this text.

Effective date:
March 27, 1989; this order is applicable March 27, 1989 for new facilities, August 23, 1989 for existing facilities measuring 200 MCF or more per day of gas, and February 26, 1990 for existing facilities producing less than 200 MCF per day of gas.

[54 FR 39528, Sept. 27, 1989]

I. Introduction.

A. *Authority.*

This Order is established pursuant to the authority granted to the Secretary of the Interior pursuant to various Federal and Indian mineral leasing statutes and the Federal Oil and Gas Royalty Management Act of 1982. This authority has been delegated to the Bureau of Land Management and is implemented by the onshore oil and gas operating regulations contained in 43 CFR Part 3160. Section 3164.1 thereof specifically authorizes the Director to issue Onshore Oil and Gas Orders when necessary to implement and supplement the operating regulations and provides that all such Orders shall be binding on the lessees and operators of Federal and restricted Indian oil and gas leases which have been, or may hereafter, be issued.

Specific authority for the provisions contained in this Order is found at: section 3162.7-1,***Disposition of production;*** section 3162.7-3, ***Measurement of gas***; and subpart 3163, ***Noncompliance and assessments.***

[54 FR 39528, Sept. 27, 1989]

B. *Purpose.*

One purpose of this Order is to establish the requirements and minimum standards for the measurement of gas by the methods authorized in 43 CFR 3162.7-3, i.e., measurement by orifice meter or other methods acceptable to the authorized officer. Proper gas measurement ensures that the Federal Government, the general public, State governments which share in the proceeds, and Indian mineral owners receive the royalties due, as specified in the governing oil and gas leases.

Another purpose of this Order is to establish abatement periods for corrective action when noncompliance with the minimum standards is

Attachment.

I. Sections from 43 CFR Subparts 3163 and 3165. (open 3160 page to view)

Last Updated April 4, 1997 by John Broderick

You are visitor # to this page since April 4, 1997.

detected. The assessments and penalties that will be imposed as a result of noncompliance and/or failure to correct the noncompliance within the specified abatement period.

This Order also serves as notice to any party cited for noncompliance that it may request from the authorized officer an extension of the abatement period for any violation, provided that the request for extension is applied for and granted prior to the expiration of the abatement period previously allowed.

C. ***Scope.***

This Order is applicable to all Federal and Indian (except Osage) oil and gas leases. In addition, this Order also is applicable to all wells and facilities on State or privately owned mineral lands committed to a unit or communitization agreement that affects Federal or Indian interests, notwithstanding any provision of a unit or communitization agreement to the contrary.

III. Definitions.

A. Authorized Officer means any employee of the Bureau of Land Management authorized to perform the duties described in 43 CFR Groups 3000 and 3100 (see 43 CFR 3000.0-5).

B. Business day means any day Monday through Friday, excluding Federal holidays.

C. Gas means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and that maintains a gaseous or rarefied state at standard temperature and pressure conditions (see 43 CFR 3000.0-5(a)).

D. INC means incident of noncompliance, which serves as a Notice of Violation under 43 CFR Subpart 3163.

E. Lessee means a person or entity holding record title in a lease issued by the United States (see 43 CFR 3160.0-5).

F. Major violation means noncompliance that causes or threatens immediate, substantial, and adverse impacts on public health and safety, the environment, production accountability, or royalty income (see 43 CFR 3160.0-5).

G. Minor violation means noncompliance that does not rise to the level of a major violation (see 43 CFR 3160.0-5).

H. Operating rights owner means a person or entity holding operating rights in a lease issued by the United States. A lessee also may be an operating rights owner if the operating rights in a lease or portion thereof have not been severed from record title.

I. Operator means any person or entity including but not limited to the lessee or operating rights owner, who has stated in writing to

the authorized officer that it is responsible under the terms and conditions of the lease for the operations conducted on the leased lands or portion thereof.

J. Production unit means, for purposes of reporting production, a measurement unit of 1,000 standard cubic feet (Mcf).

K. Standard cubic foot" means the volume of gas contained in one cubic foot at a base pressure of 14.73 pounds per square inch absolute (psia), at a base temperature of 60 ·F or 519.67· Rankine (see 43 CFR 3162.7-3).

III. Requirements.

A. *Required Recordkeeping*. The operator shall keep all test data, meter reports, charts/recordings, or other similar records for 6 years from the date they were generated, or if involved in an audit or investigation, the records shall be maintained until the record holder is released by the Secretary from the obligation to maintain them. The authorized officer may request these records any time within this period. Records submitted shall include all the additional information used to compute the volumes so that computations may be verified.

B. General.

All gas production shall be measured in accordance with an authorized method of measurement. As set out in 43 CFR 3162.7-3, gas measurement authorized for gas produced from leases, units, unit participating areas, and communitization agreements subject to the jurisdiction of the Bureau of Land Management, as such jurisdiction is defined in 43 CFR 3161.1, may be by orifice meter or other methods acceptable to the authorized officer. The requirements and minimum standards for gas measurement are set out below.

The requirements of this Order are based on the standards and specifications published by the American Gas Association (AGA), and officially designated as ANSI/API 2530 and AGA Committee Report No. 3, Second Edition, 1985, hereafter referred to AGA Committee Report No. 3. The AGA published standards and specifications are considered to be appropriate for proper gas measurement by both the Department of the Interior and the Oil and Gas Industry. The requirements set minimum standards necessary to promote conservation of natural resources and to ensure proper measurement of gas production for sales and allocation purposes, so that the Federal Government and Indian mineral owners will receive the royalties due under governing oil and gas leases.

All future sales and allocation facilities and sales or allocation facilities in existence on the effective date of this Order, unless covered by a valid variance, shall meet the minimum standards prescribed in this Order; provided, however, that all gas produced from or allocated to Federal and Indian (except Osage) oil and gas leases wherein the gas is measured through sales or allocation meters handling an average of 100 MCF per day or less on a monthly basis are exempt from the minimum standards in Sections III.C.1., C.2., and C.4., of this Order. The authorized officer may, where appropriate and necessary for proper measurement, work with the operators in designating consolidated gas sales and/or allocation meter stations.

Meter installations constructed in accordance with the AGA Report No. 3 standards in effect at that time shall not automatically be required to retrofit if the standards are revised. The Bureau will review any revised standards and, when necessary, will amend the Order through the rulemaking process.

The intent of these minimum standards is to ensure that when equipment malfunctions that could result in inaccurate measurement occur, proper corrective actions are taken, the authorized officer is notified, and an amended production report is submitted.

Failure to comply with these minimum standards will be considered as noncompliance and an incident of noncompliance (INC) will be issued. Operators who discover noncompliance with these minimum standards and take immediate corrective action will not be issued an INC. If the authorized officer or his representative is present when an operator discovers a malfunction or uses incorrect procedures as specified in this Order, an INC will be issued unless immediate corrective action is taken. Failure of equipment will not be considered a violation. However, the incidents of noncompliance that may result from equipment failure are considered violations and a partial list of such incidents follows:

- Failure to install equipment properly.
- Failure to repair or correct equipment malfunction properly or in a timely manner.
- Failure to submit report of alternate method of sales.
- Failure to submit amended production reports in a timely manner.
- Failure to adhere to the minimum standard procedures specified in this Order.
- The use of improper equipment, when discovered, will be considered as a violation and a formal INC will be issued.

The use of improper procedures will be considered a violation and when witnessed by the authorized officer or his representative,

immediate corrective action will be required. In the event that proper procedures are then used as required by this Order, and prior to completing the operation, calibration, or proving, the violation will be considered as properly corrected. In this case, although the violation will be documented in the Bureau's files, no INC will be issued.

A major violation, as defined in this Order, will generally require an immediate shut-in of the metering device. However, where the non-recoupable loss is not significant or where damage to the resource is likely to occur if a shut-in is required, an abatement period of 24 hours may be given.

Where abatement is required "prior to sales or removal," action is required to be taken so that no gas can be removed beyond the measurement point until properly measured.

[54 FR 39528, Sept. 27, 1989]

C. Gas Measurement by Orifice Meter

The following are minimum standards for the measurement of natural gas using orifice meters:

1. The orifice to pipe diameter ratio (d/D), or the beta ratio, with meters using "flange taps," shall be between 0.15 and 0.70.

***Violation*:**	**Major.**
***Corrective Action*:**	**Install an orifice of such size that subsequent measurements will be within the appropriate beta ratio range. If changing the orifice causes the differential pressure to be recorded in the lower one-third of the chart, then either the meter tube or the differential element shall be changed, sizing the straight pipe sections in a manner that will provide subsequent measurement within the appropriate beta ratio range.**
***Abatement Period*:**	**Prior to sales.**

2. The orifice to pipe diameter ratio (d/D), or the beta ratio, with meters using "pipe taps," shall be between 0.20 and 0.67.

***Violation*:**	**Major.**
***Corrective Action*:**	**Same as *A*.1. above.**
***Abatement Period*:**	**Prior to sales.**

3. To obtain flow conditions as near optimum as possible and minimize the effects of turbulence in gas flow, the minimum length of straight pipe preceding and following an orifice and the use of straightening vanes, shall conform to those specifications

detailed in Figures 4 through 9 of AGA Committee Report No. 3.

***Violation*: Major.**
***Corrective Action*: Install proper length of pipe where appropriate or install straightening vanes in accordance with appropriate AGA Report No. 3 specifications.**
***Abatement Period*: Prior to sales.**

4. The orifice shall be sized to make the pen that records the differential pressure operate in the outer ? of the chart range for the majority of the flowing period.

***Violation*: Minor.**
***Corrective Action*: Size orifice to meter tube so that the differential pen will deflect and record in the outer ? of the chart range and so that the measurement will be within the prescribed beta ratio range.**
***Abatement Period*: 20 days.**

5. The static element shall be sized to make the pen that records the static pressure operate in the outer $^{2}/_{3}$ of the chart range for the majority of the flowing period.

***Violation*: Minor.**
***Corrective Action*: Size static element so as to cause static pen to record in the outer ? of the chart range.**
***Abatement Period*: 20 days.**

6. There shall be no pipe connections between the orifice and the nearest pipe fitting other than the pressure taps and/or thermometer wells as specified in AGA Committee Report No. 3.

***Violation*: Major.**
***Corrective Action*: Replace entire length of pipe ahead of orifice meter with pipe of appropriate length and inside smoothness in accordance with AGA Committee Report No. 3.**
***Abatement Period*: Prior to sales.**

7. Continuous temperature recorders to measure the flowing gas temperature are required on all sales and allocation meters measuring 200 MCF per day or more on a monthly basis. All other sales or allocation meters shall have a continuous temperature recorder or an indicating thermometer to measure flowing gas temperature. Sales or allocation meters measuring between 200 and 500 MCF per day on a monthly basis may be considered for a variance by the authorized officer on a case-by-case basis.

***Violation*:** **Major.**
***Corrective Action*:** **Install temperature measuring device as required.**
***Abatement Period*:** **Prior to sales.**

8. The internal diameter of the meter tube and the orifice fittings shall be the same or, if not, within tolerance limits set by AGA.

***Violation*:** **Major.**
***Corrective Action*:** **Install properly sized meter tube.**
***Abatement Period*:** **Prior to sales.**

9. Meter tubes using flange taps or pipe taps shall have the pressure tap holes located as specified in AGA Committee Report No. 3.

***Violation*:** **Major.**
***Corrective Action*:** **Install pressure tap as specified.**
***Abatement Period*:** **Prior to sales.**

10. Orifice plates shall be removed from the flange or plate holder, and inspected for visual conformance with AGA standards and specifications, at least semi-annually, during testing of the accuracy of measuring equipment.

***Violation*:** **Minor.**
***Corrective Action*:** **Remove and inspect orifice plate for visual conformance with AGA standards and specifications.**
***Abatement Period*:** **No later than next meter calibration.**

11. Any plate or orifice that is determined not in conformance with AGA standards shall be replaced with one that is in conformance.

***Violation*:** **Major.**
***Corrective Action*:** **Replace orifice plate.**
***Abatement Period*:** **Prior to sales.**

12. All connections and fittings of the secondary element (including meter pots and meter manifolds) shall be leak tested prior to conducting tests of the meter's accuracy.

***Violation*:** **Minor.**
***Corrective Action*:** **Stop meter calibration and conduct leak test. When leaks are detected the meter setting shall be determined and recorded "as found", the meter calibrated, and readings recorded "as left".**
***Abatement Period*:** **Prior to completion of calibration.**

13. The appropriate "zero" positions of the static and differential meter pens shall be checked during each test of meter accuracy,

and adjustments made if necessary.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Stop meter calibration and record "as found" readings; calibrate meter and record readings "as left".**
***Abatement Period*:**	**Prior to completion of calibration.**

14. The meter's differential pen arc, the ability of the differential pen to duplicate the test chart's time arc over the full range of the test chart, shall be checked during each testing of the meter's accuracy and adjustments made if necessary.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Stop meter calibration and record "as found" readings; adjust differential pen arc, and record "as left" readings.**
***Abatement Period*:**	**Prior to completion of calibration.**

15. Differential and static pen accuracy shall be tested for linearity at zero and 100 percent and at 1 point within the normal range of the differential and static recordings to assure accuracy.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Adjust pens to assure accuracy.**
***Abatement Period*:**	**Prior to completion of calibration.**

16. During testing of the meter accuracy, the static pen time lag shall be adjusted to ensure independent movement of the static pen in relation to the differential pen.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Make appropriate adjustments.**
***Abatement Period*:**	**Prior to completion of calibration.**

17. For all sales and allocation meters, the accuracy of the measuring equipment at the point of delivery or allocation shall be tested following initial meter installation or following repair and, if proven adequate, at least quarter thereafter unless a longer period is approved by the authorized officer. All extensions of intervals between tests of meters shall be approved in writing by the authorized officer.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Test meter for accuracy.**
***Abatement Period*:**	**a. 24 hours for initial installation or following repairs.** **b. 30 days for failure to calibrate meter quarterly.**

18. At least a 24-hour notice shall be given to the authorized officer prior to conducting the tests and calibrations required by this order.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Notify authorized officer of scheduled meter and calibrations at least 24 hours prior to next tests and calibrations.**
***Abatement Period*:**	**Prior to next calibration.**

19. If the inaccuracy of the measuring equipment results in a volume calculation more than 2 percent in error, the volume measured since the last calibration be ***corected*** in addition to adjusting the meter to zero error. Also, the operator shall submit a corrected report adjusting the volumes of gas measured , and showing or discussing all the calculations made in correcting the volumes. The volume shall be corrected back to the time the inaccuracy occurred, if known. If this time is unknown, volumes shall be corrected for the last half of the period elapsed since the date of last calibration.

***Violation*:**	**Minor.**
***Corrective Action*:**	**a. adjust meter to zero error.** **b. Submit corrected report.**
***Abatement Period*:**	**a. Prior to completion of calibration.** **b. 60 days.**

20. If, for any reason, the measuring equipment is out of service or malfunctioning so that the quantity of gas delivered is not known, the volume delivered during this period shall be estimated using one of the following methods, in the listed order of priority:
    a. Record data on check metering equipment if used in lieu of main meter recordings. If check meters are not installed or are found to be recording inaccurately; then,
    b. Base corrections on the percentage error found during the instrument test. If that is not feasible; then,
    c. Estimate the quantity of gas run, based on deliveries made under similar conditions when the metering equipment was registering accurately.

***Violation*:**	**Minor.**

***Corrective Action*:**	**Estimate volumes delivered during those periods cited using one or more of the approved methods identified in the order of priority and, when necessary, submit an amended report showing corrected volumes.**
***Abatement Period*:**	**60 days.**

21. Volumes of gas delivered shall be determined according to the flow equations specified in AGA Committee Report No.3

***Violation*:**	**Minor.**
***Corrective Action*:**	**Recalculate all gas volumes not determined in accordance with flow equations specified in §6.3 of the AGA Committee Report No. 3.**
***Abatement Period*:**	**60 days.**

22. Unless otherwise established, the point of sales delivery and appropriate measurement shall be on the leasehold (or within the boundaries of the communitized area(CA) or unit participating area). Sales off the leasehold (or outside the CA or unit participating area) may be approved by the authorized officer.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Submit application to the authorized officer for approval of off lease (CA or unit participating area) measurement.**
***Abatement Period*:**	**30 days.**

23. The Btu content shall be ***determiend*** at least annually, unless otherwise required by the authorized officer, by means of (1) a recording calorimeter, (2) calculations based on a complete compositional analysis of the gas and the heating value of each constituent, in accordance with AGA Committee Report No. 3, or (3) any other method acceptable to the authorized officer. The authorized officer shall be apprised of the method used for each determination and be furnished with all needed analytical data or other documentation upon request. The Btu content most recently determined and used for royalty purposes shall be reported.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Determine Btu values and submit an amended report.**
***Abatement Period*:**	**30 days.**

24. All meter calibration report forms shall include the following information, if applicable, and shall be submitted to the authorized officer, upon request.

a. Name of producer or seller.
b. Name of purchaser.
c. Federal or Indian lease number, communitization agreement number, or unit name or number and participating area identification.
d. Station or meter number.
e. Meter data (make, differential, static and temperature range, recording period).
f. Type of connections (flange or pipe, upstream or downstream static connections).
g. Orifice data (plate size and ID of meter tube).
h. Base of data used on each chart or record (temperature, specific gravity, atmospheric pressure).
i. Time and date of test.
j. Instrument error(s) found and certification of corrections, and "found" and " left" data for all instruments;
k. Signature and affiliation of tester and witness.
l. Remarks.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Submit amended meter calibration report(s) to authorized officer, including all required information.**
***Abatement Period*:**	**15 days.**

25. For purposes of measurement and meter calibration, atmospheric pressure is that value defined in the buy/sell contract (normally assumed to be a constant value). In the absence of such a definition in the buy/sell contract, the atmospheric pressure shall be established through an actual measurement or assumed to be a constant value based on the elevation at the metering station.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Recalibrate gas meter and submit amended report indicating corrected volumes using the adjusted absolute zero or properly calculated pressure extensions.**
***Abatement Period*:**	**30 days.**

26. The method and frequency of determining specific gravity are normally defined in the buy/sell contract. Except when a continuous recording gravitometer is used, specific gravity may be determined at the time of an instrument check using a spot or cumulative gas sample, and is usually effective the first of the following month. The continuous recorder may be of a gravity

balance or kinematic type. Also, specific gravity may be determined from a laboratory analysis of a spot or cumulative gas sample.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Determine specific gravity of gas by approved method and submit an amended report with a corrected volume.**
***Abatement Period*:**	**30 days.**

D. ***Gas Measurement by Other Methods or at Other Locations Acceptable to the Authorized Officer.***

Using any method of gas measurement other than by orifice meter at a location on the lease, unit, unit participating area, or communitized area requires the prior approval from the authorized officer pursuant to 43 CFR 3162.7-3. Other measurement methods include, but are not limited to:

- Turbine metering systems
- Positive displacement meter
- Pitot tube
- Orifice well tester
- Critical flow prover
- Gas-oil ratio

The requirements and minimum standards for gas measurement on the lease, unit, unit participating area, or communitized area by an alternate method of measurement, or at a location off the lease, unit, unit participating area, or communitized area by either an authorized or an alternate method of measurement, are as follows:

1. Measurement ***of*** the Lease, Unit, Unit Participating Area, or Communitized Area
    a. A written application for approval of an alternate gas measurement method shall be submitted to the authorized officer and written approval obtained before any such alternate gas measurement method is installed or operated. Any operator requesting approval of any alternate gas sales measurement system shall submit performance data, actual field test results, or any other supporting data or evidence acceptable to the authorized officer, that will demonstrate that the proposed alternate gas sales measurement system will meet or exceed the objectives of the applicable minimum standards or does not adversely affect royalty income or production accountability.

***Violation*:** **Major.**

***Corrective Action*:**	**Submit application and obtain approval.**
***Abatement Period*:**	**Prior to sales.**

[54 FR 39528, Sept. 27, 1989]

2. *Measurement at a Location Off the Lease, Unit, Unit Participating Area, or Communitized Area.*

   a. A written application for off-lease measurement shall be submitted to the authorized officer and written approval obtained before any such off-lease gas measurement facilities are installed or operated. The application for approval of ***off-lease measurement*** facilities at the desired off-lease location before approval will be granted, but no additional approval as to the gas sales measurement method is required, provided measurement is to be accomplished by an orifice meter pursuant to the requirements and minimum standards of this Order.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Submit application and obtain approval.**
***Abatement Period*:**	**20 days.**

   b. If gas measurement is to be accomplished at a location off the lease, unit, unit participating area, or communitized area by any alternate measurement method (any method other than measurement by an orifice meter), then the application, in addition to justifying the location of the measurement facilities, shall also demonstrate the acceptability of the alternate measurement method pursuant to Sec. III.D.1. of this Order.

***Violation*:**	**Major.**
***Corrective Action*:**	**Submit application and obtain approval.**
***Abatement Period*:**	**Prior to sales.**

V. Variances from Minimum Standards.

An operator may request that the authorized officer approve a variance from any of the minimum standards prescribed in Section III. hereof. All such requests shall be submitted in writing to the appropriate authorized officer and shall provide information as to the circumstances warranting approval of the variance(s) requested and the proposed alternative means by which the related minimum standard(s) will be satisfied. The authorized officer, after considering all relevant factors, shall approve the requested variance(s) if it is determined that the proposed alternative(s) meets or exceeds the objectives of the applicable minimum standard(s), or will not adversely affect royalty income or production accountability.

In addition, approval may be given orally by the authorized officer before the operator initiates actions which require a variance from minimum standards. The oral request, if granted, shall be followed by a written request not later than the fifth business day following oral approval, and written approval will then be appropriate.

The authorized officer may also issue NTL's that establish modified standards and requirements for specific geographic areas of operations.

After notice to the operator the authorized officer may also require compliance with standards that exceed those contained in this Order whenever such additional requirements are necessary to achieve protection of the royalty income or production accountability. The rationale for any such additional requirements shall be documented in writing to the operator.

[54 FR 39528, Sept. 27, 1996]

Attachment.

I. Sections from 43 CFR Subparts 3163 and 3165 (not included with the Federal Register publication).

Note: The Order is in it's official form. However, there are some errors and omissions in the text of the Order that need correction. They are in "**bold**", "*italicized*", and are "underlined" and are as follows:

Disposition of production should be Disposition of production

---

Measurement of gas should be Measurement of gas.

Noncompliance and assessments should be Noncompliance, Assessments, and Penalties.

The ***second ¶*** requires revision to update the standard requirements.

A, should be "C".

---

corected. should be "corrected".

---

determiend, should be "determined".

---

of, should be "on".

Between the words ***off-lease*** and ***measurement***, the following was omitted "measurement shall justify the location of the".

Onshore Oil and Gas Order No. 5; Measurement of Gas on Federal and Indian Oil and Gas Leases

See ***Note*** regarding corrections to this text.

Effective date:
March 27, 1989; this order is applicable March 27, 1989 for new facilities, August 23, 1989 for existing facilities measuring 200 MCF or more per day of gas, and February 26, 1990 for existing facilities producing less than 200 MCF per day of gas.

[54 FR 39528, Sept. 27, 1989]

I. Introduction.

A. *Authority.*

This Order is established pursuant to the authority granted to the Secretary of the Interior pursuant to various Federal and Indian mineral leasing statutes and the Federal Oil and Gas Royalty Management Act of 1982. This authority has been delegated to the Bureau of Land Management and is implemented by the onshore oil and gas operating regulations contained in 43 CFR Part 3160. Section 3164.1 thereof specifically authorizes the Director to issue Onshore Oil and Gas Orders when necessary to implement and supplement the operating regulations and provides that all such Orders shall be binding on the lessees and operators of Federal and restricted Indian oil and gas leases which have been, or may hereafter, be issued.

Specific authority for the provisions contained in this Order is found at: section 3162.7-1, ***Disposition of production;*** section 3162.7-3, ***Measurement of gas***; and subpart 3163, ***Noncompliance and assessments.***

[54 FR 39528, Sept. 27, 1989]

B. *Purpose.*

One purpose of this Order is to establish the requirements and minimum standards for the measurement of gas by the methods authorized in 43 CFR 3162.7-3, i.e., measurement by orifice meter or other methods acceptable to the authorized officer. Proper gas measurement ensures that the Federal Government, the general public, State governments which share in the proceeds, and Indian mineral owners receive the royalties due, as specified in the governing oil and gas leases.

Another purpose of this Order is to establish abatement periods for corrective action when noncompliance with the minimum standards is detected. The assessments and penalties that will be imposed as a result of noncompliance and/or failure to correct the noncompliance within the specified abatement period.

This Order also serves as notice to any party cited for noncompliance that it may request from the authorized officer an extension of the abatement period for any violation, provided that the request for extension is applied for and granted prior to the expiration of the abatement period previously allowed.

C. *Scope.*

This Order is applicable to all Federal and Indian (except Osage) oil and gas leases. In addition, this Order also is applicable to all wells and facilities on State or privately owned mineral lands committed to

a unit or communitization agreement that affects Federal or Indian interests, notwithstanding any provision of a unit or communitization agreement to the contrary.

III. Definitions.

A. Authorized Officer means any employee of the Bureau of Land Management authorized to perform the duties described in 43 CFR Groups 3000 and 3100 (see 43 CFR 3000.0-5).

B. Business day means any day Monday through Friday, excluding Federal holidays.

C. Gas means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and that maintains a gaseous or rarefied state at standard temperature and pressure conditions (see 43 CFR 3000.0-5(a)).

D. INC means incident of noncompliance, which serves as a Notice of Violation under 43 CFR Subpart 3163.

E. Lessee means a person or entity holding record title in a lease issued by the United States (see 43 CFR 3160.0-5).

F. Major violation means noncompliance that causes or threatens immediate, substantial, and adverse impacts on public health and safety, the environment, production accountability, or royalty income (see 43 CFR 3160.0-5).

G. Minor violation means noncompliance that does not rise to the level of a major violation (see 43 CFR 3160.0-5).

H. Operating rights owner means a person or entity holding operating rights in a lease issued by the United States. A lessee also may be an operating rights owner if the operating rights in a lease or portion thereof have not been severed from record title.

I. Operator means any person or entity including but not limited to the lessee or operating rights owner, who has stated in writing to the authorized officer that it is responsible under the terms and conditions of the lease for the operations conducted on the leased lands or portion thereof.

J. Production unit means, for purposes of reporting production, a measurement unit of 1,000 standard cubic feet (Mcf).

K. Standard cubic foot" means the volume of gas contained in one cubic foot at a base pressure of 14.73 pounds per square inch absolute (psia), at a base temperature of 60 ·F or 519.67· Rankine (see 43 CFR 3162.7-3).

III. Requirements.

A. *Required Recordkeeping*. The operator shall keep all test data, meter reports, charts/recordings, or other similar records for 6 years from the date they were generated, or if involved in an audit or investigation, the records shall be maintained until the record holder is released by the Secretary from the obligation to maintain them. The authorized officer may request these records any time within this period. Records submitted shall include all the additional information used to compute the volumes so that computations may be verified.

B. General.

All gas production shall be measured in accordance with an authorized method of measurement. As set out in 43 CFR 3162.7-3, gas measurement authorized for gas produced from leases, units, unit

participating areas, and communitization agreements subject to the jurisdiction of the Bureau of Land Management, as such jurisdiction is defined in 43 CFR 3161.1, may be by orifice meter or other methods acceptable to the authorized officer. The requirements and minimum standards for gas measurement are set out below.

The requirements of this Order are based on the standards and specifications published by the American Gas Association (AGA), and officially designated as ANSI/API 2530 and AGA Committee Report No. 3, Second Edition, 1985, hereafter referred to AGA Committee Report No. 3. The AGA published standards and specifications are considered to be appropriate for proper gas measurement by both the Department of the Interior and the Oil and Gas Industry. The requirements set minimum standards necessary to promote conservation of natural resources and to ensure proper measurement of gas production for sales and allocation purposes, so that the Federal Government and Indian mineral owners will receive the royalties due under governing oil and gas leases.

All future sales and allocation facilities and sales or allocation facilities in existence on the effective date of this Order, unless covered by a valid variance, shall meet the minimum standards prescribed in this Order; provided, however, that all gas produced from or allocated to Federal and Indian (except Osage) oil and gas leases wherein the gas is measured through sales or allocation meters handling an average of 100 MCF per day or less on a monthly basis are exempt from the minimum standards in Sections III.C.1., C.2., and C.4., of this Order. The authorized officer may, where appropriate and necessary for proper measurement, work with the operators in designating consolidated gas sales and/or allocation meter stations.

Meter installations constructed in accordance with the AGA Report No. 3 standards in effect at that time shall not automatically be required to retrofit if the standards are revised. The Bureau will review any revised standards and, when necessary, will amend the Order through the rulemaking process.

The intent of these minimum standards is to ensure that when equipment malfunctions that could result in inaccurate measurement occur, proper corrective actions are taken, the authorized officer is notified, and an amended production report is submitted.

Failure to comply with these minimum standards will be considered as noncompliance and an incident of noncompliance (INC) will be issued. Operators who discover noncompliance with these minimum standards and take immediate corrective action will not be issued an INC. If the authorized officer or his representative is present when an operator discovers a malfunction or uses incorrect procedures as specified in this Order, an INC will be issued unless immediate corrective action is taken. Failure of equipment will not be considered a violation. However, the incidents of noncompliance that may result from equipment failure are considered violations and a partial list of such incidents follows:

- Failure to install equipment properly.
- Failure to repair or correct equipment malfunction properly or in a timely manner.
- Failure to submit report of alternate method of sales.
- Failure to submit amended production reports in a timely manner.
- Failure to adhere to the minimum standard procedures specified in this Order.
- The use of improper equipment, when discovered, will be considered as a violation and a formal INC will be issued.

The use of improper procedures will be considered a violation and when witnessed by the authorized officer or his representative, immediate corrective action will be required. In the event that proper procedures are then used as required by this Order, and prior to completing the operation, calibration, or proving, the violation will be considered as properly corrected. In this case, although the violation will be documented in the Bureau's files, no INC will be issued.

A major violation, as defined in this Order, will generally require an immediate shut-in of the metering device. However, where the non-recoupable loss is not significant or where damage to the resource is likely to occur if a shut-in is required, an abatement period of 24 hours may be given.

Where abatement is required "prior to sales or removal," action is required to be taken so that no gas can be removed beyond the measurement point until properly measured.

[54 FR 39528, Sept. 27, 1989]

C. Gas Measurement by Orifice Meter

The following are minimum standards for the measurement of natural gas using orifice meters:

1. The orifice to pipe diameter ratio (d/D), or the beta ratio, with meters using "flange taps," shall be between 0.15 and 0.70.

***Violation*:** **Major.**
***Corrective Action*:** **Install an orifice of such size that subsequent measurements will be within the appropriate beta ratio range. If changing the orifice causes the differential pressure to be recorded in the lower one-third of the chart, then either the meter tube or the differential element shall be changed, sizing the straight pipe sections in a manner that will provide subsequent measurement within the appropriate beta ratio range.**
***Abatement Period*:** **Prior to sales.**

2. The orifice to pipe diameter ratio (d/D), or the beta ratio, with meters using "pipe taps," shall be between 0.20 and 0.67.

***Violation*:** **Major.**
***Corrective Action*:** **Same as *A*.1. above.**
***Abatement Period*:** **Prior to sales.**

3. To obtain flow conditions as near optimum as possible and minimize the effects of turbulence in gas flow, the minimum length of straight pipe preceding and following an orifice and the use of straightening vanes, shall conform to those specifications detailed in Figures 4 through 9 of AGA Committee Report No. 3.

***Violation*:** **Major.**
***Corrective Action*:** **Install proper length of pipe where appropriate or install straightening vanes in accordance with appropriate AGA Report No. 3 specifications.**
***Abatement Period*:** **Prior to sales.**

4. The orifice shall be sized to make the pen that records the differential pressure operate in the outer ? of the chart range for the majority of the flowing period.

***Violation*:** **Minor.**

***Corrective Action*:** **Size orifice to meter tube so that the differential pen will deflect and record in the outer ? of the chart range and so that the measurement will be within the prescribed beta ratio range.**

***Abatement Period*:** **20 days.**

5. The static element shall be sized to make the pen that records the static pressure operate in the outer $^2/_3$ of the chart range for the majority of the flowing period.

***Violation*:** **Minor.**

***Corrective Action*:** **Size static element so as to cause static pen to record in the outer ? of the chart range.**

***Abatement Period*:** **20 days.**

6. There shall be no pipe connections between the orifice and the nearest pipe fitting other than the pressure taps and/or thermometer wells as specified in AGA Committee Report No. 3.

***Violation*:** **Major.**

***Corrective Action*:** **Replace entire length of pipe ahead of orifice meter with pipe of appropriate length and inside smoothness in accordance with AGA Committee Report No. 3.**

***Abatement Period*:** **Prior to sales.**

7. Continuous temperature recorders to measure the flowing gas temperature are required on all sales and allocation meters measuring 200 MCF per day or more on a monthly basis. All other sales or allocation meters shall have a continuous temperature recorder or an indicating thermometer to measure flowing gas temperature. Sales or allocation meters measuring between 200 and 500 MCF per day on a monthly basis may be considered for a variance by the authorized officer on a case-by-case basis.

***Violation*:** **Major.**

***Corrective Action*:** **Install temperature measuring device as required.**

***Abatement Period*:** **Prior to sales.**

8. The internal diameter of the meter tube and the orifice fittings shall be the same or, if not, within tolerance limits set by AGA.

***Violation*:** **Major.**

***Corrective Action*:** **Install properly sized meter tube.**

***Abatement Period*:** **Prior to sales.**

9. Meter tubes using flange taps or pipe taps shall have the pressure tap holes located as specified in AGA Committee Report No. 3.

***Violation*:** **Major.**

***Corrective Action*:** **Install pressure tap as specified.**

***Abatement Period*:** **Prior to sales.**

10. Orifice plates shall be removed from the flange or plate holder, and inspected for visual conformance with AGA standards and specifications, at least semi-annually, during testing of the accuracy of measuring equipment.

***Violation*:** **Minor.**

***Corrective Action*:** **Remove and inspect orifice plate for visual conformance with AGA standards and specifications.**

***Abatement Period*:** **No later than next meter calibration.**

11. Any plate or orifice that is determined not in conformance with AGA standards shall be replaced with one that is in conformance.

***Violation*:** **Major.**
***Corrective Action*:** **Replace orifice plate.**
***Abatement Period*:** **Prior to sales.**

12. All connections and fittings of the secondary element (including meter pots and meter manifolds) shall be leak tested prior to conducting tests of the meter's accuracy.

***Violation*:** **Minor.**
***Corrective Action*:** **Stop meter calibration and conduct leak test. When leaks are detected the meter setting shall be determined and recorded "as found", the meter calibrated, and readings recorded "as left".**
***Abatement Period*:** **Prior to completion of calibration.**

13. The appropriate "zero" positions of the static and differential meter pens shall be checked during each test of meter accuracy, and adjustments made if necessary.

***Violation*:** **Minor.**
***Corrective Action*:** **Stop meter calibration and record "as found" readings; calibrate meter and record readings "as left".**
***Abatement Period*:** **Prior to completion of calibration.**

14. The meter's differential pen arc, the ability of the differential pen to duplicate the test chart's time arc over the full range of the test chart, shall be checked during each testing of the meter's accuracy and adjustments made if necessary.

***Violation*:** **Minor.**
***Corrective Action*:** **Stop meter calibration and record "as found" readings; adjust differential pen arc, and record "as left" readings.**
***Abatement Period*:** **Prior to completion of calibration.**

15. Differential and static pen accuracy shall be tested for linearity at zero and 100 percent and at 1 point within the normal range of the differential and static recordings to assure accuracy.

***Violation*:** **Minor.**
***Corrective Action*:** **Adjust pens to assure accuracy.**
***Abatement Period*:** **Prior to completion of calibration.**

16. During testing of the meter accuracy, the static pen time lag shall be adjusted to ensure independent movement of the static pen in relation to the differential pen.

***Violation*:** **Minor.**
***Corrective Action*:** **Make appropriate adjustments.**
***Abatement Period*:** **Prior to completion of calibration.**

17. For all sales and allocation meters, the accuracy of the measuring equipment at the point of delivery or allocation shall be tested following initial meter installation or following repair and, if proven adequate, at least quarter thereafter unless a longer period is approved by the authorized

officer. All extensions of intervals between tests of meters shall be approved in writing by the authorized officer.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Test meter for accuracy.**
***Abatement Period*:**	**a. 24 hours for initial installation or following repairs.**
	b. 30 days for failure to calibrate meter quarterly.

18. At least a 24-hour notice shall be given to the authorized officer prior to conducting the tests and calibrations required by this order.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Notify authorized officer of scheduled meter and calibrations at least 24 hours prior to next tests and calibrations.**
***Abatement Period*:**	**Prior to next calibration.**

19. If the inaccuracy of the measuring equipment results in a volume calculation more than 2 percent in error, the volume measured since the last calibration be ***corected*** in addition to adjusting the meter to zero error. Also, the operator shall submit a corrected report adjusting the volumes of gas measured , and showing or discussing all the calculations made in correcting the volumes. The volume shall be corrected back to the time the inaccuracy occurred, if known. If this time is unknown, volumes shall be corrected for the last half of the period elapsed since the date of last calibration.

***Violation*:**	**Minor.**
***Corrective Action*:**	**a. adjust meter to zero error.**
	b. Submit corrected report.
***Abatement Period*:**	**a. Prior to completion of calibration.**
	b. 60 days.

20. If, for any reason, the measuring equipment is out of service or malfunctioning so that the quantity of gas delivered is not known, the volume delivered during this period shall be estimated using one of the following methods, in the listed order of priority:
    a. Record data on check metering equipment if used in lieu of main meter recordings. If check meters are not installed or are found to be recording inaccurately; then,
    b. Base corrections on the percentage error found during the instrument test. If that is not feasible; then,
    c. Estimate the quantity of gas run, based on deliveries made under similar conditions when the metering equipment was registering accurately.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Estimate volumes delivered during those periods cited using one or more of the approved methods identified in the order of priority and, when necessary, submit an amended report showing corrected volumes.**
***Abatement Period*:**	**60 days.**

21. Volumes of gas delivered shall be determined according to the flow equations specified in AGA

Committee Report No.3

***Violation*:**	**Minor.**
***Corrective Action*:**	**Recalculate all gas volumes not determined in accordance with flow equations specified in §6.3 of the AGA Committee Report No. 3.**
***Abatement Period*:**	**60 days.**

22. Unless otherwise established, the point of sales delivery and appropriate measurement shall be on the leasehold (or within the boundaries of the communitized area(CA) or unit participating area). Sales off the leasehold (or outside the CA or unit participating area) may be approved by the authorized officer.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Submit application to the authorized officer for approval of off lease (CA or unit participating area) measurement.**
***Abatement Period*:**	**30 days.**

23. The Btu content shall be ***determiend*** at least annually, unless otherwise required by the authorized officer, by means of (1) a recording calorimeter, (2) calculations based on a complete compositional analysis of the gas and the heating value of each constituent, in accordance with AGA Committee Report No. 3, or (3) any other method acceptable to the authorized officer. The authorized officer shall be apprised of the method used for each determination and be furnished with all needed analytical data or other documentation upon request. The Btu content most recently determined and used for royalty purposes shall be reported.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Determine Btu values and submit an amended report.**
***Abatement Period*:**	**30 days.**

24. All meter calibration report forms shall include the following information, if applicable, and shall be submitted to the authorized officer, upon request.
    a. Name of producer or seller.
    b. Name of purchaser.
    c. Federal or Indian lease number, communitization agreement number, or unit name or number and participating area identification.
    d. Station or meter number.
    e. Meter data (make, differential, static and temperature range, recording period).
    f. Type of connections (flange or pipe, upstream or downstream static connections).
    g. Orifice data (plate size and ID of meter tube).
    h. Base of data used on each chart or record (temperature, specific gravity, atmospheric pressure).
    i. Time and date of test.
    j. Instrument error(s) found and certification of corrections, and "found" and " left" data for all instruments;
    k. Signature and affiliation of tester and witness.
    l. Remarks.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Submit amended meter calibration report(s) to authorized officer, including all required information.**
***Abatement Period*:**	**15 days.**

25. For purposes of measurement and meter calibration, atmospheric pressure is that value defined in the buy/sell contract (normally assumed to be a constant value). In the absence of such a definition in the buy/sell contract, the atmospheric pressure shall be established through an actual measurement or assumed to be a constant value based on the elevation at the metering station.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Recalibrate gas meter and submit amended report indicating corrected volumes using the adjusted absolute zero or properly calculated pressure extensions.**
***Abatement Period*:**	**30 days.**

26. The method and frequency of determining specific gravity are normally defined in the buy/sell contract. Except when a continuous recording gravitometer is used, specific gravity may be determined at the time of an instrument check using a spot or cumulative gas sample, and is usually effective the first of the following month. The continuous recorder may be of a gravity balance or kinematic type. Also, specific gravity may be determined from a laboratory analysis of a spot or cumulative gas sample.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Determine specific gravity of gas by approved method and submit an amended report with a corrected volume.**
***Abatement Period*:**	**30 days.**

D. ***Gas Measurement by Other Methods or at Other Locations Acceptable to the Authorized Officer.***

Using any method of gas measurement other than by orifice meter at a location on the lease, unit, unit participating area, or communitized area requires the prior approval from the authorized officer pursuant to 43 CFR 3162.7-3. Other measurement methods include, but are not limited to:

- Turbine metering systems
- Positive displacement meter
- Pitot tube
- Orifice well tester
- Critical flow prover
- Gas-oil ratio

The requirements and minimum standards for gas measurement on the lease, unit, unit participating area, or communitized area by an alternate method of measurement, or at a location off the lease, unit, unit participating area, or communitized area by either an authorized or an alternate method of measurement, are as follows:

1. Measurement ***of*** the Lease, Unit, Unit Participating Area, or Communitized Area

    a. A written application for approval of an alternate gas measurement method shall be

submitted to the authorized officer and written approval obtained before any such alternate gas measurement method is installed or operated. Any operator requesting approval of any alternate gas sales measurement system shall submit performance data, actual field test results, or any other supporting data or evidence acceptable to the authorized officer, that will demonstrate that the proposed alternate gas sales measurement system will meet or exceed the objectives of the applicable minimum standards or does not adversely affect royalty income or production accountability.

***Violation*:**	**Major.**
***Corrective Action*:**	**Submit application and obtain approval.**
***Abatement Period*:**	**Prior to sales.**

[54 FR 39528, Sept. 27, 1989]

2. *Measurement at a Location Off the Lease, Unit, Unit Participating Area, or Communitized Area.*

   a. A written application for off-lease measurement shall be submitted to the authorized officer and written approval obtained before any such off-lease gas measurement facilities are installed or operated. The application for approval of ***off-lease measurement*** facilities at the desired off-lease location before approval will be granted, but no additional approval as to the gas sales measurement method is required, provided measurement is to be accomplished by an orifice meter pursuant to the requirements and minimum standards of this Order.

***Violation*:**	**Minor.**
***Corrective Action*:**	**Submit application and obtain approval.**
***Abatement Period*:**	**20 days.**

   b. If gas measurement is to be accomplished at a location off the lease, unit, unit participating area, or communitized area by any alternate measurement method (any method other than measurement by an orifice meter), then the application, in addition to justifying the location of the measurement facilities, shall also demonstrate the acceptability of the alternate measurement method pursuant to Sec. III.D.1. of this Order.

***Violation*:**	**Major.**
***Corrective Action*:**	**Submit application and obtain approval.**
***Abatement Period*:**	**Prior to sales.**

V. Variances from Minimum Standards.

An operator may request that the authorized officer approve a variance from any of the minimum standards prescribed in Section III. hereof. All such requests shall be submitted in writing to the appropriate authorized officer and shall provide information as to the circumstances warranting approval of the variance(s) requested and the proposed alternative means by which the related minimum standard(s) will be satisfied. The authorized officer, after considering all relevant factors, shall approve the requested variance(s) if it is determined that the proposed alternative(s) meets or exceeds the objectives of the applicable minimum standard(s), or will not adversely affect royalty income or production accountability.

In addition, approval may be given orally by the authorized officer before the operator initiates actions which require a variance from minimum standards. The oral request, if granted, shall be followed by a written request not later than the fifth business day following oral approval, and written approval will then be appropriate.

The authorized officer may also issue NTL's that establish modified standards and requirements for specific geographic areas of operations.

After notice to the operator the authorized officer may also require compliance with standards that exceed those contained in this Order whenever such additional requirements are necessary to achieve protection of the royalty income or production accountability. The rationale for any such additional requirements shall be documented in writing to the operator.

[54 FR 39528, Sept. 27, 1996]

Attachment.

I. Sections from 43 CFR Subparts 3163 and 3165 (not included with the Federal Register publication).

Bureau of Land Management - - 43 CFR 3160
Federal Register/Vol 55, No.226
Friday, November 23, 1990
Effective date: January 22, 1991

Return to the Onshore Oil and Gas Operations Information Menu

Table of Contents

I. Introduction.

- A. Authority.
- B. Purpose.
- C. Scope.

II. Definitions.

III. Requirements.

- A. Application., Approvals, and Reports.
- B. Public Protection.
- C. Drilling/Completion/Workover Requirements.
- D. Production Requirement.

IV. Variances from Requirements.

Attachments.

Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases; Onshore Oil and Gas Order No. 6, Hydrogen Sulfide Operations

I. Introduction

A. Authority

This Order is established pursuant to the authority granted to the Secretary of the Interior through various Federal and Indian mineral leasing statutes and the Federal Oil nd Gas Royalty Management Act of 1982. This authority has been delegated to the Bureau of Land Management and is implemented by the onshore oil and gas operating regulations contained in 43 CFR part 3160. More specifically, this Order implements and supplements the provisions of § 3162.1 General Requirements; § 3162.5-1(a)(c)(d) Environmental Obligations; § 3162.5-2(a) Control of Wells; and § 3162.5-3 Safety Precautions.

43 CFR 3164.1 specifically authorizes the Director, Bureau of Land Management, to issue Onshore Oil and Gas Orders, when necessary, to implement or supplements the operating regulations and provides that all such Orders shall be binding on the operator(s) of all Federal and Indian (except Osage Tribe) oil and gas leases which have been, or may hereafter be, issued. The authorized officer has the authority pursuant to 43 CFR 3161.2 to implement the provisions of this Order, require additional information, and approve any plans, applications, or variances required or allowed by the Order.

The authorized officer may, pursuant to 43 CFR 3164.1 and 3164.2, after notice and comment, issue onshore oil and gas orders when necessary to implement and supplement the regulations contained in 43 CFR 3160, and issue notices to lessees and operators (NTL's) when necessary to implement onshore oil and gas orders and the regulations. Pursuant to Section IV of this Order, the authorized officer may approve a variance from the requirements prescribed herein to accommodate special conditions on a State or areawide basis.

[57 FR 2039 and 2136, Jan. 17, 1992; 57 FR 5211, Feb. 12, 1992]

B. Purpose

The purpose of this Order is to protect public health and safety and those personnel essential to maintaining control of the well. This Order identifies the Bureau of Land Management's uniform national requirements and minimum standards of performance expected from operators when conducting operations involving oil or gas that is known or could reasonably be expected to contain hydrogen sulfide (H_2S) or which results in the emission of sulfur dioxide (SO_2) as a result of flaring H_2S. This Order also identifies the gravity of violations, probable corrective action(s), and normal abatement periods.

C. Scope

This Order is applicable to all onshore Federal and Indian (except Osage Tribe) oil and gas lease when drilling, completing, testing, reworking, producing, injecting, gathering, storing, or treating operations are being conducted in zones which are known or could reasonably be expected to contain H_2S or which, when flared, could produce SO_2, in such concentrations that upon release could constitute a hazard to human life. The requirements and minimum standards of this Order do not apply when operating in zones where H_2S is presently known not to be present or cannot reasonably be expected to be present in concentrations of 100 parts per million (ppm) or more in the gas stream.

The requirements and minimum standards in this Order do not relieve an operator from compliance with any applicable Federal, State, or local requirement(s) regarding H_2S or SO_2 which are more stringent.

[57 FR 2039, Jan. 17, 1992]

II. Definitions

A. Authorized officer means any employee of the Bureau of Land Management authorized to perform the duties described in 43 CFR Groups 3000 and 3100 (3000.0-5).

B. Christmas tree means an assembly of valves and fittings used to control production and provide access to the producing tubing string. The assembly includes all equipment above the tubinghead top flange.

C. Dispersion technique means a mathematical representation of the physical and chemical transportation, dilution, nd transformation of H_2S gas emitted into the atmosphere.

D. Escape rate means that the maximum volume (Q) used as the escape rate in determining the radius of exposure shall be that specified below, as applicable:

1. For a production facility, the escape rate shall be calculated using the maximum daily rate of gas produced through that facility or the best estimate thereof:

2. For gas wells, the escape rate shall be calculated by using the current daily absolute openflow rate against atmospheric pressure;

3. For oil wells, the escape rate shall be calculated by multiplying the producing gas/oil ratio by the maximum daily production rate or best estimate thereof;

4. For a well being drilled in a developed area, the escape rate may be determined by using the offset wells completed in the interval(s) in question.

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

F. Exploratory well means any drilled beyond the known producing limits of a pool.

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

H. H_2S Drilling Operations Plan means a written plan which provides for safety of essential personnel and for maintaining control of the well with regard to H_2S and SO_2.

I. Lessee mean. a person or entity holding record title in a lease issued by the United States (3160.0-5).

J. Major violation means compliance which causes or threatens immediate. substantial, and adverse impacts on public health and safety, the environment, production accountability, or royalty income (3160.0-5).

K. Minor violation means noncompliance which does not rise to the level of a major violation (3160.0-5).

L. Oil well means well for which the energy equivalent of the gas produced exceeds the energy equivalent of the gas produced, including the entrained liquid hydrocarbons.

M. Operating rights owner means a person or entity holding operating rights in a lease issued by

the United States. A lessee may also be an operating rights owner if the operating rights in a lease or portion thereof have not been severed from record title (3160.0-5).

N. Operator means any person or entity including but not limited to the lessee or operating rights owner who has stated in writing to the authorized office, that he/she is responsible under the terms of the lease for the operations conducted on the leased lands or a portion thereof (3160.0-5).

0. Potentially hazardous volume means a volume of gas of such H_2S concentration and flow rate that it may result in radius of exposure-calculated ambient concentrations of 100 ppm H_2S at 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 500 ppm H_2S at any Federal, State, County or municipal road or highway.

P. Production facilities means any wellhead, flowline, piping, treating, or separating equipment, water disposal pits, processing plant or combination thereof prior to the approved measurement point for any lease, communitization agreement, or unit participating area.

Q. Prompt Correction means immediate correction of violations, with operation suspended if required at the discretion of the authorized officer.

R. Public Protection Plan means a written plan which provides for the safety of the potentially affected public with regard to H_2S and SO_2.

S. Radius of exposure means the calculation resulting from using the following Pasquill-Gifford derived equation, or by such other method(s) s may be approved by the authorized officer:

1. For determining the 100 ppm radius of exposure where the H_2S concentration in the gas stream is less than 10 percent:

$$X= [1.589)(H_2S \text{ concentration})(Q)]^{(0.625)} \text{ or}$$

2. For determining the 500 ppm radius of exposure where the H_2S concentration in the gas stream is less than 10 percent:

$$X=[(0.4546)(H_2S \text{ concentration})(Q)]^{(0.6258)}$$

Where:

X= radius of exposure in feet:
H_2S Concentration = decimal equivalent of the mole or volume fractions of H_2S 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 psia and 60°F).

3. For determining the 100 ppm or the 500 ppm radius of exposure in gas streams containing H_2S concentrations of 10 percent or greater, a dispersion technique that takes into account representative wind speed, direction, atmospheric stability, complex terrain, and other dispersion features shall be utilized. Such techniques may include, but shall not be limited to one of a series of computer models outlined in the Environmental Protection Agency's "Guidelines on Air Quality Models(EPA-450/2-78-027R)."

4. Where multiple H_2S sources (i.e., wells, treatment equipment, flowlines, etc.) are present, the operator may elect to utilize a radius of exposure which covers a larger area than would be calculated using radius of exposure formula for each component part of the drilling/completion/workover/ production system.

5. For a well being drilled in an area where insufficient data exits, to calculate a radius of exposure, but where H_2S could reasonably be expected to be present in concentrations 3,000 feet shall be assumed.

T. Zones known to contain H_2S means geological formation in a field where prior drilling, logging, coring, testing, or producing operations have confirmed that H_2S-bearing zones will be encountered that contain 100 ppm or more of H_2S in the gas stream.

U. Zones known not to contain H_2S means geological fractions, in field where prior drilling, logging, coring, testing, or producing operations have confirmed the absence of H_2S-bearing zones that contain 100 ppm or more of H_2S in the gas stream.

V. Zones which can reasonably be expected to contain H_2S 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 not potential for 100 ppm or more of H_2S in the gas stream.

W. Zones which cannot reasonably be expected to contain H_2S 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 not a potential for 100 ppm or of H_2S in the gas stream.

[57 FR 2039 and 2136, Jan. 17, 1992]

III. Requirements

The requirements of this Order are the minimum acceptable standards with regard to H_2S operations. This Order also classifies violations typically major or minor for purposes of the assessment and penalty provisions of 43 CFR part 3163, specifies the corrective action which will probably be required, and established the normal abatement period following detection of a major or minor violation in which the violator may take such corrective action without incurring an assessment. However, the authorized officer may, after consideration of all appropriate factors, require reasonable and necessary standards, corrective actions and abatement periods that may in some cases, vary from those specified in this Order that he/she determines to be necessary to protect public health and safety, the environment, or to maintain control of a well to prevent waste of Federal mineral resources. To the extent such standards, actions or abatement periods differ from those set forth in this Order, they may be subject to review pursuant to 43 CFR 3165.3.

[57 FR 2039, Jan. 17, 1992]

A. Applications, Approvals, and Reports

1. Drilling

For proposed drilling operations were formations will be penetrated which have zones known to contain or which could reasonably be expected to contain concentrations of H_2S of 100 ppm in the gas stream, the H_2S Drilling Operation Plan and if the applicability criteria in section III.B.1 are met, a Public Protection Plan as outlined in section III.B.2.b, shall be submitted as part of the Application for Permit to Dill (APD) (refer to Oil nd Gas Order No. 1). In cases where multiple filings are being made with a single drilling plan, a single H_2S Drilling Operations Plan and, if applicable, a single Public Protection Plan may be submitted for the lease, communitization agreement, unit or field in accordance with Order No. 1. Failure to submit either the H_2S Drilling Operations Plan or the Public Protection Plan when required by this Order shall result in an incomplete APD pursuant to 43 CFR 3162.3-1.

The H_2S Drilling Operations Plan shall fully describe the manner in which the requirements and minimum standards in section III.C, shall be met and implemented. As required by this Order (section III.C.), the following must be submitted in the H_2S Drilling Operations Plan:

a. Statement that all personnel shall receive proper H_2S training in accordance, with section III.C.3.a.

b. A legible well site diagram of accurate scale (may be included as part of the Well Site Layout as required by Onshore Order NO. 1) showing the following:

i. Drill rig orientation
ii. Prevailing wind direction
iii. Terrain of surrounding area
iv. Location of all briefing areas (designate primary briefing area)
v. Location of access road(s) (including secondary egress)
vi. Location of flare line(s) and pit(s)
vii. Location of caution and/or danger signs
viii. Location of wind direction indicators

c. As required by this Order, a complete description of the following H_2S safety equipment/systems:

i. Well control equipment.

-Flare line(s) and means of ignition
-Remote controlled choke
-Flare gun/flares
-Mud-gas separator and rotating head (if exploratory well)

ii. Protective equipment for essential personnel.

-Location, type, storage and maintenance of all working and escape breathing apparatus
-Means of communication when using protective breathing apparatus iii. H_2S detectionand monitoring equipment.
-H_2S sensors and associated audible/visual alarm(s)

-Portable H_2S and SO_2 monitor(s)

iv. Visual warning systems.

-Wind direction indicators
-Caution/danger sign(s) and flag(s)

v. Mud program.

-Mud system and additives
-Mud degassing system

vi. Metallurgy.

-Metallurgical properties of all tubular goods and well control equipment which could be exposed to H_2S (section III.C.4.c.)

vii. Means of communication from wellsite.

d. Plans for well testing.

[57 FR 2039, Jan. 17, 1992]

2. Production

a. For each existing production facility having an H_2S concentration of 100 ppm or more in the gas stream, the operator shall calculate and submit the calculations to the authorized officer within 180 days of the effective date of this Order, the 100 and, if applicable, the 500 ppm radii of exposure for all facilities to determine if the applicability criteria section III.B.1. of this order are met. Radii of exposure calculations shall not be required for oil or water flowlines. Further, if any of the applicability criteria (section III.B.1.) are met, the operator shall submit a complete Public Protection Plan which meets the requirements of section III.B.2.b. to the authorized officer within 1 year of the effective date of this Order. For production facilities constructed after the effective date of this Order and meeting the above minimum concentration (100 ppm in gas stream), the operator shall report the radii of exposure calculations, and if the applicability criteria (section III.B.1) are met, submit a complete Public Protection Plan (section III.B.2.b.) to the authorized officer within 60 days after completion of production facilities.

Violation: Minor for failure to submit required information.
Corrective Action: Submit required information (radii of exposure and/or Complete Public Protection Plan).
Normal Abatement Period: 20 to 40 days.

b. The operator shall initially test the H_2S concentration of the gas stream for each well or production facility and shall make the results available to the authorized officer, upon request.

Violation: Minor.
Corrective Action: Test gas from well or production facility.
Normal Abatement Period: 20 to 40 days.

c. If operational or production alterations result in a 5% or more increase in the H_2S concentration (i.e., well recompletion, increased GOR's) or the radius of exposure as calculated under sections III.A.2.a., notification of such changes shall be submitted to the authorized officer within 60 days after identification of the change.

Violation: Minor.

Corrective Action: Submit information to authorized officer.
Normal Abatement Period: 20 to 40 days.

[57 FR 2039, Jan. 17, 1992]

3. Plans and Reports

a. H_2S Drilling Operations Plan(s) or Public Protection Plan(s) shall be reviewed by the operator on an annual basis and a copy of any necessary revisions shall be submitted to the authorized officer upon request.

Violation: Minor.
Corrective Action: Submit information to authorized officer.
Normal Abatement Period: 20 to 40 days.

b. Any release of a potentially hazardous volume of H_2S shall be reported to the authorized officer as soon as practicable, but no later than 24 hours following identification of the release.

Violation: Minor.
Corrective Action: Report undesirable event to the authorized officer.
Normal Abatement Period: 24 hours.

B. Public Protection

1. Applicability Criteria

For both drilling/completion/ workover and production operations, the H_2S radius of exposure shall be determined on all wells and production facilities subject to this Order. A Public Protection Plan (Section III.B.2) shall be required when any of the following conditions apply: a. The 100 ppm radius of exposure is greater than 50 feet and includes any occupiedresidence, school, church, park, school bus stop, place of business, or other areas where the public could reasonably be expected to frequent; b. The 500 ppm radius of exposure is greater than 50 feet and includes any part of a Federal,State, County, or municipal road or highway owned and principally maintained for public use; or c. The 100 ppm radius of exposure is equal to or greater than 3,000 feet where facilities orroads are principally maintained for public use. Additional specific requirements for drilling/completion/workover or producing operations are described in sections III.C. and III.D. of this Order, respectively. [57 FR 2039, Jan. 17, 1992]

2. Public Protection Plan

a. Plan Submission/Implementation/Availability

i. A Public Protection Plan providing details of actions to alert and protect the public in the event of a release of a potentially hazardous volume of H_2S shall be submitted to the authorized officer as required by Section III.A.1. for drilling or by section III.A.2.a. for producing operations when the applicability criteria established in section III.B.1. of this Order are met. One plan may be submitted for each well, lease, communitization agreement, unit, or field, at the operator's discretion. The Public Protection Plan shall be maintained and updated, in accordance with section III.A.3.a.

ii. The Public Protection Plan shall be activated immediately upon detection of release of a potentially hazardous volume of H_2S.

Violation: Major.
Corrective Action: Immediate implementation of the public protection plan.
Normal Abatement Period: Prompt correction required.

iii. A copy of the Public Protection Plan shall be available at the drilling/completion site for such wells and at the facility, field office, or with the pumper, as appropriate, for producing wells, facilities, and during workover operations.

Violation: Minor.
Corrective Action: Make copy of Plan available.
Normal Abatement Period: 24 hours (drilling/completion/workover), 5 to 7 days (production).

b. Plan Content.

i. The details of the Public Protection Plan may vary according to the site specific characteristics (concentration, volume, terrain, etc.) expected to be encountered and the number and proximity of the population potentially at risk. In the areas of high population density or in other special cases, the authorized officer my require more stringent plans to be developed. These may include public education seminars, mass alert systems, and use of

sirens, telephone, radio, and television depending on the number of people at risk and their location with respect to the well site.

ii. The Public Protection Plan shall include:

(a) The responsibilities and duties of key personnel, and institutions for alerting the public and requesting assistance;

(b) A list of names and telephone numbers of residents, those responsible for safety of public roadways, and individuals responsible for the safety of occupants of buildings within the 100 ppm radius of exposure (e.g. school principals, building managers, etc.) as defined by the applicability criteria in section III.B.1. The operator shall ensure that those who are at the greatest risk are notified first. The Plan shall define when and how people are to be notified in case an H_2S emergency;

(c) A telephone call list (including telephone numbers) for requesting assistance from law enforcement, fire department, and medical personnel and Federal and State regulatory agencies, as required. Necessary information to be communicated and the emergency responses that may be required shall be listed. This information shall be based on previous contacts with these organizations;

(d) A legible 100 ppm (or 3,000 feet, if conditions unknown) radius plat of all private and public dwellings, schools, roads, recreational areas, and other areas where the public might reasonably be expected to frequent;

(e) Advance briefings, by visit, meeting or letter to the people identified in section III.B.2-b.ii(b), including:

-Hazards of H_2S and SO_2;
-Necessity for an emergency action plan;
-Possible sources of H_2S and $S0_2$
-Instructions for reporting a leak to the operator;
-The manner in which the public shall be notified of an emergency; and
-Steps to be taken in case of an emergency, including evacuation of any people;

(f) Guidelines for the ignition of the H_2S bearing gas. The Plan shall designate the title or position of the person(s) who has the authority to ignite the escaping gas and define when, how, and by whom the gas is the be ignited;

(g) Additional measures necessary following the release of H_2S and SO_2 until there lease is contained are as follows:

-Monitoring of H_2S and SO_2 levels and wind direction in the affected area;
-Maintenance of site security and access control;
-Other necessary measures as required by the authorized officer; and

(h) For production facilities, a description of the detection system(s) utilized to determine the concentration of H_2S released.

C. Drilling/Completion/Workover Requirements

1. General

a. A copy of the H_2S Drilling, Operations Plan shall be available during operations at the wellsite, beginning when the operation is subject to the terms of this Order (i.e., 3 days or 500 feet of known or probable H_2S zone).

Violation: Minor.
Corrective Action: Make copy of Plan available.
Normal Abatement Period: 24 hours.

b. Initial H2S training shall be completed and all H_2S related safety equipment shall be installed, tested, and operational when drilling reaches a depth of 500 feet above, or 3 days prior to penetrating (whichever comes first) the first zone containing or reasonably expected to contain H_2S. A specific H_2S operations for completion and workover operation will not be required for approval. For completion and workover operations, all required equipment and warning systems shall be operational and training completed prior to commencing operations.

Violation: Major.
Corrective Action: Implement H_2S operational requirements, such as completion of training and/or installation, repair, or replacement of equipment, as necessary.
Normal Abatement period: Prompt correction required.

c. If H_2S was not anticipated at the time the APD was approved, but is encountered in excess of 100 ppm in the gas stream, the following measures shall be taken:

i. the operator shall immediately ensure control of the well, suspend drilling ahead operations (unless detrimental to well control), and obtain materials and safety equipment to bring the operations into compliance with of applicable provisions of this Order.

Violation: Minor.
Corrective Action: Implement H_2S operational requirements, as applicable.
Normal Abatement Period: Prompt correction required.

ii. The operator shall notify the authorized officer of the event and the mitigating steps that have or are being taken as soon as possible, but no later than the next business day. If said notification is subsequent to actual resumption of drilling operations, the operator, shall notify the authorized officer of the date that drilling was resumed no later than the next business day.

Violation: Minor.
Corrective Action: Notify authorized
Normal Abatement Period: 24 hours.

iii. It is the operator's responsibility to ensure that the applicable requirements of this Order have been met prior to the resumption of drilling ahead operations. Drilling ahead operations will not be suspended pending receipt of a written H_2S Drilling Operations Plan(s) and, if necessary, Public Protection Plan(s) provided that complete copies of the applicable Plan(s) are filed with the authorized officer for approval within 5 business days following resumption of drilling ahead operations.

Violation: Minor.
Corrective Action: Submit plans to authorized officer.
Normal Abatement Period: 5 days.

[57 FR 2039, Jan. 17, 1992]

2. Locations.

a. Where practical, 2 roads shall be established, 1 at each end of the location, or as dictated by prevailing winds and terrain. If an alternate road is not practical, a clearly marked foot path shall be provided to a safe area. The purpose of such an alternate escape route is only to provide a means of egress to a safe area.

Violation: Minor.
Corrective Action: Designate or establish an alternate escape route.
Normal Abatement Period: 24 hours.

b. The alternate escape route shall be kept passable at all times.

Violation: Minor.
Corrective Action: Make alternate escape route passable.
Normal Abatement Period: 24 hours.

c. For workovers, a secondary means of egress shall be designated.

Violation: Minor.
Corrective Action: Designate secondary means of egress.
Normal Abatement Period: 24 hours.

3. Personnel Protection

a. Training Program. The operator shall ensure that all personnel who will be working at the wellsite will be properly trained in H_2S drilling and contingency procedures in accordance with the general training requirements outlined in the American Petroleum Institute's (API) Recommended Practice (RP) 49 (April 15, 1987 or subsequent editions) for Safe Drilling of Wells Containing Hydrogen Sulfide, Section 2. The operator also shall ensure that the training will be accomplished prior to a well coming under the terms of this Order (i.e., 3 days or 500 feet of known or probable H_2S zone). In addition to the requirements of API RP-49, a minimum of an initial training sessionand weekly H_2S and well control drills for all personnel in each working crew shall be conducted. The initial training session for each well shall include a review of the site specific Drilling Operations Plan and, if applicable, the Public Protection Plan.

Violation: Major.
Corrective Action: Train all personnel and conduct drills.
Normal Abatement Period: Prompt correction required.

i. All training sessions and drills shall be recorded on the driller's log or its equivalent.

Violation: Minor.
Corrective Action: Record on driller's log or equivalent.
Normal Abatement Period: 24 hours.

ii. For drilling/completion/workover wells, at least 2 briefing areas shall be designated for assembly of personnel during emergency conditions, located a minimum of 150 feet from the well bore and 1 of the briefing areas shall be upwind of the well at all times. The

briefing area located most normally upwind shall be designated as the "Primary Briefing Area."

Violation: Major.
Corrective Action: Designate briefing areas.
Normal Abatement Period: 24 hours.

iii. One person (by job title) shall be designated and identified to all on-site personnel as the person primarily responsible for the overall operation of the on-site safety and training programs.

Violation: Minor.
Corrective Action: Designate safety responsibilities.
Normal Abatement Period: 24 hours.

[57 FR 2039, Jan. 17, 1992]

b. Protective Equipment:

i. The operator shall ensure that proper respiratory protection equipment program is implemented, in accordance with the current American National Standards institute (ANSI) Standard Z.88.2-1980 "Practices for Respiratory Protection." Proper protective breathing apparatus shall be readily accessible to all essential personnel on a drilling/completion/workover site. Escape and pressure-demand type working equipment shall be provided for essential personnel in the H_2S environment tomaintain or regain control of the well. For pressure-demand type working equipment those essential personnel shall be able to obtain a continuous seal to the face with the equipment. The operator shall ensure that service companies have the proper respiratory protection equipment when called to the location. Lightweight, escape-type, self-contained breathing apparatus with a minimum of 5-minute rated supply shall be readily accessible at a location for the derrickman and at any other location(s) where escape from an H_2S contaminated atmosphere could be difficult.

Violation: Major.
Correction Action: Acquire, repair, or replace equipment, as necessary.
Normal Abatement Period: Prompt correction required.

ii. Storage and maintenance of protective breathing apparatus shall be planned to ensure that at least 1 working apparatus per person is readily available for all essential personnel.

Violation: Major.
Corrective Action: Acquire or rearrange equipment, as necessary.
Normal Abatement Period: Prompt correction required.

iii. The following additional safety equipment shall be available for use:

(a) Effective means of communication when using protective breathing apparatus;
(b) Flare gun and flares to ignite the well;
(c) Telephone, radio, mobile phone, or any other device that provides communication from a safe area at the rig location, where practical.

Violation: Major.
Corrective Action: Acquire, repair, or replace equipment.
Normal Abatement Period: 24 hours.

[57 FR 2136, Jan. 17, 1992]

c. H_2S Detection and Monitoring Equipment.

i. Each drilling/completion site hall have an H_2S detection and monitoring system that automatically activates visible and audible alarms when the ambient air concentration of H_2S reaches the threshold limits of 10 and 15 ppm in air, respectively. The sensors shall have a rapid response time and be capable of sensing a minimum of 10 ppm of H_2S in ambient air, with at least 3 sensing points located at the shale shaker, rig floor, and bell nipple for a drilling site and the cellar, rig floor, and circulating tanks or shale shaker for a completion site. The detection system shall be installed, calibrated, tested, and maintained in accordance with the manufacturer's recommendations.

Violation: Major.
Corrective Action: Install, repair, calibrate, or replace equipment, as necessary.
Normal Abatement Period: Prompt correction required.

ii. All tests of the H_2S monitoring system shall be recorded on the driller's log or its equivalent.

Violation: Minor.
Corrective Action: Record on driller's log or equivalent.
Normal Abatement Period: 24 hours.

iii. For workover operations, 1 operational sensing point shall be located as close to the wellbore as practical. Additional sensing points may be necessary for large and/or long-term operations.

Violation: Major.
Corrective Action: Install, repair. calibrate, or replace equipment, as necessary.
Normal Abatement Period: Prompt correction required.

[57 FR 2039, Jan. 17, 1992]

d. Visible Warning System.

i. Equipment to indicate wind direction at times shall be installed at prominent locations and shall be visible at all times during drilling operations. At least 2 such wind direction indicators (i.e., windsocks, windvanes, pennants with tail streamers, etc.) shall be located at separate elevations (i.e., near ground level, rig floor, and/or treetop height). At least 1 wind direction indicator shall be clearly visible from all principal working areas at all times so that wind direction can be easily determined. For completion/workover operations, 1 wind direction indicator shall suffice, provided it is visible from all principal working areas on the location. In addition, a wind direction indicator at each of the 2 briefing areas shall be provided if the wind direction indicator(s) previously required in this paragraph are not visible from the briefing areas.

Violation: Minor.
Corrective Action: Install, repair, move, or replace wind direction indicators), as necessary.
Normal Abatement Period: 24 hours.

ii. At any time when the terms of this Order are in effect, operational danger or caution

sign(s) shall be displayed along all controlled accesses to the site.

Violation: Minor.
Corrective Action: Erect appropriate signs.
Normal Abatement Period: 24 hours.

iii. Each sign shall be painted a high visibility red, black and white, or yellow with black lettering.

Violation: Minor.
Corrective Action: Replace or alter sign, as necessary.
Normal Abatement Period: 5 to 20 days.

iv. The sign(s) shall be legible and large enough to be read by all persons entering the well site and be placed a minimum of 200 feet but no more than 500 feet from the well site and at a location which allows vehicles to turn around at a safe distance prior to reaching the site.

Violation: Major.
Corrective Action: Replace, alter, or move sign, as necessary.
Normal Abatement Period: 24 hours.

v. The sign(s) shall read:
DANGER - POISON GAS - HYDROGEN SULFIDE

and in smaller lettering:
Do Not Approach If Red Flag is Flying or equivalent language if approved by the authorized officer.

Where appropriate, bilingual or multitilingual danger sign(s) shall be used.

Violation: Minor.
Corrective Action: Replace or alter sign, as necessary.
Normal Abatement Period: 5 to 20 days.

vi. All sign(s) and, when appropriate, flag(s) shall be visible to all personnel approaching the location under normal lighting and weather conditions.

Violation: Major.
Corrective Action: Erect or move sign(s) and/or flag(s), as necessary.
Normal Abatement Period: 24 hours.

vii. When H_2S is detected in excess of 10 ppm at any detection point, red flag(s) shall be displayed.

Violation: Major.
Corrective Action: Display red flag.
Normal Abatement Period: Prompt correction required.

[57 FR 2039, Jan. 17, 1992]

e. Warning System Response. When H_2S is detected in excess of 10 ppm at any detection point, all non-essential personnel shall be moved to a safe area and essential personnel (i.e., those necessary to maintain control of the well) shall wear pressure-demand type protective breathing apparatus. Once accomplished, operations may proceed.

Violation: Major.

Corrective Action: Move non-essential personnel to safe area and mask-up essential personnel.
Normal Abatement Period: Prompt correction required.

[57 FR 2039, Jan.17, 1992]

4. Operating Procedures and Equipment

a. General/Operations. Drilling/ completion/workover operations in H_2S areas shall be subject to the following requirements:

i. If zones containing in excess of 100 ppm of H_2S gas are encountered while drilling with air, gas, mist, other nonmud circulating mediums for aerated mud, the well shall be killed with a water- or oil-based mud and mud shall be used thereafter as the circulating medium for continued drilling.

Violation: Major.
Corrective Action: Convert to appropriate fluid medium.
Normal Abatement Period: Prompt correction required.

ii. A flare system shall be designed and installed to safely gather and burn H_2S-bearing gas.

Violation: Major.
Corrective Action: Install flare system.
Normal Abatement Period: Prompt correction required.

iii. Flare lines shall be located as far from the operating site as feasible and in a manner to compensate for wind changes. The flare line(s) mouth(s) shall be located not less than 150 feet from the wellbore unless other-wise approved by the authorized officer. Flare lines shall be straight unless targeted with running tees.

Violation: Minor.
Corrective Action: Adjust flare line(s) as necessary.
Normal Abatement Period: 24 hours.

iv. The flare system shall be equipped with a suitable and safe means of ignition.

Violation: Major.
Corrective Action: Install, repair, or replace equipment, as necessary.
Normal Abatement Period: 24 hours.

v. Where noncombustible gas is to be flared, the system shall be provided supplemental fuel to maintain ignition.

Violation: Major.
Corrective Action: Acquire supplemental fuel.
Normal Abatement Period: 24 hours.

vi. At any wellsite where SO_2, may be released as a result of flaring of H_2S during drilling, completion, or workover operations, the operator shall make SO_2, portable detection equipment available for checking the SO_2 level in the flare impact area.

Violation: Minor.
Corrective Action: Acquire, repair, or replace equipment as necessary.
Normal Abatement Period: 24 hours to 3 days.

vii. If the flare impact area reaches a sustained ambient threshold level of 2 ppm or greater of SO_2 in air and includes any occupied residence, school, church. park, or place of business, or other area where the public could reasonably be expected to frequent, the Public Protection Plan shall be implemented.

Violation: Major.
Corrective Action: Contain SO_2 release and/or implement Public Protection Plan.
Normal Abatement Period: Prompt correction required.

viii. A remote controlled choke shall be installed for all H_2S drilling and, where feasible, for completion operations. A remote controlled valve may be used in lieu of this requirement for completion operations.

Violation: Major.
Corrective Action: Install, repair, or replace equipment, as necessary.
Normal Abatement Period: Prompt correction required.

ix. Mud-gas separators and rotating heads shall be installed and operable for all exploratory wells.

Violation: Major.
Corrective Action: Install, repair, or replace equipment, as necessary.
Normal Abatement Period: Prompt correction required.

[57 FR 2039, Jan. 17, 1992]

b. Mud Program.

i. A pH of 10 or above in a fresh water-base mud system shall be maintained to control corrosion, H_2S gas returns to surface, and minimize sulfide stress cracking and embrittlement unless other formation conditions or mud types justify to the authorized officer a lesser pH level is necessary.

Violation: Major.
Corrective Action: Adjust pH.
Normal Abatement Period: Prompt correction required.

ii. Drilling mud containing H_2S gas shall be degassed in accordance with API's RP-49,§ 5.14, at an optimum location for the rig configuration. These gases shall be piped into the flare system.

Violation: Major.
Corrective Action: Install, repair, or replace equipment. as necessary.
Normal Abatement Period: 24 hours.

iii. Sufficient quantities of mud additives shall be maintained on location to scavenge and/or neutralize H_2S where formation pressures are unknown.

Violation: Major.
Normal Abatement Period: 24 hours.
[57 FR 2039, Jan. 17, 1992]

c. Metallurgical Equipment. All equipment that has the potential to be exposed to H_2S shall be suitable for H_2S service. Equipment which shall meet these metal lurgical standards include the

drill string, casing, wellhead, blowout preventer assembly, casing head and spool, rotating head, kill lines, choke, choke manifold and lines, valves, mud-gas separators, drill-stem test tools, test units, tubing, flanges, and other related equipment.

To minimize stress corrosion cracking and/or H_2S embrittlement, the equipment shall be constructed of material whose metal lurgical properties are chosen with consideration for both an H_2S working environment and the anticipated stress. The metal lurgical properties of the materials used shall conform to the current National Association of Corrosion Engineers (NACE) Standard MR 0175-90, *Material Requirement, Sulfide Stress Cracking Resistant Metallic Material for Oil Field Equipment.* These metallurgical properties include the grade of steel, the processing method (rolled, normalized, tempered, and/or quenched), and the resulting strength properties. The working environment considerations include the H_2S concentrations the well fluid pH, and the wellbore pressures and temperatures. Elastomers, packing, and similar inner parts exposed to H_2S shall be resistant at the maximum anticipated temperature of exposure. The manufacturer's verification of design for use in an H_2S environment shall be sufficient verification of suitable service in accordance with this Order.

Violation: Major.
Corrective Action: Install, repair, or replace appropriate equipment, as necessary.
Normal Abatement Period: Prompt correction required.

[57 FR 2039, Jan. 17, 1992]

d. Well Testing in an H_2S Environment. Testing shall be performed with a minimum number of personnel in the immediate vicinity which are necessary to safely and adequately operate the test equipment. Except with prior approval by the authorized officer, the drill-stem testing of H_2S zones shall be conducted only during daylight hours and formation fluids shall not be flowed to the surface (closed chamber only).

Violation: Major
Corrective Action: Terminate the well test.
Normal Abatement Period: Prompt correction required.

D. Production Requirements

1. General

a. All existing production facilities which do not currently meet the requirements and minimum standards set forth in this section shall be brought into conformance within 1 year after the effective date of this Order. All existing equipment that is in a safe working condition as of the effective date of this Order is specifically exempt from the metallurgical requirements prescribed in section III D.3.g.

Violation: Minor.
Corrective Action: Bring facility into compliance.
Normal Abatement Period: 60 days.

b. Production facilities constructed after the effective date of this Order shall be designed, constructed, and operated to meet the requirements and minimum standards set forth in this section. Any variations from the standards or established time frames shall be approved by the authorized officer in accordance with the provisions of section IV, of this Order. Except for storage tanks, a determination of the radius of exposure for all production facilities shall be made in the manner prescribed in section II.S. of this Order.

Violation: Minor.
Corrective Action: Bring facility into compliance.
Normal Abatement Period: 60 days.

c. At any production facility or storage tank(s) where the sustained ambient H2S concentration is in excess of 10 ppm at 50 feet from the production facility or storage tank(s) as measured at ground level under calm (1 mph) conditions, the operator shall collect or reduce vapors from the system and they shall be sold, beneficially used, reinjected, or flared provided terrain and conditions permit.

Violation: Major, if the authorized officer determines that a health or safety problem to the public is imminent, otherwise minor.
Corrective Action: Bring facility into compliance.
Normal Abatement Period. 3 days for major, 30 days for minor.

[57 FR 2039, Jan. 17, 1992)

2. Storage Tanks.

Storage tanks containing produced fluids and utilized as part of a production operation and operated at or near atmospheric pressure, where the vapor accumulation has an H_2S concentration in excess of 500 ppm in the tank, shall be subject to the following:

a. No determination of a radius of exposure need be made for storage tanks.

b. All stairs/ladders leading to the top of storage tanks shall be chained and/or marked to restrict entry. For any storage, tank(s) which require fencing (Section III.D.2.f.), a danger sign posted at the gate(s) shall suffice in lieu of this requirement.

Violation. Minor.
Corrective Action: Chain or mark stair(s)/ladder(s) or post sign, as necessary.
Normal Abatement Period: 5 to 20 days.

c. A danger sign shall be posted on or within 50 feet of the storage tank(s) to alert the public of the

potential H_2S danger. For any storage tank(s) which require fencing (section III.D.2.f.), a danger sign posted at the locked gate(shall suffice in lieu of this requirement.

Violation: Minor.
Corrective Action: Post or move sign(s), as necessary.
Normal Abatement Period: 5 to 20 days.

d. The sign(s) shall be painted in high visibility red. black, and white. The sign(s) shall read:

DANGER POISON GAS HYDROGEN SULFIDE

or equivalent language if approved by the authorized officer. Where appropriate, bilingual or multilingual warning signs shall be used.

Violation: Minor.
Corrective Action: Post, move replace, or alter sign(s). as necessary.
Normal Abatement Period: 20 to 40 days.

e. At least 1 permanent wind direction indicator shall be installed so that wind direction can be easily determined at or approaching the storage tank(s).

Violation: Minor.
Corrective Action: Install, repair, or replace wind direction indicator, as necessary.
Normal Abatement Period: 20 to 40 days.

f. A minimum 5-foot chain-link, strand barbed wire, or comparable type fence and gate(s) that restrict(s) public access shall be required when storage tanks are located within 1/4 mile of or contained inside a city or incorporated limits of a town or within 1/4 mile of an occupied residence, school, church, park, playground, school bus stop, place of business, or where the public could reasonably be expected to frequent.

Violation. Minor.
Corrective Action: Install, repair, or replace fence and/or gate(s), as necessary.
Normal Abatement Period. 20 to 40 days.

[57 FR 2136, Jan. 17, 1992]

g. Gate(s), as required by section III.D.2.f. shall be locked when unattended by the operator.

Violation: Minor.
Corrective Action: Lock gate.
Normal Abatement Period: 24 hours.

3. Production Facilities

Production facilities containing 100 ppm or more of H_2S in the gas stream shall be subject to the following:

a. Danger signs as specified in section III.D.2.d. of this Order shall be posted on or within 50 feet of each production facility to alert the public of the potential H_2S danger. In the event the storage tanks and production facilities are located at the same site. 1 such danger sign shall suffice. Further, for any facilities which require fencing (section III.D.2.f.). 1 such danger sign at the gate(s) shall suffice in lieu of this requirement.

Violation: Minor.
Corrective Action: Post, move, or alter sign(s), as necessary.

Normal Abatement Period: 5 to 20 days.

b. Danger signs, as specified in section III.D.2.d. of this Order, shall be required for well flowlines and lease gathering lines that carry H_2S gas. Placement shall be where said lines cross public or lease roads. The signs shall be legible and shall contain sufficient additional information to permit a determination of the owner of the line.

Violation: Minor.
Corrective Action: Post, move, or alter sign(s), as necessary.
Normal Abatement Period: 5 to 20 days.

c. Fencing and gate(s). as specified in section III.D.2.f., shall be required when production facilities are located within 1/4 mile of or contained inside a city or incorporated limits of a town or within 1/4 mile of an occupied residence, school, church, park, playground, school bus stop, place of business, or any other area where the public could reasonably be expected to frequent. Flowlines are exempted from this additional fencing requirement.

Violation: Minor.
Corrective Action: Install, repair, or replace fence, and/or gate(s), as necessary.
Normal Abatement Period: 20 to 40 days.

[57 FR 2039, Jan. 17, 1992]

d. Gate(s), as required by section III.D.3.c. shall be locked when unattended by the operator.

Violation: Minor.
Corrective Action: Lock gate.
Normal Abatement Period: 24 hours.

e. Wind direction indicator(s) as specified in section III.D.2.e. of this Order shall be required. In the event the storage tanks and production facilities are located at the same site, 1 such indicator shall suffice. Flowlines are exempt from this requirement.

Violation: Minor.
Corrective Action: Install, repair, or replace wind direction indicator(s), as necessary.
Normal Abatement Period: 20 to 40 days.

f. All wells, unless produced by artificial lift, shall possess a secondary means of immediatewell control through the use of appropriate christmas tree and/or downhole completion equipment. Such equipment shall allow downhole accessibility (reentry) under pressure for permanent well control operations. If the applicability criteria stated in Section III.B.1. of this Order are met, a minimum of 2 master valves shall be installed.

Violation: Minor.
Corrective Action: Install, repair, or replace wind direction indicator(s), as necessary.
Normal Abatement Period. 20 to 40 days.

g. All equipment shall be chosen with consideration for both the H_2S working environment and anticipated stresses. NACE Standard MR 0175-90 shall be used for metallic equipment selection and, if method that controls or limits the corrosive effects of H_2S shall be used.

Violation: Minor.
Corrective Action: Install, repair, or replace equipment, as necessary.
Normal Abatement Period: 20 to 40 days.

[57 FR 2039, Jan. 17, 1992]

h. Where the 100 ppm radius of exposure for H_2S includes any occupied residence, place of business, school, or other inhabited structure or any area where the public may reasonably be expected to frequent, the operator shall install automatic safety valves or shutdowns at the wellhead, or other appropriate shut-in controls for wells equipped with artificial lift.

Violation. Minor.
Corrective Action: Install. repair, or replace equipment as necessary.
Normal Abatement Period: 20 to 40 days.

i. The automatic safety valves or shutdowns, as required by section III.D.3.h. shall be set to activate upon a release of a potentially hazardous volume of H.S.

Violation: Major.
Corrective Action: Repair, replace or adjust equipment, as necessary.
Normal Abatement Period: Prompt correction required.

j. If the sustained ambient concentration of H_2S or SO_2 from a production facility which is venting or flaring reaches a concentration of H_2S (10ppm) or SO_2 (2ppm), respectively, at any of the following locations, the operator shall modify the production facility as approved by the authorized officer. The locations include any occupied residence, school, church, park. playground, school bus stop, place of business, or other areas where the public could reasonably be expected to frequent.

Violation: Major.
Corrective Action: Repair facility to bring into compliance.
Normal Abatement Period. Prompt correction required.

4. Public Protection.

When conditions as defined in section III.B.1. of this Order exist, a Public Protection Plan for producing operations shall be submitted to the authorized officer in accordance with section III.B.2.a. of this Order which includes the provisions of section III.B.2.b.

Violation: Minor.
Corrective Action: Submit Public Protection Plan.
Normal Abatement Period: 20 to 40 days.

IV. Variances from Requirements

An operator may request the authorized officer to approve a variance from any of the requirements prescribed in section III hereof. All such requests shall be submitted in writing to the appropriate authorized officer and provide information as to the circumstances which warrant approval of the variance(s) requested and the proposed alternative methods by which the related requirement(a) of minimum standard(s) are to be satisfied. The authorized officer, after consider in it all relevant factors, may approve the requested variance(s) if it is determined that the proposed alterative(s) meets or exceeds the objectives of the applicable requirement(s) or minimum standard(s).

Bureau of Land Management - - 43 CFR 3160
Federal Register/Vol 58, No. 172
Wednesday, September 8, 1993
Effective date: October 8, 1993

Return to the Onshore Oil and Gas Operations Information Menu

Table of Contents

I. Introduction.

- A. Authority.
- B. Purpose.
- C. Scope.

II. Definitions

III. Requirements.

- A. General Requirements.
- B. Application Authority..
- C. Informational Requirements for Injection Wells.
- D. Informational Requirements for Pits.
- E. Design Requires for Pits.
- F. Construction and Maintenance Requirements for Pits.
- G. Other Disposal Methods.
- H. Reporting Requirements for Disposal Facilities.

IV. Variances from Requirements or Minimum Standards.

Attachment.

I. Figures.

Onshore Oil and Gas Operations; Federal and Indian Oil & Gas Leases; Onshore Oil and Gas Order No. 7; Disposal of Produced Water

I. Introduction

A. Authority.

This Order is established pursuant to the authority granted to the Secretary of the Interior by various Federal of Indian and statutes and the Federal Oil and Gas Royalty Management Act of 1982. Said authority has been delegated to the Bureau of Land Management and is implemented by the onshore oil and gas operating regulations contained in 43 CFR part 3160. Section 3164.1 thereof specifically authorizes the Director to issues Onshore Oil and Gas Orders when necessary to implement or supplement the operating regulations and provides that all such Order shall be binding on the operators of Federal and restricted Indian oil and gas leases which have been, or may hereafter, be issued. As directed by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, for National Forest lands the Secretary of Agriculture shall regulate all surface-disturbing activities and shall determine reclamation and other in the interest of conservation of surface resource. Specific authority for the provisions contained in this Order is found at section 3162.3, Conduct of Operations; section 3162.5, Environment and Safety; and Subpart 3163, Noncompliance and Assessments.

B. Purpose.

This Order supersedes Notice to Lessees and Operators of Indian and Indian Oil and Gas Leases (NTL--2B), Disposal of Produced Water. The purpose of this Order is to specify informational and procedural requirements for submitted of an application for the disposal of produced water, and the design, construction and maintenance requirements for pits as well as the minimum standards necessary to satisfy the requirements and procedures for seeking a variance from the minimum standards. Also set forth in this Order are specific acts of noncompliance, corrective actions required and the abatement period allowed for correction.

C. Scope

This Order is applicable to disposal of produced water from completed wells on Federal and Indian (except Osage) oil and gas leases. It does not apply to approval of disposal facilities on lands other than Federal and Indian lands. Separate approval under this Order is not required if the method of disposal has been covered under an enhanced recovery project approved by the authorized officer.

[58 FR 58506, Nov. 2, 1993]

II. Definitions

The following definitions are used in conjunction with the issuance of this Order.

A. Authorized officer means any employee of the Bureau of Land Management to authorized to perform duties described in 43 CFR Groups 3000 and 3100.

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

C. Free-board means the vertical distance from the top of the fluid surface to the lowest point on the top of the dike surrounding the pit.

D. Injection well means a well used for the disposal of produced water or for enhanced recovery operations.

E. Lease means any contract profit share arrangement, joint venture, or other agreement issued at proved by the United States under a mineral leasing law that authorized exploration for, extraction of, or removal of oil or gas (see 43 CFR 3160.0-5).

F. Lessee means a person or entity holding record title in a lease issued by the United States (see 43 CFR 3180.0-5).

G. Lined pit means an excavated and/or bermed area that is required to be lined with natural or man made material that will prevent seepage. Such pit shall also include a leak detection system.

H. Unlined pit means an excavated and/or bermed area that is not required to be lined, or any pit that is lined but does not contain a leak detection system.

I. Major violation means noncompliance that causes or threatens immediate, substantial, and adverse impacts on public health and safety, the environment, production accountability, or royalty income (see 43 CFR 3160.0-5).

J. Minor violation means noncompliance that does not rise to the level of a "major violation" (see 43 CFR 3160.0-5).

K. Natural Pollutant Discharge Elimination System (NPDES) means a program administered by the Environmental Agency or primary State that requires permits for the discharge of pollutants from any point source into navigable water of the United States.

L. Operator means any person or entity, including but not limited to the lessee or operating rights owner, who has stated in writing to the authorized officer that it is responsible under the terms and conditions of the lease for the operations conducted on the leased lands or a portion thereof (see 43 CFR 3610.0-5).

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

N. Toxic constituents means substances in produced water that when found in toxic concentration specified by Federal or State regulations have harmful effects in plant or animal life. These substance include but are not limited to arsenic (As), barium (Ba), cadmium (Cd), hexavalent chromium (bCr), total chromium (tQr), lead (Pb), mercury (Hg), zinc (Zn). selenium (Se),

benzene, toluene, ethylbenzene, and xylenes, as defined in 40 CFR 261.

O. Underground Injection Control (UIC) program means a program by administered by the EPA, primary State, or Indian Tribe under the Safe Drinking Water Act to ensure that subsurface injection does not endanger underground sources of drinking water.

[58 FR 58506, Nov. 2, 1993]

III. Requirements

A. General Requirements

Operators of onshore Federal and Indian oil and gas leases shall comply with the requirements and standards this Order for the protection of surface and subsurface resources. Except as provided under section III.D.3 of this Order, the operator may not dispose of produced water unless and until approval is obtained from the authorized officer. All produced water from Federal/Indian leases must be disposed of by (1) injection into the substance; (2) into pits; or (3) other acceptable methods approved by the authorized officer, including surface discharge under NPDES permit. Injection is generally the preferred method of disposal. Operators are encouraged to contact the appropriate authorized officer before filing an application for disposal of produced water so that the operator may be apprised of any existing agreements outlining cooperative procedures between the Bureau of Land Management and either the State/Indian Tribe or the Environmental Protection Agency concerning Underground Injection Control permits for injection wells, and of any potentially significant adverse effects on surface and/or subsurface resources. The approval of the Environmental Protection Agency or a State/Tribe shall not be considered as granting approval to dispose of produced water from leased Federal or Indian lands until and unless BLM approval is obtained. Applications filed pursuant to NTL-2B and still pending approval shall be supplemented or resubmitted if they do not meet the requirements and standards of this Order. The disposal methods shall be approved in writing by the authorized officer regardless of the physical location of the disposal facility. Existing NTL-2B approvals will remain valid. However, upon written justification, the authorized officer may impose additional conditions or revoke any previously approved disposal permit, if the authorized officer, for example, finds that an existing facility is creating environmental problems, or that an unlined pit should be lined, because the quality of the produced water has changed so that it no longer meets the standards for unlined pits.

Unless prohibited by the authorized officer, produced water from newly completed wells may be temporarily disposed of into pits for a period of up to 90 days, if the use of the pit was approved as a part of an application for permit to drill. Any extension of time beyond this period requires documented approval by the authorized officer.

Upon receipt of a completed application the authorized officer shall "take one of the following actions within 30 days: (1) Approve the application as submitted or with appropriate modification or conditions; (2) return the application and advise the applicant in writing of the reasons for disapproval; or (3) advise the applicant in writing of the reasons for delay and the excepted final action date. If the approval for a disposal facility, e.g., commercial pit or class II injection well, is revoked or suspended by the permitting agencies such as the Environmental Protection Agency or the primacy State, the BLM water disposal approval is immediately terminated and the operator is required to propose an alternative disposal method.

B. Application and Approval Authority

1. On-lease Disposal. For water produced from a Federal/Indian lease and disposed of on the same Federal/Indian lease, or on other committed Federal/Indian leases if in a unit or communitized area, the approval of the disposal method is usually granted in conjunction with the approval for the disposal facilities. An example would be approval of a proposal to drill an injection well to be used for the disposal of produced water from a well or wells on the same lease.

a. Disposal of water in injection wells. When approval is requested for on lease disposal of produced water into an injection well, the operator shall submit a Sundry Notice, Form 3160-5. Information submitted in support of obtaining the Underground Injection Control permit shall be accepted by the authorized officer in approving disposal method, provided the information submitted in support of such a permit satisfies all applicable Bureau of Land Management statutory responsibilities (including but not limited to drilling safety, down hole integrity, and protection of mineral and surface resources) and requirements. If the authorized officer has on file a copy of the approval for the receiving facilities, he/she may determine that a reference to that document is sufficient.

b. Disposal of water in pits. When approval is requested for disposal of produced water in a lined or unlined pit, the operator shall submit a Sundry Notice, Form 3160-5. The operator shall comply with all the applicable Bureau of Land requirements and standards for pits established in this Order. On National Forest lands, where the proposed pit location creates new surface disturbance, the authorized officer shall not approve the proposal without the prior approval of the Forest Service.

[58 FR 58506, Nov. 2, 1993]

2. Off-lease Disposal

a. On leased or unleased Federal/Indian lands. The purpose of the off-lease disposal approval process is to ensure that the removal of the produced water from a Federal or Indian oil and gas lease is proper and that the water is disposed of in an authorized facility. Therefore, the operator shall submit a Sundry Notice, Form 3160-5, for removal of the water together with a copy of the authorization for the disposal facility. If the authorized officer has a copy of the approval for the receiving facilities on file, he/she may determine that a reference to that documentis sufficient. Where an associated right-of-way authorization is required, the information for the right-of-way authorization may be incorporated in the Sundry Notice. and the Bureau of Land Management will process both authorizations simultaneously for Bureau lands.

i. Disposal of water in injection wells.

When approval is requested for removing water that is produced from wells on leased Federal or Indian lands and that is to be injected into a well located on another lease or unleased Federal lands, the operator shall submit to the authorized officer a Sundry Notice, Form 3160-5. along with a copy of the Underground Injection Control permit issued to the operator of the injection well, unless the well is authorized by rule under 40 CFR part 144.

ii. Disposal of water in pits.

When approval is requested for removing water that is produced from wells on leased

Federal or Indian lands and is to be disposed of into a lined or unlined pit located on another lease or unleased Federal lands, the operator shall submit to the authorized officer a Sundry Notice, Form 3160-5.

iii. Right-of-way procedures.

The operator of the injection well or pit is required to have an authorization from the Bureau of Land Management for disposing of the water into the pit or well, under Title V of FLPMA and 43 CFR Part 2800, or a similar authorization from the responsible surface management agency. In the produced water from the lease to the pit or injection well, e.g., building a road or laying a pipeline, a right-of-way authorization under Title V of FLPMA and 43 CFR Part 2800 from the Bureau of Land Management or a similar permit from the responsible surface management agency also shall be obtained by the operator of the pit or any injection well or other responsible party.

b. Disposal of water on State and privately- owned lands.

i. Disposal of water in injection wells.

When approval is requested for removing water that is produced from wells on leased Federal or Indian lands and that is to be injected into a well located on State or privately-owned lands, the operator shall submit to the authorized officer, in addition to a Sundry Notice, Form 3160-5, a copy of the Underground Injection Control permit issued for the injection well by Environmental Protection Agency or the State where the State the achieved primacy. Submittal of the Underground Injection Control permit will be accepted by the authorized officer and approval will be granted for the removal of the produced water unless the authorized officer states in writing that such approval will have adverse effects on the Federal/Indian lands or public health and safety.

ii. Disposal of water in pits.

When approval is requested for removing water that is produced from wells on leased Federal and/or Indian lands and is to be disposed of into a pit located on State or privately-owned lands, the operator shall submit to the authorized officer, in addition to a Sundry Notice, Form 3160-5, a copy of the permit issued for the pit by the State or any other regulatory agency, if required, for disposal in such pit. Submittal of the permit will be accepted by the authorized officer and approval will be granted for removal of the produced water unless the authorized officer states in writing that such approval will have adverse effects on the Federal/Indian lands or public health and safety. If such a permit is not issued by the State or other regulatory agency, the requested removal of the produced water from leased Federal or Indian lands will be denied.

iii. Right-of-way procedures.

If the water produced from wells on leased Federal and/ or Indian lands, and to be disposed of at a location on State or privately-owned lands, will be transported over off-lease Federal or Indian lands, the operator of the disposal facility or other responsible party shall have an authorization from the Bureau of Land Management under Title V of FLPMA and 43 CFR part 2800, or a similar authorization from the responsible surface management agency.

C. Informational requirements for injection wells.

For an injection well proposed on Federal or Indian leases, the operator shall obtain an Underground Injection Control(UIC) permit pursuant to 40 CFR parts 144 and 146 from the Environmental Protection Agency or the State/Tribe where the State/Tribe has achieved primacy. The operator shall also comply with the pertinent procedural and informational requirements for Application for Permit to Drill or Sundry Notice as set forth In Onshore Oil and Gas Order No. 1. The injection well shall be designed and drilled or conditioned in accordance with the requirements and standards described in Order No. 2 and pertinent NTLs, as well as the Underground Injection Control permit.

D. Informational requirements for pits.

Operators who request approval for disposal of produced water into a lined or unlined pit shall file an application on a Sundry Notice, Form 3160-5, and identify the operator's field representative by name, address and telephone number, and the source of the produced water. Sources of produced water shall be identified by facility, lease number, well number and name, and legal description of well location. All samples for water analysis shall be taken at the current discharge a point. A reclamation plan down detailing the procedures expected to be followed for closure of the pit and the contouring and revegetating of the site shall be submitted prior to pit abandonment. If requested by the authorized officer, a contingency plan to deal with specific anticipated emergency situations shall be submitted as provided for in 43 CFR 3162.5-1(d).

[58 FR 58506, Nov. 2,1993]

1. Lined pits.

The authorized officer shall not consider for approval an application for disposal into lined pits on Federal/Indian leases unless the operator also provides the following information:

a. A map and drawings of the site on a suitable scale that show the pit dimension, cross section, side slopes, leak detection system, and location relative to other site facilities.

b. The daily quantity of water to be disposed of (maximum daily quantity shall be disposed of (maximum daily quality shall be cited if major fluctuations are anticipated) and a water analysis (unless waived by the authorized officer as unnecessary) that includes the concentrations of chlorides, sulfates, pH, Total Dissolved Solids (TDS), and toxic constituents that the authorized officer reasonably believes to be present.

c. Criteria used to determine the pit size, which includes a minimum of 2 feet of free-board.

d. The average monthly evaporation and average monthly precipitation for the area.

e. The method and schedule for periodic disposal of precipitated solids and a copy of the appropriate disposal permit, if any.

f. The type, thickness, and life span of material to be used for lining the pit and the method of installation. The manufacturer's guidebook and information for the product shall be included, if available.

[58 FR 58506, Nov. 2, 1993]

2. Unlined pit.

a. Application for disposal into unlined pits may be considered for approval by the authorized officer where the application of the operator shows that such disposal meets one or more of the following criteria:

i. The water to be disposed of has an annual average TDS concentration equal to or less than that of the existing water to be protected, provided that the level of any toxic constituents in the produced water does not exceed established State or Federal standards for protection of surface and/or ground water.

ii. All, or a substantial part, of the produced water is being used for beneficial purposes and

meets minimum water quality standards for such uses. For example, uses of produced water for purposes such as irrigation and livestock or wildlife watering shall be considered as beneficial.

iii. (A) The water to be disposed of will not degrade the quality of surface or subsurface waters in the area;

(B) The surface and subsurface waters contain TDS above 10,000 ppm, or toxic constituents in high concentrations; or

(C) The surface and subsurface waters are of such poor quality or small quantity as to eliminate any practical use thereof.

iv. That the of water to be disposed of per disposal facility does not exceed an of 5 barrels per day on a monthly basis.

b. Operators applying for disposal into an unlined pit shall also submit the following information, as appropriate:

(i) Applications for disposal into unlined pits that meet the criteria in a., above, shall include:

(A) A map and drawings of the site on a suitable scale that show the pit dimension, cross section, side slopes, size, and location relative to other site facilities.

(B) The daily quantity of water to be disposed of and a water analysis that includes Total Dissolved Solids (in ppm), pH, oil and grease content, the concentrations of chlorides and sulfates, and other parameters or constituents toxic to animal or plant life as reasonably prescribed by the authorized officer. The applicant should also indicate any effort or interaction of produced water with any water resources present at or near the surface and other known mineral deposits. For applications submitted under criterion a.iv., above, the water quality analysis is not needed unless requested by the authorized officer.

(C) The average monthly evaporation and the average monthly precipitation for the area. For applications submitted under criterion a.iv., average annual data will be acceptable.

(D) The estimated percolation rate on soil characteristics under and adjacent to the pit. In some cases the authorized officer may require percolation tests using accepted test procedures.

(E) Estimated depth and areal extent of the shallowest known aquifer with TDS less than 10,000 ppm, and the depth and extent of any known mineral deposits in the area.

ii. Where beneficial use (criterion a.ii., above) is the basis for the application, the justification submitted also contain written contain written the confirmation from the user(s).

iii. If the application is made on the basis that surface and subsurface waters will not be adversely affected by disposal in an unlined pit (criterion a.iii., above), the justification shall also include the following additional information:

(A) Map of the site showing the location of surface waters, water wells, and water disposal facilities within 1 mile of the proposed disposal facility.

(B) Average concentration of TDS (in ppm) of all surface and subsurface waters within the 1-mile radius that might be affected by the proposed disposal.

(C) Reasonable geologic and hydrologic evidence that shows the proposed disposal method will not adversely affect existing water quality or major uses of such waters, and identifies the presence of any impermeable barrier(s), as necessary.

(D) A copy of any State order or other authorization granted as a result of a public hearing that is pertinent to the authorized officer's consideration of the application.

3. Emergency pits.

Application for a permanent pit (lined or unlined) to be used for anticipated emergency purposes shall be submitted by the operator on a Sundry Notice. Form 3160-5, for approval by the authorized officer, unless it has been approved in conjunction with a previously approved operational activity. Design criteria for an pit will be established by the authorized officer on a case by case basis. Any emergency use of pits shall be reported in accordance with NTL-3A or subsequent replacement Order procedures, and the pit shall be emptied and the liquids disposed of in accordance with applicable State and/or Federal regulations within 48 hours following its use, unless such time is extended by the authorized officer.

E. Design requirements for pits

1. Pits shall be designed to meet the following requirements and minimum standards. For unlined pits approved criterion D.2.a.iv, requirements d. and e., below, do not apply.

a. As much as practical, the pit shall be located on level ground and away from established drainage patterns, including intermittent/ephemeral drainage ways, and unstable ground or depressions in the area.

b. The pit shall have adequate storage capacity for safe containment of all produced water, even in those periods when evaporation rates are at a minimum. The design shall provide for a minimum of 2 feet of free-board.

c. The pit shall be fenced or enclosed to prevent access by livestock, wildlife, and unauthorized personnel. If necessary, the pit shall be equipped to deter entry by birds. Fences shall not be constructed on the levees. Figures 1 shows an example of an acceptable fence design.

d. The pit levees to be constructed so that the inside grade of the levee is no steeper than 1 (vertical):2 (horizonal), and the outside grade no steeper than 1:3.

e. The top of levees shall be level and least 18 inches wide.

f. The pit location shall be reclaimed pursuant to the requirements and standards of the surface management agency. On a spilt estate (private surface, Federal mineral) a surface owner's release statement or form is acceptable.

2. Lined pits shall be designed to meet following requirement and minimum standards in addition to those specified above:

a. The material used in lining pits shall impervious. It shall be resistant to weather, sunlight, hydrocarbons, aqueous acids, alkalies, salt, fungi, or other substances likely to be contained in the produced water.

b. If rigid materials are used, leak-proof expansion joints shall be provided, or the material shall be of sufficient thickness and length to withstand expansion without cracking, contraction, and settling movements in the underlying earth. Semi-rigid liners such as compacted bentonite or clay may be used provided that, considering the thickness of the lining material chosen and its degree of permeability, the liner is impervious for the excepted period of use. Figure 2 shows examples of acceptable standards for concrete, asphalt, and bentonite/clay liners.

c. If flexible membrane materials are used, they shall have adequate resistance to tears or punctures. Figures 3 gives an example of acceptable standards for installation of the flexible membrane.

d. Lined pits shall have an underlying gravel-filled sump and lateral system or other suitable devices for the detection of leaks. Examples of the acceptable design of the leak detection system are shown in Figure 4 and Figure 5.

3. Failure to design the pit to meet the above requirements and minimum standards will result in disapproval of the proposal or a requirement that it be modified unless a request for variance is approved by the authorized officer.

F. Construction and maintain requirements for pits

Inspections will be conducted according to the following requirements and minimum standards during the construction and operation of the pit. Failure to meet the requirements and standards may result in issuance of an Incident of Noncompliance (INC) for the violation. The gravity of the violation, corrective actions, and the normal abatement period allowed are specified for each of the requirements/standards.

1. Any disposal method that has not been approved shall be considered an incident of noncompliance and may result in the issuance of a shut-in order, assessments, or penalties pursuant to 43 CFR part 3163 until an acceptable disposal method is provided and approved by the authorized officer.

Violation: Minor: If it causes no significant environmental damages or effects.
Major: If it causes or threatens immediate, substantial and adverse impact on public health and safety, the environment, production accountability, or royalty income.

Corrective action: Minor: Submit acceptable application.
Major: Shut-in, take corrective action to repair or replace damages according to instructions of authorized officer.

Abatement periods: Minor. 1 to 20 days or as directed by authorized officer.
Major: Within 10 days.

[58 FR 58506, Nov.2, 1993]

2. The operator shall notify the authorized officer to inspect the leak detection system at least 2 business days prior to the installation of the pit liner.

Violation: Minor.
Corrective action: Require verification of its installation.
Abatement period: Prior to use of pit.

3. At least 2 business days prior to its use, the operator shall notify the authorized officer of completion the pit construction, so that the authorized officer may verify that the pit has been constructed in accordance with the approved plan.

For failure to notify:

Violation: Minor.
Corrective action: Not applicable.

For failure to construct in accordance with the approved plan

Violation: Minor, unless Major by definition.
Corrective action: The authorized officer may shut-in operations and require corrections to comply with the plan or require amendment of the plan.

Abatement period: 1 to 20 days depending on the severity of the violation and the degree of difficulty to correct, if the pit is in use.

4. Lined pit shall be maintained and operated to prevent unauthorized subsurface discharge of water.

Violation: Usually Minor, unless Major as result of discharge.
Corrective action: Repair/replace liner and possibly shut in operations.
Abatement period: 1 to 20 days depending on the onsite situation.

5. The pit shall be maintained as designed to prevent entrance of surfaces water by providing adequate surface drainage away from the pit.

Violation: Minor.
Corrective action: Provide surface drainage.
Abatement period: Within 20 days.

6. The pit shall be maintained and operated to prevent unauthorized surface discharge of water.

Violation: Usually Minor, unless discharge results in Major.
Corrective action: Clean up if spill occurs, and reduce the water level to maintain the 2 feet of free-board; shut-in operations, if required by authorized officer.
Abatement period: 1 to 20 days depending upon the onsite situation.

7. The outside walls of the pit levee shall be maintained as designed to minimize erosion.

Violation: Minor.
Corrective action: Necessary repair.
Abatement period: Within 20 days.

8. The pit shall be kept reasonably free from surface accumulation of liquid hydrocarbons that would retard evaporation.

Violation: Minor.
Corrective action: Clean-up, and may require skimmer pits, settling tanks, or other suitable equipment.
Abatement period: Within 20 days.

9. The operator shall inspect the leak detection system at least once a month or more often if required by the authorized Officer in appropriate circumstances. The record of inspection shall describe the result of the inspection by date and shall be kept and made available to the authorized officer upon request.

Violation: Minor.
Corrective action: Commence the required routine inspection and recordkeeping.
Abatement period: Within 30 days.

[58 FR 58506, Nov. 2, 1993]

10. Prior to pit abandonment and reclamation, the operator shall submit a Sundry Notice for approval by the authorized officer, if not previously approved.

Violation: Minor.
Corrective action: Cease operations and file an application.
Abatement period: Within 10 days.

11. When change in the quantity and/or quality of the water disposed into an unlined pit causes the pit no longer to meet the unlined pit criteria listed under section D.2.a., the operator shall submit a Sundry Notice amending the pit design for approval by the authorized officer.

Violation: Usually Minor unless the resulting damage is Major.
Corrective action: Submit the required amendment; shut-in operations if determined by the authorized officer to be Major.
Abatement period: As specified by the authorized officer.

G. Other disposal methods

1. Surface discharge under NPDES permit.

   The person applying to use this disposal method shall furnish a copy of the NPDES permit issued by the EPA or the primacy State, a current water quality analysis and a Sundry Notice, Form 3160-5, describing site facilities (e.g., retention ponds, skimmer pits and equipment, tanks, and any additional surface disturbance). Operations from the point of origin to the point of discharge under the jurisdiction of the BLM. Operations from the point of discharge downstream are under the jurisdiction of EPA or the primacy State.

2. Use of existing commercial pits designed for containment of produced water or tanks in lieu of pits.

3. New technology or any other proposal meeting the objective of this Order that meets the requirements of State and Federal laws and regulations.

H. Reporting requirements for disposal facilities

All unauthorized discharge or spills from disposal facilities on Federal/Indian leases shall be reported to the authorized officer in accordance with the provisions of NTL-3 subsequent replacement Order.

Violation: Minor unless resulting damage is major.
Corrective action: Submit the required report.
Abatement period: As specified by the authorized officer.

IV. Variances from Requirements or Standards Minimum Standards

An operator may request that the authorized officer approve a variance from any of the requirements or minimum standards prescribed in Section III. of this Order. All such requests shall be submitted in writing to the appropriate authorized officer and provide information as to the circumstances that warrant approval of the variance(s) requested and the proposed alternative means by which the requirements or related minimum standard(s) will be satisfied. The authorized officer, after considering all relevant factors, will approve the requested variance(s) if it is determine that the proposed alterative(s) meet or exceed the objectives of the applicable minimum standard(s); or if the authorized officer determines that the exemption of the requirement is justified. Variances granted BLM under this section shall be limited to proposals and requirements under BLM statutory and/or regulatory authority only, and shall not be construed as granting variance to regulations under EPA, State, or Tribal authority.

Return to the Onshore Oil and Gas Operations Information Menu

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
CONSERVATION DIVISION

Notice to Lessees and Operators of Onshore Federal and
Indian Oil and Gas Leases
(NTL-3A)

Reporting of Undesirable Events

This Notice, which supersedes NTL-3 dated January l, 1975, is issued pursuant to the authority prescribed in Title 30 CFR 221.5, 221.7, and 221.36. Operators of onshore Federal and Indian oil and gas leases shall report all spills, discharges, or other undesirable events in accordance with the requirements of this Notice. All such events which occur on State or private land leases within federally supervised unit or communitized areas must likewise be reported in accordance with the requirements of this Notice. However, compliance with this Notice does not relieve an operator from the obligation of complying with the applicable rules and regulations of any State or any other Federal Agencies regarding notification and reporting of undesirable events.

As used in this Notice, the term District Engineer means that officer of the United States Geological Survey (GS) having supervisory jurisdiction for the geographic area in which the undesirable event occurs.

I. Major Undesirable Events Requiring Immediate Notification

Major undesirable events are defined as those incidents listed below in subsections A through F. These incidents, when occurring on a lease supervised by the GS, must be reported to the appropriate District Engineer as soon as practical but within a maximum of 24 hours:

A. Oil, saltwater, and toxic liquid spills, or any combination thereof, which result in the discharge (spilling) of 100 or more barrels of liquid; however, discharges of such magnitude, if entirely contained within the facility firewall, may be reported only in writing pursuant to Section III. of this Notice;

B. Equipment failures or other accidents which result in the venting of 500 or more MCF of gas;

C. Any fire which consumes the volumes as specified in I.A. and I.B. above;

D. Any spill, venting, or fire, regardless of the volume involved, which occurs in a sensitive area, e.g., areas such as parks, recreation sites, wildlife refuges, lakes, reservoirs, streams, and urban or suburban areas;

E. Each accident which involves a fatal injury; and

F. Every blowout (loss of control of any well) that occurs.

II. Written Reports

A written report shall be submitted in duplicate to the District Engineer no later than 15 days following all major undesirable events identified in Section I. When required by the District Engineer, interim reports will be submitted until final containment and cleanup operations have been accomplished. The final written report for each such event shall, as appropriate, provide.

A. The date and time of occurrence, and the date and time reported to USGS;

B. The location where the incident occurred, including surface ownership and lease number:

C. The specific nature and cause of the incident;

D. A description of the resultant damage;

E. The action taken and the length of time required for control of the incident, for containing the discharged fluids, and for subsequent cleanup;

F. The estimated volumes discharged and the volumes lost;

G. The cause of death when fatal injuries are involved;

H. Actions that have been or will be taken to prevent a recurrence of the incident;

I. Other Federal or State agencies notified of the incident; and

J. Other pertinent comments or additional information as requested by the District Engineer.

III. Other-Than-Major Undesirable Events

Other-than-major undesirable events, as identified below in subsections A through D, do not have to be reported orally within 24 hours; however, a written report, as required for major undesirable events in Section II of this Notice, must be provided for the following incidents:

A. Oil, saltwater, and toxic liquid spills, or any combination thereof, which result in the discharge (spilling) of at least 10 but less than 100 barrels of liquid in nonsensitive areas, and all discharges of 100 or more barrels when the spill is entirely contained by the facility firewall;

B. Equipment failures or other accidents which result in the venting of at least 50 but less than 500 MCF of gas in nonsensitive areas;

C. Any fire which consumes volumes in the ranges specified in III.A. and III.B. above; and

D. Each accident involving a major or life threatening injury.

Spills or discharges in nonsensitive areas involving less than 10 barrels of liquid or 50 MCF of gas do not require an oral or written report; however, the volumes discharged or vented as a result of all such minor incidents must be reported in accordance with Section V hereof.

IV. Contingency Plans

Upon request of the District Engineer, a copy of any Spill Prevention Control and Countermeasure Plan (SPCC Plan), required by the Environmental Protection Agency (EPA) pursuant to Title 40 CFR 112, or other acceptable contingency plan must be submitted. All plans shall provide the names, addresses, and telephone numbers (both business and private) of at least two technically competent company or contract

personnel authorized to order equipment or supplies and to expend funds necessary to control emergencies.

V. Monthly Report of Operations/Monthly Report of Sales and Royalty

All volumes of oil spilled, gas vented, and all hydrocarbons consumed by fire or otherwise lost must be reported monthly on the Monthly Report of Operations (Form 9-329). The volume and value of such losses must also be reported in the Monthly Report of Sales and Royalty (Form 9-361).

VI. Liquidated Damages

Failure to provide the necessary notification, reports, or contingency plan (when required) as provided for by this Notice, may result in other measures being taken to secure compliance, such as those provided by Title 30 CFR 221.53 and 221.54.

March 1, 1979	/s/ C.J. Curtis
Date	C. J. Curtis Oil and Gas Supervisor Northern Rocky Mountain Area

Approved:

/s/ Don E. Cash

Don E. Cash
Chief, Conservation Division

Return to the Onshore Oil and Gas Operations Information Menu

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
Conservation DIVISION

Notice to Lessees and Operators of Onshore
Federal and Indian Oil and Gas Leases
(NTL-4A)

Royalty or Compensation for Oil and Gas Lost

This Notice is issued pursuant to the authority prescribed in the Oil and Gas Operating Regulations, Title 30 CFR 221, and in accordance with the terms of the Federal and Indian oil and gas leases under the jurisdiction of the Geological Survey. This Notice supersedes certain provisions of NTL-4, issued effective December 1, 1974; Supplement No. 1 to NTL-4, issued effective December 1, 1978, to 10 lessees and operators on a nationwide basis; and Supplement No. 1 to NTL-4, issued effective December 1, 1978, to all lessees and operators in Wyoming. Lessees and operators who submitted payments for royalty on oil and gas lost under these provisions of NTL-4, which are hereby revoked, may file with the Area Oil and Gas Supervisor (Supervisor) an application for a refund of those payments in accordance with the addendum attached to this Notice.

I. GENERAL

Oil production subject to royalty shall include that which (1) is produced and sold on a lease basis or for the benefit of a lease under the terms of an approved communitization or unitization agreement and (2) the Supervisor determines to have been avoidably lost on a lease, communitized tract, or unitized area. No royalty obligation shall accrue as to that produced oil which (1) is used on the same lease, same communitized tract, or same unitized participating area for beneficial purposes or (2) the Supervisor determines to have been unavoidably lost.

Gas Production (both gas well gas and oil well gas) subject to royalty shall include that which is produced and sold on a lease basis or for the benefit of a lease under the terms of an approved communitization or unitization agreement. No royalty obligation shall accrue on any produced gas which (1) is used on the same lease, same communitized tract, or same unitized participating area for beneficial purposes, (2) is vented or flared with the Supervisor's prior authorization or approval during drilling, completing, or producing operations, (3) is vented or flared pursuant to the rules, regulations, or orders of the appropriate State regulatory agency when said rules, regulations, or orders have been ratified or accepted by the Supervisor, or (4) the Supervisor determines to have been otherwise unavoidably lost.

Where produced gas (both gas well gas and oil well gas) is (1) vented or flared during drilling, completing, or producing operations without the prior authorization, approval, ratification, or acceptance of the Supervisor or (2) otherwise avoidably lost, as determined by the Supervisor, the compensation due the United States or the Indian lessor will be computed on the basis of the full value of the gas so wasted, or the allocated portion thereof, attributable to the lease.

II. DEFINITIONS

As used in this Notice, certain terms are defined as follows:

A. "Avoidably lost" production shall mean the venting or flaring of produced gas without the prior authorization, approval, ratification, or acceptance of the Supervisor and the loss of produced oil or gas when the Supervisor determines that such loss occurred as a result of (1) negligence on the part of the lessee or operator, or (2) the failure of the lessee or operator to take all reasonable measures to prevent and/or to control the loss, or (3) the failure of the lessee or operator to comply fully with the applicable lease terms and regulations, appropriate provisions of the approved operating plan, or the prior written orders of the Supervisor, or (4) any combination of the foregoing.

B. "Beneficial purposes" shall mean that oil or gas which is produced from a lease, communitized tract, or unitized participating area and which is used on or for the benefit of that same lease, same communitized tract, or same unitized participating area for operating or producing purposes such as (1) fuel in lifting oil or gas, (2) fuel in the heating of oil or gas for the purpose of placing it in a merchantable condition, (3) fuel in compressing gas for the purpose of placing it in a marketable condition, or (4) fuel for firing steam generators for the enhanced recovery of oil. Gas used for beneficial purpose shall also include that which is produced from a lease, communitized tract, or unitized participating area and which is consumed on or for the benefit of that same lease, same communitized tract, or same unitized participating area (1) as fuel for drilling rig engines, (2) as the source of actuating automatic valves at production facilities, or (3) with the prior approval of the Supervisor, as the circulation medium during drilling operations. Where the produced gas is processed through a gasoline plant and royalty settlement is based on the residue gas and other products at the tailgate of the plant, the gas consumed as fuel in the plant operations will be considered as being utilized for beneficial purposes. In addition, gas which is produced from a lease, communitized tract, or unitized participating area and which, in accordance with a plan approved by the Supervisor, is reinjected into wells or formations subject to that same lease, same communitized tract, or same unitized participating area for the purpose of increasing ultimate recovery shall be considered as being used for beneficial purposes; provided, however, that royalty will be charged on the gas used for this purpose at the time it is finally produced and sold.

C. "Unavoidably lost" production shall mean (1) those gas vapors which are released from storage tanks or other low-pressure production vessels unless the Supervisor determines that the recovery of such vapors would be warranted, (2) that oil or gas which is lost because of line failures, equipment malfunctions, blowouts, fires, or otherwise except where the Supervisor determines that said loss resulted from the neglið gence or the failure of the lessee or operator to take all reasonable measures to prevent and/or control the loss, and (3) the venting or flaring of gas in accordance with Section III hereof.

III. AUTHORIZED VENTING AND FLARING OF GAS

Lessees or operators are hereby authorized to vent or flare gas on a short-term basis without incurring a royalty obligation in the following circumstances:

A. Emergencies. During temporary emergency situations, such as compressor or other equipment failures, relief of abnormal system pressures, or other conditions which result in the unavoidable short-term venting or flaring of gas. However, this authorization to vent or flare gas in such circumstances without incurring a royalty obligation is limited to 24 hours per incident and to 144

hours cumulative for the lease during any calendar month, except with the prior authorization, approval, ratification, or acceptance of the Supervisor.

B. Well Purging and Evaluation Tests. During the unloading or cleaning up of a well during drillstem, producing, routine purging, or evaluation tests, not exceeding a period of 24 hours.

C. Initial Production Tests. During initial well evaluation tests, not exceeding a period of 30 days or the production of 50 MMcf of gas, whichever occurs first, unless a longer test period has been authorized by the appropriate State regulatory agency and ratified or accepted by the Supervisor.

D. Routine or Special Well Tests. During routine or special well tests, other than those cited in III.B and C above, only after approval by the Supervisor.

IV. OTHER VENTING OR FLARING

A. Gas Well Gas. Except as provided in II.C and III above, gas well gas may not be flared or vented. For the purposes of this Notice, a gas well will be construed as a well from which the energy equivalent of the gas produced, including its entrained liquid hydrocarbons, exceeds the energy equivalent of the oil produced.

B. Oil Well Gas. Except as provided in II.C and III above, oil well gas may not be vented or flared unless approved in writing by the Supervisor. The Supervisor may approve an application for the venting or flaring of oil well gas if justified either by the submittal of (1) an evaluation report supported by engineering, geologic, and economic data which demonstrates to the satisfaction of the Supervisor that the expenditures necessary to market or beneficially use such gas are not economically justified and that conservation of the gas, if required, would lead to the premature abandonment of recoverable oil reserves and ultimately to a greater loss of equivalent energy than would be recovered if the venting or flaring were permitted to continue or (2) an action plan that will eliminate venting or flaring of the gas within 1 year from the date of application.

The venting or flaring of gas from oil wells completed prior to the effective date of this Notice is authorized for an interim period. However, an application for approval to continue such practices must be submitted within 90 days from the effective date hereof, unless such venting or flaring of gas was authorized, approved, ratified, or accepted previously by the Supervisor. For oil wells completed on or after the effective date of this Notice, an application must be filed with the Supervisor, and approval receive, for any venting or flaring of gas beyond the initial 30-day or other authorized test period.

C. Content of Applications. Applications under section B above shall include all appropriate engineering, geologic, and economic data in support of the applicant's determination that conservation of the gas is not viable from an economic standpoint and, if approval is not granted to continue the venting or flaring of the gas, that it will result in the premature abandonment of oil production and/or the curtailment of lease development. The information provided shall include the applicant's estimates of the volumes of oil and gas that would be produced to the economic limit if the application to vent or flare were approved and the volumes of the oil and gas that would be produced if the applicant was required to market or beneficially use the gas. When evaluating the feasibility of requiring conservation of the gas, the total leasehold production, including both oil and gas, as well as the economics of a fieldwide plan shall be considered by the Supervisor in determining whether the lease can be operated successfully if it is required that the gas be

conserved.

V. REPORTING AND MEASUREMENT RESPONSIBILITIES

The volume of oil or gas produced, whether sold, avoidably or unavoidably lost, vented or flared, or used for beneficial purposes (including gas that is reinjected) must be reported on Form 9-329, Monthly Report of Operation, in accordance with the requirement of this Notice and the applicable provisions of NTL-1 and NTL-1A. The volume and value of all oil and gas which is sold, vented or flared without the authorization, approval, ratification, or acceptance of the Supervisor, or which is otherwise determined by the Supervisor to be avoidably lost must be reported on Form 9-361, Monthly Report of Sales and Royalties. Payments submitted in this respect must be accompanied by a Form 9-614-A, Rental and Royalty Remittance Advice.

In determining the volumes of oil and gas to be reported in accordance with the first and second paragraphs of this Section V, lessees and operators shall adhere to the following:

1. When the amount of oil or gas involved has been measured in accordance with Title 30 CFR 221.43 or 221.44, that measurement shall be the basis for the volume reported.

2. When the amount of oil and gas avoidably or unavoidably lost, vented or flared, or used for beneficial purposes occurs without measurement, the volume of oil or gas shall be determined utilizing the following criteria, as applicable:

a. Last measured throughput of the production facility.

b. Duration of the period of time in which no measurement was made.

c. Daily lease production rates.

d. Historic production data.

e. Well production rates and gasðoil ratio tests.

f. Productive capability of other wells in the area completed in the same formation.

g. Subsequent measurement or testing, as required by the Supervisor.

h. Such other methods as may be approved by the Supervisor.

The Supervisor may require the installation of additional measurement equipment whenever it is determined that the present methods are inadequate to meet the purposes of this Notice.

VI. VALUE DETERMINATIONS FOR ROYALTY OR COMPENSATION PURPOSES

In computing the royalty or compensation due on oil or gas under the provisions of this Notice, the value shall be computed in the same manner as the Supervisor would have calculated the value of the oil or gas had it been sold from the same lease, same communitized tract, or same unitized participating area.

VII. COMPLIANCE

The failure to comply with the requirements of this Notice will result in compliance being secured by such actions as are provided by law and regulation.

January 1, 1980 /s/ C.J. Curtis

Date	C.J. Curtis Oil and Gas Supervisor Northern Rocky Mountain Area

Approved:

/s/ Hillary A. Oden

Hillary A. Oden
Acting Chief, Conservation Division

ADDENDUM TO NTL-4A

Refund Applications

Certain provisions of NTL-4 have been revoked retroactive to December 1, 1974, the effective date of said Notice. Accordingly, lessees and operators who submitted royalty payments under the provisions of NTLð4 may apply for a refund of those payments made for (1) oil that was unavoidably lost or used for beneficial purposes on the lease, communitized tract, or unitized participating area from which it was produced and/or (2) gas that was vented or flared with the prior approval of the Supervisor or unavoidably lost. No refunds will be processed in the absence of such an application, and no refunds will be made of those payments submitted on the basis of a determination of waste by the Supervisor. In addition, liquidated damages assessed for the late filing of reports or the failure to report pursuant to the provisions of NTL-4 will not be refunded.

The application shall be in the form of a letter signed by an authorized officer or agent of the lessee or operator and for each individual lease shall include:

1. The lease prefix code and lease number.

2. The month and year.

3. The product code (01, 02, 03, 04, 41, or 43) used in the report and payments previously submitted to the Supervisor.

4. The volume of lost oil and/or gas previously reported and the amount of the refund requested.

5. The total amount of the refund requested for each lease as a subtotal.

6. The total amount of the refund requested for all leases as a grand total.

Additional instructions in regard to the filing and contents of said applications may be obtained by contacting the Supervisor having jurisð diction over the lease or leases involved.

Refund applications will be processed as promptly as possible. The Supervisor, as to Federal leases, may process a direct refund or authorize the applicant to withhold the refund amount from future royalty accruals. However, refunds authorized by the Supervisor with respect to Indian leases will be recoverable only as a credit against future rental or royalty accruals in accordance with the provisions of Section IX (Overð payments) of NTL-1A.

FOGRMA -- TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I - FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

Sec. 101. Duties of the Secretary.
Sec. 102. Duties of lessees, operators, and motor vehicle transporters.
Sec. 103. Required recordkeeping.
Sec. 104. Prompt disbursement of royalties.
Sec. 105. Explanation of payments.
Sec. 106. Liabilities and bonding.
Sec. 107. Hearings and investigations.
Sec. 108. Inspections.
Sec. 109. Civil penalties.
Sec. 110. Criminal penalties.
Sec. 111. **Royalty terms and conditions, interest, and penalties.**
Sec. 111A. Adjustments and refunds.
Sec. 112. Injunction and specific enforcement authority.
Sec. 113. Rewards.
Sec. 114. Noncompetitive oil and gas lease royalty rates.
Sec. 115. Secretarial and delegated States' actions and limitation periods.
Sec. 116. Assessments.
Sec. 117. Alternatives for marginal properties.

TITLE II - STATES AND INDIAN TRIBES

Sec. 201. Application of title.
Sec. 202. Cooperative agreements. **(No longer applicable to Federal lands but is as to Indian lands)**
Sec. 203. Information.
Sec. 204. State suits under Federal law.
Sec. 205. **Delegation of royalty collection and related activities.**
Sec. 206. Shared civil penalties.

TITLE III - GENERAL PROVISIONS

Sec. 301. Secretarial authority.
Sec. 302. Reports.
Sec. 303. Study of other minerals.
Sec. 304. Relation to other laws.
Sec. 305. Effective date.
Sec. 306. Funding.

Sec. 307. Statute of limitations. **(No longer applicable to Federal lands but is as to Indian lands)**
Sec. 308. Expanded royalty obligations.
Sec. 309. Severability.

TITLE IV - REINSTATEMENT OF LEASES AND CONVERSION UNPATENTED OIL PLACER CLAIMS

Sec. 401. Amendment of Mineral Lands Leasing Act of 1920.

Public Law 97-451 (As of 3/7/97)
97th Congress
PUBLIC LAW 97-451 - JAN. 12,1983 96 STAT. 2447

An Act

To ensure that all oil and gas originated on the public lands and on the Outer Continental Shelf are properly accounted for under the direction of the Secretary of the Interior, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Federal Oil and Gas Royalty Management Act of 1982".

FINDINGS AND PURPOSES

Sec. 2.(a) Congress finds that-

(1) the Secretary of the Interior should enforce effectively and uniformly existing regulations under the mineral leasing laws providing for the inspection of production activities on lease sites on Federal and Indian lands;

(2) the system of accounting with respect to royalties and other payments due and owing on oil and gas produced from such lease sites is archaic and inadequate;

(3) it is essential that the Secretary initiate procedures to improve methods of accounting for such royalties and payments and to provide for routine inspection of activities related to the production of oil and gas on such lease sites; and

(4) the Secretary should aggressively carry out his trust responsibility in the administration of Indian oil and gas.

(b) It is the purpose of this Act-

(1) to clarify, reaffirm, expand, and define the responsibilities and obligations of lessees, operators, and other persons involved in transportation or sale of oil and gas from the Federal and Indian lands and the Outer Continental Shelf,

(2) to clarify, reaffirm, expand and define the authorities and responsibilities of the Secretary of the Interior to implement and maintain a royalty management system for oil and gas leases on

Federal lands, Indian lands, and the Outer Continental Shelf;

(3) to require the development of enforcement practices that ensure the prompt and proper collection and disbursement of oil and gas revenues owed to the United States and Indian lessors and those inuring to the benefit of States;

(4) to fulfill the trust responsibility of the United States for the administration of Indian oil and gas resources; and

(5) to effectively utilize the capabilities of the States and Indian tribes in developing and maintaining an efficient and effective Federal royalty management system.

DEFINITIONS

Sec. 3. For the purposes of this Act, the term-

(1) "Federal land" means all land and interests in land owned by the United States which 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;

(2) "Indian allottee" means any Indian for whom land or an interest in land is held in trust by the United States or who holds title subject to Federal restriction against alienation;

(3) "Indian lands" means any lands or interest in lands of an Indian tribe or an Indian allottee held in trust by the United States or which is subject to Federal restriction against alienation, including mineral resources and mineral estates reserved to an Indian tribe or an Indian allottee in the conveyance of a surface or nonmineral estate, except that such term does not include any lands subject to the provisions of section 3 of the Act of June 28, 1906 (34 Stat. 539);

(4) "Indian tribe" means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indians, including the Metlakatla Indian Community of Annette Island Reserve, for which any land or interest in land is held by the United States in trust or which is subject to Federal restriction against alienation;

(5) "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, extraction of, or removal of oil or gas;

(6) "lease site" means any lands or submerged lands, including the surface of a severed mineral estate, on which exploration for, or extraction or removal of, oil or gas is authorized pursuant to a lease;

(7) **"lessee" means any person to whom the United States issues an oil and gas lease or any person to whom operating rights in a lease have been assigned;**

(8) "mineral leasing law" means any Federal law administered by the Secretary authorizing the disposition under lease of oil or gas;

(9) "oil or gas" means any oil or gas originating from, or allocated to, the Outer Continental Shelf, Federal, or Indian lands;

(10) "Outer Continental Shelf' has the same meaning as provided in the Outer Continental Shelf Lands Act (Public Law 95-372);

(11) "operator" means any person, including a lessee, who has control of, or who manages operations on, an oil and gas lease site on Federal or Indian lands or on the Outer Continental Shelf;

(12) "Person" means any individual firm, corporation, association, partnership, consortium, or joint venture;

(13) "production" means those activities which take place for the removal of oil or gas, including such removal, field operations, transfer of oil or gas off the lease site, operation monitoring, maintenance, and workover drilling;

(14) "royalty" means any payment based on the value or volume of production which is due to the United States or an Indian tribe or an Indian allottee on production of oil or gas from the Outer Continental Shelf, Federal, or Indian lands, or any minimum royalty owed to the United States or an Indian tribe or an Indian allottee under any provision of a lease;

(15) "Secretary" means the Secretary of the Interior or his designee;

(16) "State" means the several States of the Union, the District of Columbia, Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands;

(17) "adjustment" means an amendment to a previously filed report on an obligation, and any additional payment or credit, if any, applicable thereto, to rectify an underpayment or overpayment on an obligation;

(18) "administrative proceeding" means any Department of the Interior agency process in which a demand, decision or order issued by the Secretary or a delegated State is subject to appeal or has been appealed;

(19) "assessment" means any fee or charge levied by the Secretary or a delegated State other than-

> **(A) the principal amount of any royalty, minimum royalty, rental bonus, net profit sharing or proceed of sale;**
>
> **(B) any interest; or**
>
> **(C) any civil or criminal penalty;**

(20) "commence" means -

> **(A) with to a judicial proceeding, the service of a compliant, petition, cross claim, or other pleading seeking affirmative relief or seeking credit or recoupment: Provided, That if the Secretary commences a judicial proceeding against a designee, the Secretary shall give notice of that commencement to the lessee who designated the designee, but the Secretary is not required to give notice to the other lessees who may be liable pursuant to section 102(a) of this Act, for the obligation that is the subject of the judicial proceeding; or**

(B) with respect to a demand, the receipt by the Secretary or a delegated State or a lessee or its designee (with written notice to the lessee who designated the designee) of the demand;

(21) "credit" means the application of an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

(22) "delegated State" means a State which, pursuant to an agreement or agreements under section 205 of this Act, performs authorities, duties, responsibilities, or activities of the Secretary;

(23) "demand" means-

(A) an order to pay issued by the Secretary or the applicable State to a lessee or its designee (with written notice to the lessee who designated the designee) that has a reasonable basis to conclude that the obligation in the amount of the demand is due and owing; or

(B) a separate written request by the lessee or its designee which asserts an obligation due the lessee or its designee that provides a reasonable basis to conclude that the obligation in the amount of the demand is due and owing, but does not mean any royalty or production report , or any information contained therein, required by the Secretary or a delegated State;

(24) "designee" means a person designated by a lessee pursuant to section 102(a) of this Act, with such written designation effective on the date such designation is received by the Secretary and remaining in effect until the Secretary receives notice in writing that the designation is modified or terminated;

(25) "obligation" means-

(A) any duty of the Secretary or, if applicable, a delegated State-

(i) to take oil and gas royalty in kind; or

(ii) to pay, refund, offset, or credit monies including (but not limited to)-

(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale; or

(II) any interest; and

(B) any duty of a lessee or its designee (subject to the *provisions* of section 102(a) of this Act)-

(i) to deliver oil and gas in kind; or

(ii) to pay, offset or credit monies including (but not limited to)-

(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

(II) any interest;

(III) any penalty; or

(IV) any assessment,

which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil and gas on Federal lands or the Continental Shelf;

(26) "order to pay" means a written order issued by the Secretary or the applicable delegated State to a lessee or its designee (with notice to the lessee who designated the designee) which-

(A) asserts a specific, definite, and quantified obligation claimed to be due, and

(B) specifically identifies the obligation by lease, production month and monetary amount of such obligation claimed to be due and ordered to be paid, as well as the reason or reasons such obligation is claimed to be due, but such term does not include any other communication or action by or on the behalf of the Secretary or delegated State;

(27) "overpayment" means any payment by the lessee or its designee in excess of an amount legally required to be paid on an obligation and includes the portion of any estimated payment for a production month that is in excess of the royalties due for the that month;

(28) "payment" means satisfaction, in whole or in part, of an obligation;

(29) "penalty" means a statutory authorized fine levied or imposed for a violation of this Act, any mineral leasing law, or a term or provision of a lease administered by the Secretary;

(30) "refund" means the return of an overpayment;

(31 "State concerned" means, with respect to a lease, a State which receives a portion of royalties or other payments under the mineral leasing laws from such lease;

(32) "underpayment" means any payment or nonpayment by a lessee or its designee that is less than the amount legally required to be paid on an obligation; and

(33) "United States" means the United States Government or any department, agency, or instrumentality thereof, the several States, the District of Columbia, and the territories of the United States.

TITLE I - FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

DUTIES OF THE SECRETARY

Sec. 101. (a) The Secretary shall establish a comprehensive inspection, collection and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed, and to collect and account for such amounts in a timely manner.

(b) The Secretary shall-

(1) establish procedures to ensure that authorized and properly identified representatives of the Secretary will inspect at least once annually each lease site producing or expected to produce significant quantities of oil or gas in any year or which has a history of noncompliance with applicable provisions of law or regulations; and

(2) establish and maintain adequate programs providing for the training of all such authorized representatives in methods and techniques of inspection and accounting that will be used in the implementation of this Act.

(c)

(1) The Secretary shall audit and reconcile, to the extent practicable, all current and past lease accounts for leases of oil or gas and take appropriate actions to make additional collections or refunds as warranted. The Secretary shall conduct audits and reconciliations of lease accounts in conformity with the business practices and recordkeeping systems which were required of the lessee by the Secretary for the period covered by the audit. The Secretary shall give priority to auditing those lease accounts identified by a State or Indian tribe as having significant potential for underpayment. The Secretary may also audit accounts and records of selected lessees and operators.

(2) The Secretary may enter into contracts or other appropriate arrangements with independent certified public accountants to undertake audits of accounts and records of any lessee or operator relating to the lease of oil or gas. Selection of such independent certified public accountants shall be by competitive bidding in accordance with the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252), except that the Secretary may not enter into a contract or other arrangement with any independent certified public accountant to audit any lessee or operator where such lessee or operator is a primary audit client of such certified public accountant.

(3) All books, accounts, financial records, reports, files, and other papers of the Secretary, or used by the Secretary, which are reasonably necessary to facilitate the audits required under this section shall be made available to any person or governmental entity conducting audits under this Act.

DUTIES OF LESSEES, OPERATORS, AND MOTOR VEHICLE TRANSPORTERS

Sec. 102. **(a) In order to increase receipts and achieve effective collections of royalty and other payments, a lessee who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary or the applicable delegated State. A lessee may designate a person to make all or part of the payments due under a lease on the lessee's behalf and shall notify the Secretary or the applicable delegated State in writing of such designation, in which event said designated person may, in its own name, pay, offset or credit monies, make adjustments, request and receive refunds and submit reports with respect to payments required by the lessee. Notwithstanding any other provision of this Act to the contrary, a designee shall not be liable for any payment obligation under the lease. The person owning operating rights in a lease shall be primarily liable for its pro rata share of payment obligations under the lease. If the person owning the legal record title in a lease is other than the operating rights owner, the person owning the legal record title shall be secondarily liable for its pro rata share of such payment obligations under the lease.**

(b) An operator shall-

(1) develop and comply with a site security plan designed to protect the oil or gas produced or stored on an onshore lease site from theft, which plan shall conform with such minimum standards as the Secretary may prescribe by rule, taking into account the variety of circumstances at lease sites;

(2) develop and comply with such minimum site security measures as the Secretary deems appropriate to protect oil or gas produced or stored on a lease site or on the Outer Continental Shelf from theft; and

(3) not later than the 5th business day after any well begins production anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well which has been off of production for more than 90 days, notify the Secretary, in the manner prescribed by the Secretary, of the date on which such production has begun or resumed.

(c)

(1) Any person engaged in transporting by motor vehicle any oil from any lease site, or allocated to any such lease site, shall carry, on his person, in his vehicle, or in his immediate control, documentation showing, at a minimum, the amount, origin, and intended first destination of the oil.

(2) engaged in transporting any oil or gas by pipeline from any lease site, or allocated to any lease site, on Federal or Indian lands shall maintain documentation showing, at a minimum, amount, origin, and intended first destination of such oil or gas.

REQUIRED RECORDKEEPING

Sec. 103. (a) A lessee, operator, or other person directly involved in developing, producing, transporting, purchasing, or selling oil or gas subject to this Act through the point of first sale or the point of royalty computation, whichever is later, shall establish and maintain any records, make any reports, and provide any information that the Secretary may, by rule, reasonably require for the purposes of implementing this Act or determining compliance with rules or orders under this Act. Upon the request of any officer or employee duly designated by the Secretary or any State or Indian tribe conducting an audit or investigation pursuant to this Act, the appropriate records, reports, or information which may be required by this section shall be made available for inspection and duplication by such officer or employee, State, or Indian tribe.

(b) Records required by the Secretary with respect to oil and gas leases from Federal or Indian lands or the Outer Continental Shelf shall be maintained for 6 years after the records are generated unless the Secretary notifies the record holder that he has initiated an audit or investigation involving such records and that such records must be maintained for a longer period. In any case when an audit or investigation is underway, records shall be maintained until the Secretary releases the record holder of the obligation to maintain such records.

PROMPT DISBURSEMENT OF ROYALTIES

Sec. 104. (a) Section 35 of the Mineral Lands Losing Act of 1920 (approved February 25, 1920; 41 Stat. 437; 30 U.S.C. 191) is amended by deleting "as soon as practicable after March 31 and September 30 of

each year" and by adding at the end thereof "Payments to States under this section with respect to any moneys received by the United States, shall be made not later than the last business day of the month in which such moneys are warranted by the United States Treasury to the Secretary as having been received, except for any portion of such moneys which is under challenge and placed in a suspense account pending resolution of a dispute. Such warrants shall be issued by the United States Treasury not later than 10 days after receipt of such moneys by the Treasury. Moneys placed in a suspense account which are determined to be payable to a State shall be made not later than the last business day of the month in which such dispute is resolved. Any such amount placed in a suspense account pending resolution shall bear interest until the dispute is resolved.".

(b) Deposits of any royalty funds derived from the production of oil or gas from, or allocated to, Indian lands shall be made by the Secretary to the appropriate Indian account at the earliest practicable date after such funds are received by the Secretary but in no case later than the last business day of the month in which such funds are received.

(c) The provisions of this section shall apply with respect to payments received by the Secretary after October 1, 1983, unless the Secretary, by rule, prescribes an earlier effective date.

EXPLANATION OF PAYMENTS

Sec. 105. (a) When any payment (including amounts due from receipt of any royalty, bonus, interest charge, fine, or rental) is made by the United States to a State with respect to any oil or gas lease on Federal lands or is deposited in the appropriate Indian account on behalf of an Indian tribe or Indian allottee with respect to any oil and gas lease on Indian lands, there shall be provided, together with such payment, a description of the type of payment being made, the period covered by such payment, the source of such payment, production amounts, the royalty rate, unit value and such other information as may be agreed upon by the Secretary and the recipient State, Indian tribe, or Indian allottee.

(b) This section shall take effect with respect to payments made after October 1, 1983, unless the Secretary, by rule, prescribes an earlier effective date.

LIABILITIES AND BONDING

Sec. 106. A person (including any agent or employee of the United States and any independent contractor) authorized to collect, receive, account for, or otherwise handle any moneys payable to, or received by, the Department of the Interior which are derived from the sale, lease, or other disposal of any oil or gas shall be -

(1) liable to the United States for any losses caused by any intentional or reckless action or inaction of such individual with respect to such moneys; and

(2) in the case of an independent contractor, required as the Secretary deems necessary to maintain a bond commensurate with the amount of money for which such individual could be liable to the United States.

HEARINGS AND INVESTIGATIONS

Sec. 107. (a) In carrying out his duties under this Act the Secretary may conduct any investigation or other inquiry necessary and appropriate and may conduct, after notice, any hearing or audit, necessary and appropriate to carrying out his duties under this Act. In connection with any such hearings, inquiry,

investigation, or audit, the Secretary is also authorized where reasonably necessary

(1) to require by special or general order, any person to submit in writing such affidavits and answers to questions as the Secretary may reasonably prescribe, which submission shall be made within such reasonable period and under oath or otherwise, as may be necessary;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all books, papers, production and financial records, documents, matter, and materials, as the Secretary may request;

(4) to order testimony to be taken by deposition before any person who is designated by the Secretary and who has the power to administer oaths, and to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection; and

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) In case of refusal to obey a subpena served upon any person under this section, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Attorney General at the request of the Secretary and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary. Any failure to obey such order of the court may be punished by such court as contempt thereof and subject to a penalty of up to $10,000 a day.

INSPECTIONS

Sec. 108. (a)

(1) On any lease site on Federal or Indian lands, any authorized and properly identified representative of the Secretary may stop and inspect any motor vehicle that he has probable cause to believe is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site, for the purpose of determining whether the driver of such vehicle has documentation related to such oil as required by law.

(2) Any authorized and properly identified representative of the Secretary, accompanied by any appropriate law enforcement officer, or an appropriate law enforcement officer alone, may stop and inspect any motor vehicle which is not on a lease site if he has probable cause to believe the vehicle is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site. Such inspection shall be for the purpose of determining whether the driver of such vehicle has the documentation required by law.

(b) Authorized and properly identified representatives of the Secretary may without advance notice, enter upon, travel across and inspect lease sites on Federal or Indian lands and may obtain from the operator immediate access to secured facilities on such lease sites, for the purpose of making any inspection or investigation for determining whether there is compliance with the requirements of the mineral leasing laws and this Act. The Secretary shall develop guidelines setting forth the coverage and the frequency of such inspections.

(c) For the purpose of making any inspection or investigation under this Act, the Secretary shall have the same right to enter upon or travel across any lease site as the lessee or operator has acquired by purchase, condemnation, or otherwise.

CIVIL PENALTIES

Sec. 109. (a) Any person who-

(1) after due notice of violation or after such violation has been reported under subparagraph (A), fails or refuses to comply with any requirements of this Act or any mineral leasing law, any rule or regulation thereunder, or the terms of any lease or permit issued thereunder; or

(2) fails to permit inspection authorized in section 108 or fails to notify the Secretary of any assignment under section 102(a)(2) shall be liable for a penalty of up to $500 per violation for each day such violation continues, dating from the date of such notice or report. A penalty under this subsection may not be applied to any person who is otherwise liable for a violation of paragraph (1) if:

(A) the violation was discovered and reported to the Secretary or his authorized representative by the liable person and corrected within 20 days after such report or such longer time as the Secretary may agree to; or

(B) after the due notice of violation required in paragraph (1) has been given to such person by the Secretary or his authorized representative, such person has corrected the violation within 20 days of such notification or such longer time as the Secretary may agree to.

(b) If corrective action is not taken within 40 days or a longer period as the Secretary may agree to, after due notice or the report referred to in subsection (a)(l), such person shall be liable for a civil penalty of not more than $5,000 per violation for each day such violation continues, dating from the date of such notice or report.

(c) Any person who-

(1) knowingly or willfully fails to make any royalty payment by the date as specified by statute, regulation, order or terms of the lease;

(2) fails or refuses to permit lawful entry, inspection, or audit; or

(3) knowingly or willfully fails or refuses to comply with subsection 102(b)(3), shall be liable for a penalty of up to $10,000 per violation for each day such violation continues.

(d) Any person who-

(1) knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information;

(2) knowingly or willfully takes or removes, transports, uses or diverts any oil or gas from any lease site without having valid legal authority to do so; or

(3) purchases, accepts, sells, transports, or conveys to another, any oil or gas knowing or having reason to know that such oil or gas was stolen or unlawfully removed or diverted, shall be liable

for a penalty of up to $25,000 per violation for each day such violation continues.

(e) No penalty under this section shall be assessed until the person charged with a violation has been given the opportunity for a hearing on the record.

(f) The amount of any penalty under this section, as finally determined may be deducted from any sums owing by the United States to the person charged.

(g) On a case-by-case basis the Secretary may compromise or reduce civil penalties under this section.

(h) Notice under this subsection (a) shall be by personal service by an authorized representative of the Secretary or by registered mail. Any person may, in the manner prescribed by the Secretary, designate a representative to receive any notice under this subsection.

(i) In determining tho amount of such penalty, or whether it should be remitted or reduced, and in what amount, the Secretary shall state on the record the reasons for his determinations.

(j) Any person who has requested a hearing in accordance with subsection (e) within the time the Secretary has prescribed for such a hearing and who is aggrieved by a final order of the Secretary under this section may seek review of such order in the United States district court for the judicial district in which the violation allegedly took place. Review by the district court shall be only on the administrative record and not de novo. Such an action shall be barred unless filed within 90 days after the Secretary's final order.

(k) If any person fails to pay an assessment of a civil penalty under this Act-

(1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with subsection (j), or

(2) after a court in an action brought under subsection (j) has entered a final judgment in favor of the Secretary, the court shall have jurisdiction to award the amount assessed plus interest from the date of the expiration of the 90-day period referred to in subsection (j). Judgment by the court shall include an order to pay.

(l) No person shall be liable for a civil penalty under subsection (a) or (b) for failure to pay any rental for any lease automatically terminated pursuant to section 31 of the Mineral Leasing Act of 1920.

CRIMINAL PENALTIES

Sec. 110. Any person who commits an act for which a civil penalty is provided in section 109(d) shall, upon conviction, be punished by a fine of not more than $50,000, or by imprisonment for not more than 2 years, or both.

ROYALTY TERMS AND CONDITIONS, INTEREST, AND PENALTIES

Sec. 111. (a) In the case of oil and gas leases where royalty payments are not received by the Secretary on the date that . such payments are due, or are less than the amount due, the Secretary shall charge interest on such late payments or underpayments at the rate applicable under section 6621 of the Internal Revenue Code of 1954. In the case of an underpayment or partial payment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount due.

(b) Any payment made by the Secretary to a State under section 35 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 191) and any other payment made by the Secretary to a State from any oil or gas royalty received by the Secretary which is not paid on the date required under section 35 shall include an interest charge computed at the rate applicable under section 6621 of the Internal Revenue Code of 1954.

(c) All interest charges collected under this Act or under other applicable laws because of nonpayment, late payment or underpayment of royalties due and owing an Indian tribe or an Indian allottee shall be deposited to the same account as the royalty with respect to which such interest is paid.

(d) Any deposit of royalty funds made by the Secretary to an Indian account which is not made by the date required under subsection 104(b) shall include an interest charge computed at the rate applicable under section 6621 of the Internal Revenue Code of 1954.

(e) Notwithstanding any other provision of law, no State will be assessed for any interest or penalties found to be due against the Secretary for failure to comply with the Emergency Petroleum Allocation Act of 1973 or regulation of the Secretary of Energy thereunder concerning crude oil certification or pricing with respect to crude oil taken by the Secretary in kind as royalty. Any State share of an overcharge, resulting from such failure to comply, shall be assessed against moneys found to be due and owing to such State as a result of audits of royalty accounts for transactions which took place prior to the date of the enactment of this Act except that if after the completion of such audits, sufficient moneys have not been found due and owing to any State, the State shall be assessed the balance of that State's share of the overcharge.

(f) Interest shall be charged under this section only for the number of days a payment is late.

(g) The first sentence of section 35 of the Act of February 25, 1920 is amended by inserting "including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982" between "royalties" and "and".

(h) Interest shall be allowed and paid or credited on any overpayment, with such interest to accrue from the date such overpayment was made, at the rate obtained by applying the provisions of subparagraphs (A) and (B) of section 6621(a)(1) of the Internal Revenue Code of 1986, but determined without regard to the sentence following subparagraph (B) of section 6621(a)(1). Interest which has accrued on any overpayment may be applied to reduce an underpayment. This subsection applies to overpayments made later than six months after the date of enactment of this subsection or September 1, 1996, whichever is later. Such interest shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act, and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such interest payment attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any other recipient designated by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.

(i) Upon a determination by the Secretary that an excessive overpayment (based upon all obligations of a lessee or its designee for a given reporting month) was made for the sole purpose of receiving interest, interest shall *not* be paid on the excessive amount of such overpayment. For

purposes of this Act, an `excessive overpayment' shall be the amount that any overpayment a lessee or its designee pays for a given reporting month (excluding payments for demands for obligations determined to be due as a result of judicial or administrative proceedings or agreed to be paid pursuant to settlement agreements) for the aggregate of all of its Federal leases exceeds 10 percent of the total royalties paid that month for those leases.

(j) A lessee or its designee may make a payment for the approximate amount of royalties (hereinafter in this subsection `estimated payment') that would otherwise be due for such lease by the *date* royalties are due for that lease. When an estimated payment is made, actual royalties are payable at the end of the month following the month in which the estimated payment is made. If the estimated payment was less than the amount of actual royalties due, interest is *owed* on the underpaid amount. If the estimated payment exceeds the actual royalties due, interest is *owed* on the overpayment. If the lessee or its designee makes a payment for such actual royalties, the lessee or its designee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated at any time by the lessee or its designee.

(k)

(1) Except as otherwise provided by this subsection-

(A) a lessee or its designee of a lease in a unit or communitization agreement which contains only Federal leases with the same royalty rate and funds distribution shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee;

(B) a lessee or its designee of a lease in any other unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allocated to the lease in accordance with the terms of the agreement; and

(C) a lessee or its designee of a lease that is not contained in a unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.

(2) This subsection applies only to requirements for reporting and paying royalties. Nothing in this subsection is intended to alter a lessee's liability for royalties on oil or gas production based on the share of production allocated to the lease in accordance with the terms of the lease, a unit or communitization agreement, or any other agreement.

(3) For any unit or communitization agreement if all lessees contractually agree to an alternative method of royalty reporting and payment, the lessees may submit such alternative method to the Secretary or the delegated State for approval and make payments in accordance with such approved alternative method so long as such alternative method does not reduce the amount of the royalty obligation.

(4) The Secretary or the delegated State shall grant an exception from the reporting and payment requirements for marginal properties by allowing for any calendar year or portion thereof royalties to be paid each month based on the volume of production sold. Interest shall not accrue on the difference for the entire calendar year or portion thereof between the

amount of oil and gas actually sold and the share of production allocated to the lease until the beginning of the month following such calendar year or portion thereof. Any additional royalties *due* or overpaid royalties and associated interest shall be paid, refunded, or credited within six months after the end of each calendar year in which royalties are paid based on volumes of production sold. For the purpose of this subsection, the term `marginal property' means a lease that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90 thousand cubic feet of gas per well per day, or a combination thereof, determined by dividing the average daily production of crude oil and natural gas from producing wells on such lease by the number of such wells, unless the Secretary, together with the State concerned, determines that a different production is more appropriate.

(5) Not later than two years after the date of the enactment of this subsection, the Secretary shall issue any appropriate demand for all outstanding royalty payment disputes regarding who is required to report and pay royalties on production from units and communitization agreements outstanding on the date of the enactment of this subsection, and collect royalty amounts owed on such production.

(l) The Secretary shall issue all determinations of allocations of production for units and communitization agreements within 120 days of a request for determination. If the Secretary fails to issue a determination within such 120-day period, the Secretary shall waive interest due on obligations subject to the determination until the end of the month following the month in which the determination is made.

Sec. 111A. ADJUSTMENTS AND REFUNDS.

(a) ADJUSTMENTS TO ROYALTIES PAID TO THE SECRETARY OR A DELEGATED STATE.-

(1) If, during the adjustment period, a lessee or its designee determines that an adjustment or refund request is necessary to correct an underpayment or overpayment of an obligation, the lessee or its designee shall make such adjustment or request a refund within a reasonable period of time and only during the adjustment period. The filing of a royalty report which reflects the underpayment or overpayment of an obligation shall constitute prior written notice to the Secretary or the applicable delegated State of an adjustment.

(2)

(A) For any adjustment, the lessee or its designee shall calculate and report the interest due attributable to such adjustment at the same time the lessee or its designee adjusts the principle amount of the subject obligation, except as provided by subparagraph (B).

(B) In the case of a lessee or its designee who determines that subparagraph (A) would impose a hardship, the Secretary or such delegated State shall calculate the interest due and notify the lessee or its designee within a reasonable time of the amount of interest due, unless such lessee or its designee elects to calculate and report interest in accordance with subparagraph (A).

(3) An adjustment or a request for a refund for an obligation may be made after the

adjustment period only upon written notice to and approval by the Secretary or the applicable delegated State, as appropriate, during an audit of the period which includes the production month for which the adjustment is being made. If an overpayment is identified during an audit, then the Secretary or the applicable delegated State, as appropriate, shall allow a credit or refund in the amount of the overpayment.

(4) For purposes of this section, the adjustment period for any obligation shall be the six-year period following the date on which an obligation became due. The adjustment period shall be suspended, tolled, extended, enlarged, or terminated by the same actions as the limitation period in section 115.

(b) REFUNDS.-

(1) IN GENERAL.-A request for refund is sufficient if it-

(A) is made in writing to the Secretary and, for purposes of section 115, is specifically identified as a demand;

(B) identifies the person entitled to such refund;

(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought; and

(D) provides the reasons why the payment was an overpayment.

(2) PAYMENT BY SECRETARY OF THE TREASURY.-The Secretary shall certify the amount of the refund to be paid under paragraph (1) to the Secretary of the Treasury who shall make such refund. Such refund shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such refund attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any recipient prescribed by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.

(3) PAYMENT PERIOD.-A refund under this subsection shall be paid or denied (with an explanation of the reasons for the denial) within 120 days of the date on which the request for refund is received by the Secretary. Such refund shall be subject to later audit by the Secretary or the applicable delegated State and subject to the provisions of this Act.

(4) PROHIBITION AGAINST REDUCTION OF REFUNDS OR CREDITS.-In no event shall the Secretary or any delegated State directly or indirectly claim or offset any amount or amounts against, or reduce any refund or credit (or interest accrued thereon) by the amount of any obligation the enforcement of which is barred by section 115 of this Act.

INJUNCTION AND SPECIFIC ENFORCEMENT AUTHORITY

Sec. 112. (a) In addition to any other remedy under this Act or any mineral leasing law, the Attorney

General of the United States or his designee may bring a civil action in a district court of the United States, which shall have jurisdiction over such actions-

(1) to restrain any violation of this Act; or

(2) to compel the taking of any action required by or under this Act or any mineral leasing law of the United States.

(b) A civil action described in subsection (a) may be brought only in the United States district court for the judicial district wherein the act, omission, or transaction constituting a violation under this Act or any other mineral leasing law occurred, or wherein the defendant is found or transacts business.

REWARDS

Sec. 113. Where amounts representing royalty or other payments owed to the United States with respect to any oil and gas lease on Federal lands or the Outer Continental Shelf are recovered pursuant to any action taken by the Secretary under this Act as a result of information provided to the Secretary by any person, the Secretary is authorized to pay to such person an amount equal to not more than 10 percent of such recovered amounts. The preceding sentence shall not apply to information provided by an officer or employee of the United States, an officer or employee of a State or Indian tribe acting pursuant to a cooperative agreement or delegation under this Act, or any person acting pursuant to a contract authorized by this Act.

NONCOMPETITIVE OIL AND GAS LEASE ROYALTY RATES

Sec. 114. The Secretary is directed to conduct a thorough study of the effects of a change in the royalty rate under section 17(c) of the Mineral Leasing Act of 1920 on:

(a) the exploration, development, or production of oil or gas; and

(b) the overall revenues generated by such change. Such study shall be completed and submitted to Congress within six months after the date of enactment of this Act.

Sec. 115. SECRETARIAL AND DELEGATED STATES' ACTIONS AND LIMITATION PERIODS.

(a) IN GENERAL.-The respective duties, responsibilities, and activities with respect to a lease shall be performed by the Secretary, delegated State, and lessees or their designees in a timely manner.

(b) LIMITATION PERIOD.-

(1) IN GENERAL.-A judicial proceeding or demand which arises from, or relates to an obligation, shall be commenced within seven years from the date on which the obligation becomes due and if not so commenced shall be barred. If commencement of a judicial proceeding or demand for an obligation is barred by this section, the Secretary, or a delegated State, or a lessee or its designee

(A) shall not take any other action or further action regarding that obligation, including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty or the initiation,

pursuit or completion of an audit with regard to that obligation; and

(B) shall not pursue any other equitable or legal remedy, whether under statute or common law, with respect to an action on or an enforcement of said obligation.

(2) RULE OF CONSTRUCTION.-A judicial proceeding that is timely commenced under paragraph (1) against a designee shall be considered timely commenced as to any lessee who is liable pursuant to section 102(a) of this Act for the obligation that is the subject of the judicial proceeding or demand.

(3) APPLICATION OF CERTAIN LIMITATIONS.-The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code, and section 42 of the Mineral Leasing Act (30 U.S.C. 226-2) shall not apply to any obligation to which this Act applies. Section 3716 of title 31, United States Code, may be applied to an obligation the enforcement which is not barred by this Act, but may not be applied to any obligation the enforcement of which is barred by this Act.

(c) OBLIGATION BECOMES DUE.-

(1) IN GENERAL.-For purposes of this Act, an obligation be comes due when the right to enforce the obligation is fixed.

(2) ROYALTY OBLIGATION.-The right to enforce any royalty obligation for any given production month for a lease is fixed for purposes of this Act on the last day of the calendar month following the month in which oil or gas is produced.

(d) TOLLING OF LIMITATION PERIOD.-The running of the limitation period under subsection(b) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including the action by the Secretary or a designated State, other than the following:

(1) TOLLING AGREEMENT.-A written agreement executed by the Secretary or a delegated State and a lessee or its designee (with notice to the lessee who designated the designee) shall toll the limitation period for the amount of time during which the agreement is in effect.

(2) SUBPOENA.-

(A) The issuance of a subpoena to a lessee or its designee (with notice to the lessee who designated the designee, which notice shall not constitute a subpoena to the lessee) in accordance with the provisions of paragraph (B)(i) shall toll the limitation period with respect to the obligation which is the subject of a subpoena only for the period beginning on the date the lessee or its designee receives the subpoena and ending on the date on which

(i) the lessee or its designee has produced such subpoenaed records for the subject obligation,

(ii) the Secretary or a delegated State receives written notice that the subpoenaed records for the subject obligation are not in existence or are not in the lessee's or

its designee's possession or control, or

(iii) a court has determined in a final decision that such records are not required to be produced , whichever occurs first.

(B)

(i) A subpoena for the purposes of this section which requires a lessee or its designee to produce records necessary to determine the proper reporting and payment of an obligation due the Secretary may only be issued by an Assistant Secretary of the Interior or an Acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations), or the Director or Acting Director of the respective bureau or agency, and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such subpoena, but may not delegate such authority to any other person.

(ii) A subpoena described in clause (i) may only be against a lessee or its designee during the limitation period provided in this section and only after the Secretary or a delegated State has in writing requested the records from the lessee or its designee related to the obligation which is the subject of the subpoena and has determined that-

(I) the lessee or its designee has failed to respond within a reasonable period of time to the Secretary's or the applicable delegated State's written request for such records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or such delegated State's responsibilities under this Act; or

(II) the lessee or its designee has in writing denied the Secretary's or the applicable delegated State's written request to produce such records in the lessee's or its designee's possession or control necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or such delegated State's responsibilities under this Act; or

(III) the lessee or its designee has unreasonably delayed in producing records necessary for an audit, or investigation or other inquiry made in accordance with the Secretary's or the applicable delegated State's responsibilities under this Act after the Secretary's or delegated State's written request.

(C) In seeking records, the Secretary or the applicable delegated State shall afford the lessee or its designee a reasonable period of time after a written request by the Secretary or a delegated State in which to provide such records prior to issuance of a subpoena.

(3) MISREPRESENTATION OR CONCEALMENT.- The intentional misrepresentation or

concealment of a material fact for the purpose of evading the payment of an obligation in which case the limitation period shall be tolled for the period of such misrepresentation or such concealment.

(4) ORDER TO PERFORM RESTRUCTURED ACCOUNTING.-

(A)

(i) The issuance of a notice under subparagraph (D) that the lessee or its designee has not substantially complied with the requirement to perform a restructured accounting shall toll the limitation period with respect to the obligation which is the subject of the notice only for the period beginning on the date the lessee or its designee receives the notice and ending 120 days after the date on which (I) the Secretary or the applicable delegated State receives written notice that the accounting or other requirement has been performed, or (II) a court has determined in a final decision that the lessee is not required to perform the accounting, whichever occurs first.

(ii) If the lessee or its designee initiates an administrative appeal or judicial proceeding to contest an order to perform a restructured accounting issued under subparagraph(B)(i), the limitation period in subsection (b) shall be tolled from the date the lessee or its designee received the order until a final, nonappealable decision is issued in any such proceeding.

(B)

(i) The Secretary or the applicable delegated State may issue an order to perform a restructured accounting to a lessee or its designee when the Secretary or such delegated State determines during an audit of a lessee or its designee that the lessee or its designee should recalculate royalty due on an obligation based upon the Secretary's or the delegated State's finding that the lessee or its designee has made identified underpayments or overpayments which are demonstrated by the Secretary or the delegated State to be based upon repeated, systemic reporting errors for a significant number of leases or a single lease for a significant number of reporting months with the same type of error which constitutes a pattern of violations and which are likely to result in either significant underpayments or overpayments.

(ii) The power of the Secretary to issue an order to perform a restructured accounting may not be delegated below the most senior career professional position having responsibility for the royalty management program, which position is currently designated as the `Associate Director for Royalty Management', and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205 of this Act, the State, acting through the highest ranking State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such order to perform, which may not be delegated to any other person. An order to perform a restructured accounting shall-

(I) be issued within a reasonable period of time from when the audit identifies the systemic, reporting errors;

(II) specify the reasons and factual bases for such order;

(III) be specifically identified as an `order to perform a restructured accounting';

(IV) provide the lessee or its designee a reasonable period of time (but not less than 60 days) within which to perform the restructured accounting; and

(V) provide the lessee or its designee 60 days within which to file an administrative appeal of the order to perform a restructured accounting.

(C) An order to perform a restructured accounting shall not mean or be construed to include any other action by or on behalf of the Secretary or a delegated State.

(D) If a lessee or its designee fails to substantially comply with the requirement to perform a restructured accounting pursuant to this subsection, a notice shall be issued to the lessee or its designee that the lessee or its designee has not substantially complied with the requirements to perform a restructured accounting. A lessee or its designee shall be given a reasonable time within which to perform the restructured accounting. Such notice may be issued under this section only by an Assistant Secretary of the Interior or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such notice, which may not be delegated to any other person.

(e) TERMINATION OF LIMITATIONS PERIOD.-An action or an enforcement of an obligation by the Secretary or delegated State or a lessee or its designee shall be barred under this section prior to the running of the seven-year period provided in subsection (b) in the event-

(1) the Secretary or a delegated State has notified the lessee or its designee in writing that a time period is closed to further audit; or

(2) the Secretary or a delegated State and a lessee or its designee have so agreed in writing.

For purposes of this subsection, notice to, or an agreement by, the designee shall be binding on any lessee who is liable pursuant to section 102(a) for obligations that are the subject of the notice or agreement.

(f) RECORDS REQUIRED FOR DETERMINING COLLECTIONS.- Records required pursuant to section 103 of this Act by the Secretary or any delegated State for the purpose of determining obligations due and compliance with any applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for the same period of time during which a judicial proceeding or demand may be commenced under subsection (b). If a judicial proceeding or demand is timely commenced, the

record holder shall maintain such records until the final nonappealable decision in such judicial proceeding is made, or with respect to that demand is rendered, unless the Secretary or the applicable delegated State authorizes in writing an earlier release of the requirement to maintain such records. Notwithstanding anything herein to the contrary, under no circumstance shall a record holder be required to maintain or produce any record relating to an obligation for any time period which is barred by the applicable limitation in this section. In connection with any hearing, administrative proceeding, inquiry, investigation, or audit by the Secretary or a delegated State under this Act, the Secretary or the delegated State shall minimize the submission of multiple or redundant information and make a good faith effort to locate records previously submitted by a lessee or a designee to the Secretary or the delegated State, prior to requiring the lessee or the designee to provide such records.

(g) TIMELY COLLECTIONS.-In order to most effectively utilize resources available to the Secretary to maximize the collection of oil and gas receipts from lease obligations to the Treasury within the seven-year period of limitations, and consequently to maximize the State share of such receipts, the Secretary should not perform or require accounting, reporting, or audit activities if the Secretary and the State concerned determine that the cost of conducting or requiring the activity exceeds the expected amount to be collected by the activity, based on the most current 12 months of activity. This subsection shall not provide a defense to a demand or an order to perform a restructured accounting. To the maximum extent possible, the Secretary and delegated States shall reduce costs to the United States Treasury and the States by discontinuing requirements for unnecessary or duplicative data and other information, such as separate allowances and payor information, relating to obligations due. If the Secretary and the State concerned determine that collection will result sooner, the Secretary or the applicable delegated State may waive or forego interest in whole or in part.

(h) APPEALS AND FINAL AGENCY ACTION.-

(1) 33-MONTH PERIOD.-Demands or orders issued by the Secretary or a delegated State are subject to administrative appeal in accordance with the regulations of the Secretary. No State shall impose any conditions which would hinder a lessee's or its designee's immediate appeal of an order to the Secretary or the Secretary's designee. The Secretary shall issue a final decision in any administrative proceeding, including any administrative proceedings pending on the date of enactment of this section, within 33 months from the date such proceeding was commenced or 33 months from the date of such enactment, whichever is later. The 33-month period may be extended by any period of time agreed upon in writing by the Secretary and the appellant.

(2) Effect of failure to issue decision.-If no such decision has been issued by the Secretary within the 33-month period referred to in paragraph (1)-

(A) the Secretary shall be deemed to have issued and granted a decision in favor of the appellant as to any nonmonetary obligation and any monetary obligation the principal amount of which is less than $10,000; and

(B) the Secretary shall be deemed to have issued a final decision in favor of the Secretary, which decision shall be deemed to affirm those issues for which the agency rendered a decision prior to the end of such period, as to any monetary obligation the

principal amount of which is $10,000 or more, and the appellant shall have a right to judicial review of such deemed final decision in accordance with title 5 of the United States Code.

(i) COLLECTIONS OF DISPUTED AMOUNTS DUE.-To expedite collections relating to disputed obligations due within the seven-year period beginning on the date the obligation became due, the parties shall hold not less than one settlement consultation and the Secretary and the State concerned may take such action as is appropriate to compromise and settle a disputed obligation, including waiving or reducing interest and allowing offsetting of obligations among leases.

(j) ENFORCEMENT OF A CLAIM FOR JUDICIAL REVIEW.-In the event a demand subject to this section is properly and timely commenced, the obligation which is the subject of the demand may be enforced beyond the seven-year limitations period without being barred by this statute of limitations. In the event a demand subject to this section is properly and timely commenced, a judicial proceeding challenging the final agency action with respect to such demand shall be deemed timely so long as such judicial proceeding is commenced within 180 days from receipt of notice by the lessee or its designee of the final agency action.

(k) IMPLEMENTATION OF FINAL DECISION.- In the event a judicial proceeding or demand subject to this section is timely commenced and thereafter the limitation period in this section lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement a final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund or credit.

(l) Stay of Payment Obligation Pending Review.-Any person ordered by the Secretary or a delegated State to pay any obligation (other than an assessment) shall be entitled to a stay of such payment without bond or other surety instrument pending an administrative or judicial proceeding if the person periodically demonstrates to the satisfaction of the Secretary that such person is financially solvent or otherwise able to pay the obligation. In the event the person is not able to *so* demonstrate, the Secretary may require a bond or other surety instrument satisfactory to cover the obligation. Any person ordered by the Secretary or a delegated State to pay an assessment shall be entitled to a stay without bond or other surety instrument.

Sec. 116. ASSESSMENTS.

Beginning eighteen months after the date of enactment of this section, to encourage proper royalty payment the Secretary or the delegated State shall impose assessments on a person who chronically submits erroneous reports under this Act. Assessments under this Act may only be issued as provided for in this section.

Sec. 117. ALTERNATIVES FOR MARGINAL PROPERTIES.

(a) DETERMINATION OF BEST INTERESTS OF STATE CONCERNED AND THE UNITED STATES.-The Secretary and the State concerned, acting in the best interests of the United States and the State concerned to promote production, reduce administrative costs, and increase net receipts to the United States and the States, shall jointly determine, on a case by case basis, the amount of what marginal production from a lease or leases or well or wells, or parts thereof, shall be subject to a prepayment under subsection (b) or regulatory relief under subsection (c). If the

State concerned does not consent, such prepayments or regulatory relief shall not be made available under this section for such marginal production: *Provided,* That if royalty payments from a lease or leases, or well or wells are not shared with any State, such determination shall be made solely by the Secretary.

(b) PREPAYMENT OF ROYALTY.-

(1) IN GENERAL.-Notwithstanding the provisions of any lease to the contrary, for any lease or leases or well or wells identified by the Secretary and the State concerned pursuant to subsection (a), the Secretary is authorized to accept a prepayment for royalties in lieu of monthly royalty payments under the lease for the remainder of the lease term if the affected lessee so agrees. Any prepayment agreed to by the Secretary, State concerned and lessee which is less than an average $500 per month in total royalties shall be effectuated under this section not earlier than two years after the date of enactment of this section and, any prepayment which is greater than an average $500 per month in total royalties shall be effectuated under this section not earlier than three years after the date of enactment of this section. The Secretary and the State concerned may condition their acceptance of the prepayment authorized under this section on the lessee's agreeing to such terms and conditions as the Secretary and the State concerned deem appropriate and consistent with the purposes of this Act. Such terms may-

(A) provide for prepayment that does not result in a loss of revenue to the United States in present value terms;

(B) include provisions for receiving additional prepayments or royalties for developments in the lease or leases or well or wells that deviate significantly from the assumptions and facts on which the valuation is determined; and

(C) require the lessee or *its* designee to provide such periodic production reports as may be necessary to allow the Secretary and the State concerned to monitor production for the purposes of subparagraph (B).

(2) STATE SHARE.-A prepayment under this section shall be shared by the Secretary with any State or other recipient to the same extent as any royalty payment for such lease.

(3) SATISFACTION OF OBLIGATION.-Except as may be provided in the terms and conditions established by the Secretary under subsection (b), a lessee or its designee who makes a prepayment under this section shall have satisfied in full the lessee's obligation to pay royalty on the production stream sold from the lease or leases or well or wells.

(c) ALTERNATIVE ACCOUNTING AND AUDITING REQUIREMENTS.-Within one year after the date of the enactment of this section, the Secretary or the delegated State shall provide accounting, reporting, and auditing relief that will encourage lessees to continue to produce and develop properties subject to subsection (a): *Provided,* That such relief will only be available to lessees in a State that concurs, which concurrence is not required if royalty payments from the lease or leases or well or wells are not shared with any State. Prior to granting such relief, the Secretary and, if appropriate, the State concerned shall agree that the type of marginal wells and relief provided under this paragraph is in the best interest of the United States and, if appropriate, the State concerned.

TITLE II - STATES AND INDIAN TRIBES

APPLICATION OF TITLE

Sec. 201. This title shall apply only with respect to oil and gas leases on Federal lands or Indian lands. Nothing in this title shall be construed to apply to any lease on the Outer Continental Shelf.

COOPERATIVE AGREEMENTS

Sec. 202. (a) The Secretary is authorized to enter into a cooperative agreement or agreements with any State or Indian tribe to share oil or gas royalty management information, to carry out inspection, auditing, investigation or enforcement (not including the collection of royalties, civil or criminal penalties or other payments) activities under this Act in cooperation with the Secretary, and to carry out any other activity described in section 108 of this Act. The Secretary shall not enter into any such cooperative agreement with a State with respect to any such activities on Indian lands, except with the permission of the Indian tribe involved.

(b) Except as provided in section 203, and pursuant to a cooperative agreement-

(1) each State shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Federal lands within the State; and

(2) each Indian tribe shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Indian lands under the jurisdiction of such tribe.

Information shall be made available under paragraphs (1) and (2) soon as practicable after it comes into the possession of the Secretary. Effective October 1, 1983, such information shall be made available under paragraphs (1) and (2) not later than 30 days after such information comes into the possession of the Secretary.

(c) Any cooperative agreement entered into pursuant to this section shall be in accordance with the provisions of the Federal Grant and Cooperative Agreement Act of 1977, and shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of this Act, including, but not limited to, a limitation on the use of Federal assistance to those costs which are directly required to carry out the agreed upon activities

INFORMATION

SEC. 203. (a) Trade secrets, proprietary and other confidential information shall be made available by the Secretary, pursuant to a cooperative agreement, to a State or Indian tribe upon request only if-

(1) such State or Indian tribe consents in writing to restrict the dissemination of the information to those who are directly involved in an audit or investigation under this Act and who have a need to know;

(2) such State or tribe accepts liability for wrongful disclosure;

(3) in the case of a State, such State demonstrates that such information is essential to the conduct of an audit or investigation or to litigation under section 204; and

(4) in the case of an Indian tribe, such tribe demonstrates that such information is essential to the conduct of an audit or investigation and waives sovereign immunity by express consent for wrongful disclosure by such tribe.

(b) The United States shall not be liable for the wrongful disclosure by any individual, State, or Indian tribe of any information provided to such individual, State, or Indian tribe pursuant to any cooperative agreement or a delegation, authorized by this Act.

(c) Whenever any individual, State, or Indian tribe has obtained possession of information pursuant to a cooperative agreement authorized by this section, or any individual or State has obtained possession of information pursuant to a delegation under section 205, the individual shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to an officer or employee of the United States or of any department or agency thereof and the State or Indian tribe shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to the United States or any department or agency thereof. No State or State officer or employee who receives trade secrets, proprietary information, or other confidential information under this Act may be required to disclose such information under State law.

STATE SUITS UNDER FEDERAL LAW

Sec. 204. (a)

(1) A State may commence a civil action under this section against any person to recover any royalty, interest, or civil penalty which the State believes is due, based upon credible evidence, with respect to any oil and gas lease on Federal lands located within the State.

(2)

(A) No action may be commenced under paragraph (1) prior to 90 days after the State has given notice in writing to the Secretary of the payment required. Such 90-day limitation may be waived by the Secretary on a case-by-case basis.

(B) If, within the 90-day period specified in subparagraph (A), the Secretary issues a demand for the payment concerned, no action may be commenced under paragraph (1) with respect to such payment during a 45-day period after issuance of such demand. If, during such 45-day period, the Secretary receives payment in full, no action may be commenced under paragraph (1).

(C) If the Secretary refers the case to the Attorney General of the United States within the 45-day period referred to in subparagraph (B) or within 10 business days after the expiration of such 45-day period, no action may be commenced under paragraph (1) if the Attorney General, within 45 days after the date of such referral, commences, and thereafter diligently prosecutes, a civil action in a court of the United States with respect to the payment concerned.

(3) The State shall notify the Secretary and the Attorney General of the United States of any suit filed by the State under this section.

(4) A court in issuing any final order in any action brought under paragraph (1) may award costs of

litigation including reasonable attorney and expert witness fees, to any party in such action if the court determines such an award is appropriate.

(b) An action brought under subsection (a) of this section may be brought only in a United States district court for the judicial district in which the lease site or the leasing activity complained of is located. Such district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to require compliance or order payment in any such action.

(c)

(l) Notwithstanding any other provision of law, any civil penalty recovered by a State under subsection (a) shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate.

(2) Any rent, royalty, or interest recovered by a State under subsection (a) shall be deposited in the Treasury of the United States in the same manner, and subject to the same requirements, as are applicable in the case of any rent, royalty, or interest collected by an officer or employee of the United States, except that such amounts shall be deposited in the Treasury not later than 10 days after receipt by the State.

DELEGATION TO STATES

Sec. 205. DELEGATION OF ROYALTY COLLECTION AND RELATED ACTIVITIES

(a) Upon written request of any State, the Secretary is authorized to delegate , in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to:

(1) conduct inspections, audits, and investigations;

(2) receive and process production and financial reports;

(3) correct erroneous report data;

(4) perform automated verification; and

(5) issue demands, subpoenas, and orders to perform restructured accounting, for royalty management enforcement purposes, to any State with respect to all Federal land within the State.

(b) After notice and opportunity for a hearing, the Secretary is authorized to delegate such authorities and responsibilities granted under this section as the State has requested, if the Secretary finds that-

(1) it is likely that the State will provide adequate resources to achieve the purposes of this Act;

(2) the State has demonstrated that it will effectively and faithfully administer the rules and regulation of the Secretary under this Act in accordance with the requirements of subsections (c) and (d) of this section;

(3) such delegation will not create an unreasonable burden on any lessee;

(4) the State agrees to adopt standardized reporting procedures prescribed by the Secretary for royalty and production accounting purposes, unless the State and all affected parties (including the Secretary) otherwise agree;

(5) the State agrees to follow and adhere to regulations and guidelines issued by the Secretary pursuant to the mineral leasing laws regarding valuation of production; and

(6) where necessary for a State to have authority to carry out and enforce a delegated activity, the State agrees to enact such laws and promulgate such regulations as are consistent with relevant Federal laws and regulations with respect to the Federal lands within the State.

(c) After notice and opportunity for hearing, the Secretary shall issue a ruling as to the consistency of a State's proposal with the provisions of this section and regulations under subsection (d) within 90 days after submission of such proposal. In any unfavorable ruling, the Secretary shall set forth the reasons therefor and state whether the Secretary will agree to delegate to the State if the State meets the conditions set forth in such ruling.

(d) After consultation with State authorities, the Secretary by rule shall promulgate, within 12 months after the date of enactment of this section, standards and regulations pertaining to the authorities and responsibilities to be delegated under subsection (a), including standards and regulations pertaining to-

(1) audits to be performed;

(2) records and accounts to be maintained;

(3) reporting procedures to be required by the States under this section;

(4) receipt and processing of production and financial reports;

(5) correction of erroneous report data;

(6) performance of automated verification;

(7) issuance of standards and guidelines in order to avoid duplication of effort;

(8) transmission of report data to the Secretary; and

(9) issuance of demands, subpoenas, and orders to perform restructured accounting, for royalty accounting purposes.

Such standards and regulations shall be designed provide reasonable assurance that a uniform and effective royalty management system will prevail among the States. The records and accounts under section (2) shall be sufficient to allow the Secretary to monitor the performance of any State under this section.

(e) If, after notice and opportunity for a hearing, the Secretary finds that any State to which any authority and responsibility of the Secretary has been delegated under this section is in violation of any requirement of this section or any rule thereunder, or that an affirmative finding by the Secretary under subsection (b) can no longer be made, the Secretary may revoke such delegation.

If, after providing written notice to a delegated State and a reasonable opportunity to take corrective action requested by the Secretary, the Secretary determines that the State has failed to issue a demand or order to a Federal lessee within the State, that such failure may result in an underpayment of an obligation due the United States by such lessee, and that such underpayment may be uncollected without Secretarial intervention, the Secretary may issue such demand or order in accordance with the provisions of this Act prior to or absent the withdrawal of the delegated authority.

(f) subject to appropriations, the Secretary shall compensate any State for those costs which may be necessary to carry out the delegated activities under this Section. Payment shall be made no less than every quarter during the fiscal year. Compensation to a State may not exceed the Secretary's reasonable anticipated expenditures for performance of such delegated activities by the Secretary. Such costs shall be allocated for the purpose of section 35(b) of the Act entitled "An act to promote the mining coal, phosphate, oil, oil shale, gas and sodium on the public domain", approved February 25, 1920 (commonly known as the Mineral Leasing Act) (30 U.S.C. 191 (b)) to the administration and enforcement of laws providing for the leasing of any onshore lands or interests in lands owned by the United States. Any further allocation of costs under section 35(b) made by the Secretary for oil and gas activities, other than those costs to compensate States for delegated activities under this Act, shall be only those costs associated with onshore oil and gas activities and may not include any duplication of costs allocated pursuant to the previous sentence. Nothing in this section affects the Secretary's authority to make allocations under section 35(b) for non-oil and gas mineral activities. All moneys received from sales, bonuses, rentals, royalties, assessments and interest, including money claimed to be due and owing pursuant to a delegation under this section, shall be payable and paid to the Treasury of the United States.

(g) Any action of the Secretary to approve or disapprove a proposal submitted by a State under this section shall be subject to judicial review in the United States district court which includes the capital of the State submitting the proposal.

(h) Any State operating pursuant to a delegation existing on the date of enactment of this Act may continue to operate under the terms and conditions of the delegation, except to the extent that a revision of the existing agreement is adopted pursuant to this section.

SHARED CIVIL PENALTIES

SEC. 206. An amount equal to 50 per centum of any civil penalty collected by the Federal Government under this Act resulting from activities conducted by a State or Indian tribe pursuant to a cooperative agreement under section 202 or a State under a delegation under section 205, shall be payable to such State or tribe. Such amount shall be deducted from any compensation due such State or Indian tribe under section 202 or such State under section 205.

TITLE III - GENERAL PROVISIONS

SECRETARIAL AUTHORITY

SEC. 301. (a) The Secretary shall prescribe such rules and regulations as he deems reasonably necessary to carry out this Act.

(b) Rules and regulations issued to implement this Act shall be issued in conformity with section 553 of

title 5 of the United States Code, notwithstanding section 553(a)(2) of that title.

(c) In addition to entering into cooperative agreements or delegation of authority authorized under this Act, the Secretary may contract with such non-Federal Government inspectors, auditors, and other persons as he deems necessary to aid in carrying out his functions under this Act and its implementation. With respect to his auditing and enforcement functions under this Act, the Secretary shall coordinate such functions so as to avoid to the maximum extent practicable, subjecting lessees, operators, or other persons to audits or investigations of the same subject matter by more than one auditing **or** investigating entity at the same time.

REPORTS

SEC. 302. (a) The Secretary shall submit to the Congress an annual report on the implementation of this Act. The information to be included in the report and the format of the report shall be developed by the Secretary after consulting with the Committees on Interior and Insular Affairs of the House of Representatives and on Energy and Natural Resources of the Senate. The Secretary shall also report on the progress of the Department in reconciling account balances.

(b) Commencing with fiscal year 1984, the Inspector General of the Department of the Interior shall conduct a biennial audit of the Federal royalty management system. The Inspector General shall submit the results of such audit to the Secretary and to the Congress.

STUDY OF OTHER MINERALS

Sec. 303. (a) The Secretary shall study the question of the adequacy of royalty management for coal, uranium and other energy and nonenergy minerals on Federal and Indian lands. The study shall include proposed legislation if the Secretary determines that such legislation is necessary to ensure prompt and proper collection of revenues owed to the United States, the States and Indian tribes or Indian allottees from the sale, lease or other disposal of such minerals.

(b) The study required by subsection (a) of this section shall be submitted to Congress not later than one year from the date of the enactment of this Act.

RELATION TO OTHER LAWS

SEC. 304. (a) The penalties and authorities provided in this Act are supplemental to, and not in derogation of, any penalties or authorities contained in any other provision of law.

(b) Nothing in this Act shall be construed to reduce the responsibilities of the Secretary to ensure prompt and proper collection of revenues from coal, uranium and other energy and nonenergy minerals on Federal and Indian lands, or to restrain the Secretary from entering into cooperative agreements or other appropriate arrangements with States and Indian tribes to share royalty management responsibilities and activities for such minerals under existing authorities.

(c) Except as expressly provided in subsection 302(b), nothing in this Act shall be construed to enlarge, diminish, or otherwise affect the authority or responsibility of the Inspector General of the Department of the Interior or of the Comptroller General of the United States:

(d) No provision of this Act impairs or affects lands and interests in land entrusted to the Tennessee Valley Authority.

EFFECTIVE DATE

SEC. 305. The provisions of this Act shall apply to oil and gas leases issued before, on, or after the date of the enactment of this Act, except that in the case of a lease issued before such date, no provision of this Act or any rule or regulation prescribed tinder this Act shall alter the express and specific provisions of such a lease.

FUNDING

Sec. 306. Effective October 1, 1983, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, including such sums as may be necessary for the cooperative agreements, contracts, and delegations authorized by this Act: *Provided,* That nothing in this Act shall be construed to affect or impair any authority to enter into contracts or make payments under any other provision of law.

STATUTE OF LIMITATIONS

Sec. 307. Except in the case of fraud, any action to recover penalties under this Act shall be barred unless the action is commenced within 6 years after the date of the act or omission which is the basis for the action.

EXPANDED ROYALTY OBLIGATIONS

SEC. 308. Any lessee is liable for royalty payments on oil or gas lost or wasted from a lease site when such loss or waste is due to negligence on the part of the operator of the lease, or due to the failure to comply with any rule or regulation, order or citation issued under this Act or any mineral leasing law.

SEVERABILITY

SEC. 309. If any provision of this Act or the applicability thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

TITLE IV - REINSTATEMENT OF LEASES AND CONVERSION OF UNPATENTED OIL PLACER CLAIMS

AMENDMENT OF MINERAL LANDS LEASING ACT OF 1920

SEC. 401. Section 31 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188) is amended by redesignating subsection (d) as subsection (j) and by inserting after subsection (c) the following new subsections:

"(d)

(l) Where any oil and gas lease issued pursuant to section 17(b) or section 17(c) of this Act or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) has been, or is hereafter, terminated automatically by operation of law under this section for failure to pay on or before the anniversary date the full amount of the rental due, and such rental is not paid or tendered within twenty days thereafter, and it is shown to the satisfaction of the Secretary of the Interior that such failure was justifiable or not due to lack of reasonable diligence on the part of the lessee, or, no matter when the rental is paid after termination, it is shown to the satisfaction of the Secretary that

such failure was inadvertent, the Secretary may reinstate the lease as of the date of termination for the unexpired portion of the primary term of the original lease or any extension thereof remaining at the date of termination, and so long thereafter as oil or gas is produced in paying quantities. In any case where a lease is reinstated under this subsection and the Secretary finds that the reinstatement of such lease

(A) occurs after the expiration of the primary term or any extension thereof, or

(B) will not afford the lessee a reasonable opportunity to continue operations under the lease, the Secretary may, at his discretion, extend the term of such lease for such period as he deems reasonable, but in no event for more than two years from the date the Secretary authorizes the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

"(2) No lease shall be reinstated under paragraph (1) of this subsection unless-

"(A) with respect to any lease that terminated under subsection (b) of this section prior to enactment of the Federal Oil and Gas Royalty Management Act of 1982:

(i) the lessee tendered rental prior to enactment of such Act and the final determination that the lease terminated was made by the Secretary or a court less than three years before enactment of such Act, and

(ii) a petition for reinstatement together with the required back rental and royalty accruing from the date of termination, is filed with the Secretary on or before the one hundred and twentieth day after enactment of such Act, or

"(B) with respect to any lease that terminated under subsection (b) of this section on or after enactment of the Federal Oil and Gas Royalty Management Act of 1982, a petition for reinstatement together with the required back rental and royalty accruing from the date of termination is filed on or before the earlier of-

"(i) sixty days after the lessee receives from the Secretary notice of termination, whether by return of check or by any other form of actual notice, or

"(ii) fifteen months after termination of the lease.

"(e) Any reinstatement under subsection (d) of this section shall be made on if these conditions are met:

"(1) no valid lease, whether still in existence or not, shall have been issued affecting any of the lands covered by the terminated lease prior to the filing of such petition: *Provided, however,* That after receipt of a petition for reinstatement, the Secretary shall not issue any new lease affecting any of the lands covered by such terminated lease for a reasonable period, as determined in accordance with regulations issued by him;

"(2) payment of back rentals and either the inclusion in a reinstated lease issued pursuant to the provisions of section 17(b) of this Act of a requirement for future rentals at a rate of not less than $10 per acre per year, or the inclusion in a reinstated lease issued pursuant to the provisions of section 17(c) of this Act of a requirement that future rentals shall be at a rate not less than $5 per acre per year, all as determined by the Secretary;

"(3)

(A) payment of back royalties and the inclusion in a reinstated lease issued pursuant to the provisions of section 17(b) of this Act of a requirement for future royalties at a rate of not less than 16% percent computed on a sliding scale based upon the average production per well per day, at a rate which shall be not less than 4 percentage points greater than the competitive royalty schedule then in force and used for royalty determination for competitive leases issued pursuant to such section as determined by the Secretary: *Provided,* That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the termination of the original lease;

"(B) payment of back royalties and inclusion in a reinstate,, lease issued pursuant to the provisions of section 17(c) of this Act of a requirement for future royalties at a rate not less than 16% percent: *Provided,* That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the cancellation or termination of the original lease; and

"(4) notice of the proposed reinstatement of a terminated lease, including the terms and conditions of reinstatement, shall be published in the Federal Register at least thirty days in advance of the reinstatement.

A copy of said notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the Secretary deemed significant in making this determination to reinstate, shall be furnished to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate at least thirty days in advance of the reinstatement. The lessee of a reinstated lease shall reimburse the Secretary for the administrative costs of reinstating the lease, but not to exceed $500. In addition the lessee shall reimburse the Secretary for the cost of publication in the Federal Register of the notice of proposed reinstatement.

"(f) Where an unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, has been or is hereafter deemed conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), and it is shown to the satisfaction of the Secretary that such failure was inadvertent, justifiable, or not due to lack of reasonable diligence on the part of the owner, the Secretary may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease, consistent with the provisions of section 17(e) of this Act, to be effective from the statutory date the claim was deemed conclusively abandoned. Issuance of such a lease shall be conditioned upon:

"(1) a petition for issuance of a noncompetitive oil and gas lease, together with the required rental and royalty, including back rental and royalty accruing from the statutory date of abandonment of the oil placer mining claim , being filed with the Secretary-

"(A) with respect to any claim deemed conclusively abandoned on or before the date of enactment of the Federal Oil and Gas Royalty Management Act of 1982, on or before the one hundred and twentieth day after such date of enactment, or

(B) with respect to any claim deemed conclusively abandoned after such date of enactment, on or before the one hundred and twentieth day after final notification by the Secretary or a

court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim;

"(2) a valid lease not having been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of such petition: *Provided, however*, That after the filing of a petition for issuance of a lease under this subsection, the Secretary shall not issue any new lease affecting any of the lands covered by such abandoned oil placer mining claim for a reasonable period, as determined in accordance with regulations issued by him;

"(3) a requirement in the lease for payment of rental, including back rentals accruing from the statutory date of abandonment of the oil placer mining claim, of not less than $5 per acre per year;

"(4) a requirement in the lease for payment of royalty on production removed or sold from the oil placer mining claim, including all royalty on production made subsequent to the statutory date the claim was deemed conclusively abandoned, of not less than 12½ percent; and

"(5) compliance with the notice and reimbursement of costs provisions of paragraph (4) of subsection (e) but addressed to the petition covering the conversion of an abandoned unpatented oil placer mining claim to a noncompetitive oil and gas lease.

"(g)

(1) Except as otherwise provided in this section, a reinstated lease shall be treated as a competitive or a noncompetitive oil and gas lease in the same manner as the original lease issued pursuant to section 17(b) or 17(c) of this Act.

"(2) Except as otherwise provided in this section, the issuance of a lease in lieu of an abandoned patented oil placer mining claim shall be treated as a noncompetitive oil and gas lease issued pursuant to section 17(c) of this Act.

"(h) The minimum royalty provisions of section 17(j) and the provisions of section 39 of this Act shall be applicable to leases issued pursuant to subsections (d) and (f) of this section.

"(i)

(l) In acting on a petition to issue a noncompetitive, oil and gas lease, under subsection (f) of this section or in response to a request filed after issuance of such a lease, or both, the Secretary is authorized to reduce the royalty on such lease if in his judgment it is equitable to do so or the circumstances warrant such relief due to uneconomic or other circumstances which could cause undue hardship or premature termination of production.

"(2) In acting on a petition for reinstatement pursuant to subsection (d) of this section or in response to a request filed after reinstatement, or both, the Secretary is authorized to reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes if, in his judgment, there are uneconomic or other circumstances which could cause undue hardship or premature termination of production; or because of any written action of the United States, its agents or employees, which preceded, and was a major consideration in, the lessee's expenditure of funds to develop the property under the lease after the rent had become due and had not been paid; or if in the judgment of the Secretary it is equitable to do so for any reason.".

Approved January 12, 1983.

Public Law 97-451 (As of 3/7/97)
97th Congress
PUBLIC LAW 97-451 - JAN. 12,1983 96 STAT. 2447

An Act

To ensure that all oil and gas originated on the public lands and on the Outer Continental Shelf are properly accounted for under the direction of the Secretary of the Interior, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Federal Oil and Gas Royalty Management Act of 1982".

FINDINGS AND PURPOSES

Sec. 2.(a) Congress finds that-

(1) the Secretary of the Interior should enforce effectively and uniformly existing regulations under the mineral leasing laws providing for the inspection of production activities on lease sites on Federal and Indian lands;

(2) the system of accounting with respect to royalties and other payments due and owing on oil and gas produced from such lease sites is archaic and inadequate;

(3) it is essential that the Secretary initiate procedures to improve methods of accounting for such royalties and payments and to provide for routine inspection of activities related to the production of oil and gas on such lease sites; and

(4) the Secretary should aggressively carry out his trust responsibility in the administration of Indian oil and gas.

(b) It is the purpose of this Act-

(1) to clarify, reaffirm, expand, and define the responsibilities and obligations of lessees, operators, and other persons involved in transportation or sale of oil and gas from the Federal and Indian lands and the Outer Continental Shelf,

(2) to clarify, reaffirm, expand and define the authorities and responsibilities of the Secretary of the Interior to implement and maintain a royalty management system for oil and gas leases on Federal lands, Indian lands, and the Outer Continental Shelf;

(3) to require the development of enforcement practices that ensure the prompt and proper collection and disbursement of oil and gas revenues owed to the United States and Indian lessors and those inuring to the benefit of States;

(4) to fulfill the trust responsibility of the United States for the administration of Indian oil and gas resources; and

(5) to effectively utilize the capabilities of the States and Indian tribes in developing and

maintaining an efficient and effective Federal royalty management system.

DEFINITIONS

Sec. 3. For the purposes of this Act, the term-

(1) "Federal land" means all land and interests in land owned by the United States which 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;

(2) "Indian allottee" means any Indian for whom land or an interest in land is held in trust by the United States or who holds title subject to Federal restriction against alienation;

(3) "Indian lands" means any lands or interest in lands of an Indian tribe or an Indian allottee held in trust by the United States or which is subject to Federal restriction against alienation, including mineral resources and mineral estates reserved to an Indian tribe or an Indian allottee in the conveyance of a surface or nonmineral estate, except that such term does not include any lands subject to the provisions of section 3 of the Act of June 28, 1906 (34 Stat. 539);

(4) "Indian tribe" means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indians, including the Metlakatla Indian Community of Annette Island Reserve, for which any land or interest in land is held by the United States in trust or which is subject to Federal restriction against alienation;

(5) "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, extraction of, or removal of oil or gas;

(6) "lease site" means any lands or submerged lands, including the surface of a severed mineral estate, on which exploration for, or extraction or removal of, oil or gas is authorized pursuant to a lease;

(7) **"lessee" means any person to whom the United States issues an oil and gas lease or any person to whom operating rights in a lease have been assigned;**

(8) "mineral leasing law" means any Federal law administered by the Secretary authorizing the disposition under lease of oil or gas;

(9) "oil or gas" means any oil or gas originating from, or allocated to, the Outer Continental Shelf, Federal, or Indian lands;

(10) "Outer Continental Shelf' has the same meaning as provided in the Outer Continental Shelf Lands Act (Public Law 95-372);

(11) "operator" means any person, including a lessee, who has control of, or who manages operations on, an oil and gas lease site on Federal or Indian lands or on the Outer Continental Shelf;

(12) "Person" means any individual firm, corporation, association, partnership, consortium, or joint venture;

(13) "production" means those activities which take place for the removal of oil or gas, including such removal, field operations, transfer of oil or gas off the lease site, operation monitoring, maintenance, and workover drilling;

(14) "royalty" means any payment based on the value or volume of production which is due to the United States or an Indian tribe or an Indian allottee on production of oil or gas from the Outer Continental Shelf, Federal, or Indian lands, or any minimum royalty owed to the United States or an Indian tribe or an Indian allottee under any provision of a lease;

(15) "Secretary" means the Secretary of the Interior or his designee;

(16) "State" means the several States of the Union, the District of Columbia, Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands;

(17) "adjustment" means an amendment to a previously filed report on an obligation, and any additional payment or credit, if any, applicable thereto, to rectify an underpayment or overpayment on an obligation;

(18) "administrative proceeding" means any Department of the Interior agency process in which a demand, decision or order issued by the Secretary or a delegated State is subject to appeal or has been appealed;

(19) "assessment" means any fee or charge levied by the Secretary or a delegated State other than-

(A) the principal amount of any royalty, minimum royalty, rental bonus, net profit sharing or proceed of sale;

(B) any interest; or

(C) any civil or criminal penalty;

(20) "commence" means -

(A) with to a judicial proceeding, the service of a compliant, petition, cross claim, or other pleading seeking affirmative relief or seeking credit or recoupment: Provided, That if the Secretary commences a judicial proceeding against a designee, the Secretary shall give notice of that commencement to the lessee who designated the designee, but the Secretary is not required to give notice to the other lessees who may be liable pursuant to section 102(a) of this Act, for the obligation that is the subject of the judicial proceeding; or

(B) with respect to a demand, the receipt by the Secretary or a delegated State or a lessee or its designee (with written notice to the lessee who designated the designee) of the demand;

(21) "credit" means the application of an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

(22) "delegated State" means a State which, pursuant to an agreement or agreements under section 205 of this Act, performs authorities, duties, responsibilities, or activities of the

Secretary;

(23) "demand" means-

(A) an order to pay issued by the Secretary or the applicable State to a lessee or its designee (with written notice to the lessee who designated the designee) that has a reasonable basis to conclude that the obligation in the amount of the demand is due and owing; or

(B) a separate written request by the lessee or its designee which asserts an obligation due the lessee or its designee that provides a reasonable basis to conclude that the obligation in the amount of the demand is due and owing, but does not mean any royalty or production report , or any information contained therein, required by the Secretary or a delegated State;

(24) "designee" means a person designated by a lessee pursuant to section 102(a) of this Act, with such written designation effective on the date such designation is received by the Secretary and remaining in effect until the Secretary receives notice in writing that the designation is modified or terminated;

(25) "obligation" means-

(A) any duty of the Secretary or, if applicable, a delegated State-

(i) to take oil and gas royalty in kind; or

(ii) to pay, refund, offset, or credit monies including (but not limited to)-

(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale; or

(II) any interest; and

(B) any duty of a lessee or its designee (subject to the *provisions* of section 102(a) of this Act)-

(i) to deliver oil and gas in kind; or

(ii) to pay, offset or credit monies including (but not limited to)-

(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

(II) any interest;

(III) any penalty; or

(IV) any assessment,

which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil and gas on Federal lands or the Continental Shelf;

(26) "order to pay" means a written order issued by the Secretary or the applicable delegated State to a lessee or its designee (with notice to the lessee who designated the designee) which-

(A) asserts a specific, definite, and quantified obligation claimed to be due, and

(B) specifically identifies the obligation by lease, production month and monetary amount of such obligation claimed to be due and ordered to be paid, as well as the reason or reasons such obligation is claimed to be due, but such term does not include any other communication or action by or on the behalf of the Secretary or delegated State;

(27) "overpayment" means any payment by the lessee or its designee in excess of an amount legally required to be paid on an obligation and includes the portion of any estimated payment for a production month that is in excess of the royalties due for the that month;

(28) "payment" means satisfaction, in whole or in part, of an obligation;

(29) "penalty" means a statutory authorized fine levied or imposed for a violation of this Act, any mineral leasing law, or a term or provision of a lease administered by the Secretary;

(30) "refund" means the return of an overpayment;

(31 "State concerned" means, with respect to a lease, a State which receives a portion of royalties or other payments under the mineral leasing laws from such lease;

(32) "underpayment" means any payment or nonpayment by a lessee or its designee that is less than the amount legally required to be paid on an obligation; and

(33) "United States" means the United States Government or any department, agency, or instrumentality thereof, the several States, the District of Columbia, and the territories of the United States.

TITLE I - FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

DUTIES OF THE SECRETARY

Sec. 101. (a) The Secretary shall establish a comprehensive inspection, collection and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed, and to collect and account for such amounts in a timely manner.

(b) The Secretary shall-

(1) establish procedures to ensure that authorized and properly identified representatives of the Secretary will inspect at least once annually each lease site producing or expected to produce significant quantities of oil or gas in any year or which has a history of noncompliance with applicable provisions of law or regulations; and

(2) establish and maintain adequate programs providing for the training of all such authorized representatives in methods and techniques of inspection and accounting that will be used in the

implementation of this Act.

(c)

(1) The Secretary shall audit and reconcile, to the extent practicable, all current and past lease accounts for leases of oil or gas and take appropriate actions to make additional collections or refunds as warranted. The Secretary shall conduct audits and reconciliations of lease accounts in conformity with the business practices and recordkeeping systems which were required of the lessee by the Secretary for the period covered by the audit. The Secretary shall give priority to auditing those lease accounts identified by a State or Indian tribe as having significant potential for underpayment. The Secretary may also audit accounts and records of selected lessees and operators.

(2) The Secretary may enter into contracts or other appropriate arrangements with independent certified public accountants to undertake audits of accounts and records of any lessee or operator relating to the lease of oil or gas. Selection of such independent certified public accountants shall be by competitive bidding in accordance with the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252), except that the Secretary may not enter into a contract or other arrangement with any independent certified public accountant to audit any lessee or operator where such lessee or operator is a primary audit client of such certified public accountant.

(3) All books, accounts, financial records, reports, files, and other papers of the Secretary, or used by the Secretary, which are reasonably necessary to facilitate the audits required under this section shall be made available to any person or governmental entity conducting audits under this Act.

DUTIES OF LESSEES, OPERATORS, AND MOTOR VEHICLE TRANSPORTERS

Sec. 102. **(a) In order to increase receipts and achieve effective collections of royalty and other payments, a lessee who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary or the applicable delegated State. A lessee may designate a person to make all or part of the payments due under a lease on the lessee's behalf and shall notify the Secretary or the applicable delegated State in writing of such designation, in which event said designated person may, in its own name, pay, offset or credit monies, make adjustments, request and receive refunds and submit reports with respect to payments required by the lessee. Notwithstanding any other provision of this Act to the contrary, a designee shall not be liable for any payment obligation under the lease. The person owning operating rights in a lease shall be primarily liable for its pro rata share of payment obligations under the lease. If the person owning the legal record title in a lease is other than the operating rights owner, the person owning the legal record title shall be secondarily liable for its pro rata share of such payment obligations under the lease.**

(b) An operator shall-

(1) develop and comply with a site security plan designed to protect the oil or gas produced or stored on an onshore lease site from theft, which plan shall conform with such minimum standards as the Secretary may prescribe by rule, taking into account the variety of circumstances at lease sites;

(2) develop and comply with such minimum site security measures as the Secretary deems

appropriate to protect oil or gas produced or stored on a lease site or on the Outer Continental Shelf from theft; and

(3) not later than the 5th business day after any well begins production anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well which has been off of production for more than 90 days, notify the Secretary, in the manner prescribed by the Secretary, of the date on which such production has begun or resumed.

(c)

(1) Any person engaged in transporting by motor vehicle any oil from any lease site, or allocated to any such lease site, shall carry, on his person, in his vehicle, or in his immediate control, documentation showing, at a minimum, the amount, origin, and intended first destination of the oil.

(2) engaged in transporting any oil or gas by pipeline from any lease site, or allocated to any lease site, on Federal or Indian lands shall maintain documentation showing, at a minimum, amount, origin, and intended first destination of such oil or gas.

REQUIRED RECORDKEEPING

Sec. 103. (a) A lessee, operator, or other person directly involved in developing, producing, transporting, purchasing, or selling oil or gas subject to this Act through the point of first sale or the point of royalty computation, whichever is later, shall establish and maintain any records, make any reports, and provide any information that the Secretary may, by rule, reasonably require for the purposes of implementing this Act or determining compliance with rules or orders under this Act. Upon the request of any officer or employee duly designated by the Secretary or any State or Indian tribe conducting an audit or investigation pursuant to this Act, the appropriate records, reports, or information which may be required by this section shall be made available for inspection and duplication by such officer or employee, State, or Indian tribe.

(b) Records required by the Secretary with respect to oil and gas leases from Federal or Indian lands or the Outer Continental Shelf shall be maintained for 6 years after the records are generated unless the Secretary notifies the record holder that he has initiated an audit or investigation involving such records and that such records must be maintained for a longer period. In any case when an audit or investigation is underway, records shall be maintained until the Secretary releases the record holder of the obligation to maintain such records.

PROMPT DISBURSEMENT OF ROYALTIES

Sec. 104. (a) Section 35 of the Mineral Lands Losing Act of 1920 (approved February 25, 1920; 41 Stat. 437; 30 U.S.C. 191) is amended by deleting "as soon as practicable after March 31 and September 30 of each year" and by adding at the end thereof "Payments to States under this section with respect to any moneys received by the United States, shall be made not later than the last business day of the month in which such moneys are warranted by the United States Treasury to the Secretary as having been received, except for any portion of such moneys which is under challenge and placed in a suspense account pending resolution of a dispute. Such warrants shall be issued by the United States Treasury not later than 10 days after receipt of such moneys by the Treasury. Moneys placed in a suspense account which are determined to be payable to a State shall be made not later than the last business day of the

month in which such dispute is resolved. Any such amount placed in a suspense account pending resolution shall bear interest until the dispute is resolved.".

(b) Deposits of any royalty funds derived from the production of oil or gas from, or allocated to, Indian lands shall be made by the Secretary to the appropriate Indian account at the earliest practicable date after such funds are received by the Secretary but in no case later than the last business day of the month in which such funds are received.

(c) The provisions of this section shall apply with respect to payments received by the Secretary after October 1, 1983, unless the Secretary, by rule, prescribes an earlier effective date.

EXPLANATION OF PAYMENTS

Sec. 105. (a) When any payment (including amounts due from receipt of any royalty, bonus, interest charge, fine, or rental) is made by the United States to a State with respect to any oil or gas lease on Federal lands or is deposited in the appropriate Indian account on behalf of an Indian tribe or Indian allottee with respect to any oil and gas lease on Indian lands, there shall be provided, together with such payment, a description of the type of payment being made, the period covered by such payment, the source of such payment, production amounts, the royalty rate, unit value and such other information as may be agreed upon by the Secretary and the recipient State, Indian tribe, or Indian allottee.

(b) This section shall take effect with respect to payments made after October 1, 1983, unless the Secretary, by rule, prescribes an earlier effective date.

LIABILITIES AND BONDING

Sec. 106. A person (including any agent or employee of the United States and any independent contractor) authorized to collect, receive, account for, or otherwise handle any moneys payable to, or received by, the Department of the Interior which are derived from the sale, lease, or other disposal of any oil or gas shall be -

(1) liable to the United States for any losses caused by any intentional or reckless action or inaction of such individual with respect to such moneys; and

(2) in the case of an independent contractor, required as the Secretary deems necessary to maintain a bond commensurate with the amount of money for which such individual could be liable to the United States.

HEARINGS AND INVESTIGATIONS

Sec. 107. (a) In carrying out his duties under this Act the Secretary may conduct any investigation or other inquiry necessary and appropriate and may conduct, after notice, any hearing or audit, necessary and appropriate to carrying out his duties under this Act. In connection with any such hearings, inquiry, investigation, or audit, the Secretary is also authorized where reasonably necessary

(1) to require by special or general order, any person to submit in writing such affidavits and answers to questions as the Secretary may reasonably prescribe, which submission shall be made within such reasonable period and under oath or otherwise, as may be necessary;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all books, papers, production and financial records, documents, matter, and materials, as the Secretary may request;

(4) to order testimony to be taken by deposition before any person who is designated by the Secretary and who has the power to administer oaths, and to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection; and

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) In case of refusal to obey a subpena served upon any person under this section, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Attorney General at the request of the Secretary and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary. Any failure to obey such order of the court may be punished by such court as contempt thereof and subject to a penalty of up to $10,000 a day.

INSPECTIONS

Sec. 108. (a)

(1) On any lease site on Federal or Indian lands, any authorized and properly identified representative of the Secretary may stop and inspect any motor vehicle that he has probable cause to believe is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site, for the purpose of determining whether the driver of such vehicle has documentation related to such oil as required by law.

(2) Any authorized and properly identified representative of the Secretary, accompanied by any appropriate law enforcement officer, or an appropriate law enforcement officer alone, may stop and inspect any motor vehicle which is not on a lease site if he has probable cause to believe the vehicle is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site. Such inspection shall be for the purpose of determining whether the driver of such vehicle has the documentation required by law.

(b) Authorized and properly identified representatives of the Secretary may without advance notice, enter upon, travel across and inspect lease sites on Federal or Indian lands and may obtain from the operator immediate access to secured facilities on such lease sites, for the purpose of making any inspection or investigation for determining whether there is compliance with the requirements of the mineral leasing laws and this Act. The Secretary shall develop guidelines setting forth the coverage and the frequency of such inspections.

(c) For the purpose of making any inspection or investigation under this Act, the Secretary shall have the same right to enter upon or travel across any lease site as the lessee or operator has acquired by purchase, condemnation, or otherwise.

CIVIL PENALTIES

Sec. 109. (a) Any person who-

(1) after due notice of violation or after such violation has been reported under subparagraph (A), fails or refuses to comply with any requirements of this Act or any mineral leasing law, any rule or regulation thereunder, or the terms of any lease or permit issued thereunder; or

(2) fails to permit inspection authorized in section 108 or fails to notify the Secretary of any assignment under section 102(a)(2) shall be liable for a penalty of up to $500 per violation for each day such violation continues, dating from the date of such notice or report. A penalty under this subsection may not be applied to any person who is otherwise liable for a violation of paragraph (1) if:

(A) the violation was discovered and reported to the Secretary or his authorized representative by the liable person and corrected within 20 days after such report or such longer time as the Secretary may agree to; or

(B) after the due notice of violation required in paragraph (1) has been given to such person by the Secretary or his authorized representative, such person has corrected the violation within 20 days of such notification or such longer time as the Secretary may agree to.

(b) If corrective action is not taken within 40 days or a longer period as the Secretary may agree to, after due notice or the report referred to in subsection (a)(l), such person shall be liable for a civil penalty of not more than $5,000 per violation for each day such violation continues, dating from the date of such notice or report.

(c) Any person who-

(1) knowingly or willfully fails to make any royalty payment by the date as specified by statute, regulation, order or terms of the lease;

(2) fails or refuses to permit lawful entry, inspection, or audit; or

(3) knowingly or willfully fails or refuses to comply with subsection 102(b)(3), shall be liable for a penalty of up to $10,000 per violation for each day such violation continues.

(d) Any person who-

(1) knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information;

(2) knowingly or willfully takes or removes, transports, uses or diverts any oil or gas from any lease site without having valid legal authority to do so; or

(3) purchases, accepts, sells, transports, or conveys to another, any oil or gas knowing or having reason to know that such oil or gas was stolen or unlawfully removed or diverted, shall be liable for a penalty of up to $25,000 per violation for each day such violation continues.

(e) No penalty under this section shall be assessed until the person charged with a violation has been given the opportunity for a hearing on the record.

(f) The amount of any penalty under this section, as finally determined may be deducted from any sums owing by the United States to the person charged.

(g) On a case-by-case basis the Secretary may compromise or reduce civil penalties under this section.

(h) Notice under this subsection (a) shall be by personal service by an authorized representative of the Secretary or by registered mail. Any person may, in the manner prescribed by the Secretary, designate a representative to receive any notice under this subsection.

(i) In determining tho amount of such penalty, or whether it should be remitted or reduced, and in what amount, the Secretary shall state on the record the reasons for his determinations.

(j) Any person who has requested a hearing in accordance with subsection (e) within the time the Secretary has prescribed for such a hearing and who is aggrieved by a final order of the Secretary under this section may seek review of such order in the United States district court for the judicial district in which the violation allegedly took place. Review by the district court shall be only on the administrative record and not de novo. Such an action shall be barred unless filed within 90 days after the Secretary's final order.

(k) If any person fails to pay an assessment of a civil penalty under this Act-

(1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with subsection (j), or

(2) after a court in an action brought under subsection (j) has entered a final judgment in favor of the Secretary, the court shall have jurisdiction to award the amount assessed plus interest from the date of the expiration of the 90-day period referred to in subsection (j). Judgment by the court shall include an order to pay.

(l) No person shall be liable for a civil penalty under subsection (a) or (b) for failure to pay any rental for any lease automatically terminated pursuant to section 31 of the Mineral Leasing Act of 1920.

CRIMINAL PENALTIES

Sec. 110. Any person who commits an act for which a civil penalty is provided in section 109(d) shall, upon conviction, be punished by a fine of not more than $50,000, or by imprisonment for not more than 2 years, or both.

ROYALTY TERMS AND CONDITIONS, INTEREST, AND PENALTIES

Sec. 111. (a) In the case of oil and gas leases where royalty payments are not received by the Secretary on the date that . such payments are due, or are less than the amount due, the Secretary shall charge interest on such late payments or underpayments at the rate applicable under section 6621 of the Internal Revenue Code of 1954. In the case of an underpayment or partial payment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount due.

(b) Any payment made by the Secretary to a State under section 35 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 191) and any other payment made by the Secretary to a State from any oil or gas royalty received by the Secretary which is not paid on the date required under section 35 shall include an interest charge computed at the rate applicable under section 6621 of the Internal Revenue Code of 1954.

(c) All interest charges collected under this Act or under other applicable laws because of nonpayment, late payment or underpayment of royalties due and owing an Indian tribe or an Indian allottee shall be

deposited to the same account as the royalty with respect to which such interest is paid.

(d) Any deposit of royalty funds made by the Secretary to an Indian account which is not made by the date required under subsection 104(b) shall include an interest charge computed at the rate applicable under section 6621 of the Internal Revenue Code of 1954.

(e) Notwithstanding any other provision of law, no State will be assessed for any interest or penalties found to be due against the Secretary for failure to comply with the Emergency Petroleum Allocation Act of 1973 or regulation of the Secretary of Energy thereunder concerning crude oil certification or pricing with respect to crude oil taken by the Secretary in kind as royalty. Any State share of an overcharge, resulting from such failure to comply, shall be assessed against moneys found to be due and owing to such State as a result of audits of royalty accounts for transactions which took place prior to the date of the enactment of this Act except that if after the completion of such audits, sufficient moneys have not been found due and owing to any State, the State shall be assessed the balance of that State's share of the overcharge.

(f) Interest shall be charged under this section only for the number of days a payment is late.

(g) The first sentence of section 35 of the Act of February 25, 1920 is amended by inserting "including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982" between "royalties" and "and".

(h) Interest shall be allowed and paid or credited on any overpayment, with such interest to accrue from the date such overpayment was made, at the rate obtained by applying the provisions of subparagraphs (A) and (B) of section 6621(a)(1) of the Internal Revenue Code of 1986, but determined without regard to the sentence following subparagraph (B) of section 6621(a)(1). Interest which has accrued on any overpayment may be applied to reduce an underpayment. This subsection applies to overpayments made later than six months after the date of enactment of this subsection or September 1, 1996, whichever is later. Such interest shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act, and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such interest payment attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any other recipient designated by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.

(i) Upon a determination by the Secretary that an excessive overpayment (based upon all obligations of a lessee or its designee for a given reporting month) was made for the sole purpose of receiving interest, interest shall *not* be paid on the excessive amount of such overpayment. For purposes of this Act, an `excessive overpayment' shall be the amount that any overpayment a lessee or its designee pays for a given reporting month (excluding payments for demands for obligations determined to be due as a result of judicial or administrative proceedings or agreed to be paid pursuant to settlement agreements) for the aggregate of all of its Federal leases exceeds 10 percent of the total royalties paid that month for those leases.

(j) A lessee or its designee may make a payment for the approximate amount of royalties

(hereinafter in this subsection `estimated payment') that would otherwise be due for such lease by the *date* royalties are due for that lease. When an estimated payment is made, actual royalties are payable at the end of the month following the month in which the estimated payment is made. If the estimated payment was less than the amount of actual royalties due, interest is *owed* on the underpaid amount. If the estimated payment exceeds the actual royalties due, interest is *owed* on the overpayment. If the lessee or its designee makes a payment for such actual royalties, the lessee or its designee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated at any time by the lessee or its designee.

(k)

(1) Except as otherwise provided by this subsection-

(A) a lessee or its designee of a lease in a unit or communitization agreement which contains only Federal leases with the same royalty rate and funds distribution shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee;

(B) a lessee or its designee of a lease in any other unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allocated to the lease in accordance with the terms of the agreement; and

(C) a lessee or its designee of a lease that is not contained in a unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.

(2) This subsection applies only to requirements for reporting and paying royalties. Nothing in this subsection is intended to alter a lessee's liability for royalties on oil or gas production based on the share of production allocated to the lease in accordance with the terms of the lease, a unit or communitization agreement, or any other agreement.

(3) For any unit or communitization agreement if all lessees contractually agree to an alternative method of royalty reporting and payment, the lessees may submit such alternative method to the Secretary or the delegated State for approval and make payments in accordance with such approved alternative method so long as such alternative method does not reduce the amount of the royalty obligation.

(4) The Secretary or the delegated State shall grant an exception from the reporting and payment requirements for marginal properties by allowing for any calendar year or portion thereof royalties to be paid each month based on the volume of production sold. Interest shall not accrue on the difference for the entire calendar year or portion thereof between the amount of oil and gas actually sold and the share of production allocated to the lease until the beginning of the month following such calendar year or portion thereof. Any additional royalties *due* or overpaid royalties and associated interest shall be paid, refunded, or credited within six months after the end of each calendar year in which royalties are paid based on volumes of production sold. For the purpose of this subsection, the term `marginal property' means a lease that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90 thousand cubic feet of gas per well per day, or a combination thereof,

determined by dividing the average daily production of crude oil and natural gas from producing wells on such lease by the number of such wells, unless the Secretary, together with the State concerned, determines that a different production is more appropriate.

(5) Not later than two years after the date of the enactment of this subsection, the Secretary shall issue any appropriate demand for all outstanding royalty payment disputes regarding who is required to report and pay royalties on production from units and communitization agreements outstanding on the date of the enactment of this subsection, and collect royalty amounts owed on such production.

(l) The Secretary shall issue all determinations of allocations of production for units and communitization agreements within 120 days of a request for determination. If the Secretary fails to issue a determination within such 120-day period, the Secretary shall waive interest due on obligations subject to the determination until the end of the month following the month in which the determination is made.

Sec. 111A. ADJUSTMENTS AND REFUNDS.

(a) ADJUSTMENTS TO ROYALTIES PAID TO THE SECRETARY OR A DELEGATED STATE.-

(1) If, during the adjustment period, a lessee or its designee determines that an adjustment or refund request is necessary to correct an underpayment or overpayment of an obligation, the lessee or its designee shall make such adjustment or request a refund within a reasonable period of time and only during the adjustment period. The filing of a royalty report which reflects the underpayment or overpayment of an obligation shall constitute prior written notice to the Secretary or the applicable delegated State of an adjustment.

(2)

(A) For any adjustment, the lessee or its designee shall calculate and report the interest due attributable to such adjustment at the same time the lessee or its designee adjusts the principle amount of the subject obligation, except as provided by subparagraph (B).

(B) In the case of a lessee or its designee who determines that subparagraph (A) would impose a hardship, the Secretary or such delegated State shall calculate the interest due and notify the lessee or its designee within a reasonable time of the amount of interest due, unless such lessee or its designee elects to calculate and report interest in accordance with subparagraph (A).

(3) An adjustment or a request for a refund for an obligation may be made after the adjustment period only upon written notice to and approval by the Secretary or the applicable delegated State, as appropriate, during an audit of the period which includes the production month for which the adjustment is being made. If an overpayment is identified during an audit, then the Secretary or the applicable delegated State, as appropriate, shall allow a credit or refund in the amount of the overpayment.

(4) For purposes of this section, the adjustment period for any obligation shall be the six-year

period following the date on which an obligation became due. The adjustment period shall be suspended, tolled, extended, enlarged, or terminated by the same actions as the limitation period in section 115.

(b) REFUNDS.-

(1) IN GENERAL.-A request for refund is sufficient if it-

(A) is made in writing to the Secretary and, for purposes of section 115, is specifically identified as a demand;

(B) identifies the person entitled to such refund;

(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought; and

(D) provides the reasons why the payment was an overpayment.

(2) PAYMENT BY SECRETARY OF THE TREASURY.-The Secretary shall certify the amount of the refund to be paid under paragraph (1) to the Secretary of the Treasury who shall make such refund. Such refund shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such refund attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any recipient prescribed by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.

(3) PAYMENT PERIOD.-A refund under this subsection shall be paid or denied (with an explanation of the reasons for the denial) within 120 days of the date on which the request for refund is received by the Secretary. Such refund shall be subject to later audit by the Secretary or the applicable delegated State and subject to the provisions of this Act.

(4) PROHIBITION AGAINST REDUCTION OF REFUNDS OR CREDITS.-In no event shall the Secretary or any delegated State directly or indirectly claim or offset any amount or amounts against, or reduce any refund or credit (or interest accrued thereon) by the amount of any obligation the enforcement of which is barred by section 115 of this Act.

INJUNCTION AND SPECIFIC ENFORCEMENT AUTHORITY

Sec. 112. (a) In addition to any other remedy under this Act or any mineral leasing law, the Attorney General of the United States or his designee may bring a civil action in a district court of the United States, which shall have jurisdiction over such actions-

(1) to restrain any violation of this Act; or

(2) to compel the taking of any action required by or under this Act or any mineral leasing law of the United States.

(b) A civil action described in subsection (a) may be brought only in the United States district court for the judicial district wherein the act, omission, or transaction constituting a violation under this Act or any other mineral leasing law occurred, or wherein the defendant is found or transacts business.

REWARDS

Sec. 113. Where amounts representing royalty or other payments owed to the United States with respect to any oil and gas lease on Federal lands or the Outer Continental Shelf are recovered pursuant to any action taken by the Secretary under this Act as a result of information provided to the Secretary by any person, the Secretary is authorized to pay to such person an amount equal to not more than 10 percent of such recovered amounts. The preceding sentence shall not apply to information provided by an officer or employee of the United States, an officer or employee of a State or Indian tribe acting pursuant to a cooperative agreement or delegation under this Act, or any person acting pursuant to a contract authorized by this Act.

NONCOMPETITIVE OIL AND GAS LEASE ROYALTY RATES

Sec. 114. The Secretary is directed to conduct a thorough study of the effects of a change in the royalty rate under section 17(c) of the Mineral Leasing Act of 1920 on:

(a) the exploration, development, or production of oil or gas; and

(b) the overall revenues generated by such change. Such study shall be completed and submitted to Congress within six months after the date of enactment of this Act.

Sec. 115. SECRETARIAL AND DELEGATED STATES' ACTIONS AND LIMITATION PERIODS.

(a) IN GENERAL.-The respective duties, responsibilities, and activities with respect to a lease shall be performed by the Secretary, delegated State, and lessees or their designees in a timely manner.

(b) LIMITATION PERIOD.-

(1) IN GENERAL.-A judicial proceeding or demand which arises from, or relates to an obligation, shall be commenced within seven years from the date on which the obligation becomes due and if not so commenced shall be barred. If commencement of a judicial proceeding or demand for an obligation is barred by this section, the Secretary, or a delegated State, or a lessee or its designee

(A) shall not take any other action or further action regarding that obligation, including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty or the initiation, pursuit or completion of an audit with regard to that obligation; and

(B) shall not pursue any other equitable or legal remedy, whether under statute or common law, with respect to an action on or an enforcement of said obligation.

(2) RULE OF CONSTRUCTION.-A judicial proceeding that is timely commenced under paragraph (1) against a designee shall be considered timely commenced as to any lessee who

is liable pursuant to section 102(a) of this Act for the obligation that is the subject of the judicial proceeding or demand.

(3) APPLICATION OF CERTAIN LIMITATIONS.-The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code, and section 42 of the Mineral Leasing Act (30 U.S.C. 226-2) shall not apply to any obligation to which this Act applies. Section 3716 of title 31, United States Code, may be applied to an obligation the enforcement which is not barred by this Act, but may not be applied to any obligation the enforcement of which is barred by this Act.

(c) OBLIGATION BECOMES DUE.-

(1) IN GENERAL.-For purposes of this Act, an obligation be comes due when the right to enforce the obligation is fixed.

(2) ROYALTY OBLIGATION.-The right to enforce any royalty obligation for any given production month for a lease is fixed for purposes of this Act on the last day of the calendar month following the month in which oil or gas is produced.

(d) TOLLING OF LIMITATION PERIOD.-The running of the limitation period under subsection(b) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including the action by the Secretary or a designated State, other than the following:

(1) TOLLING AGREEMENT.-A written agreement executed by the Secretary or a delegated State and a lessee or its designee (with notice to the lessee who designated the designee) shall toll the limitation period for the amount of time during which the agreement is in effect.

(2) SUBPOENA.-

(A) The issuance of a subpoena to a lessee or its designee (with notice to the lessee who designated the designee, which notice shall not constitute a subpoena to the lessee) in accordance with the provisions of paragraph (B)(i) shall toll the limitation period with respect to the obligation which is the subject of a subpoena only for the period beginning on the date the lessee or its designee receives the subpoena and ending on the date on which

(i) the lessee or its designee has produced such subpoenaed records for the subject obligation,

(ii) the Secretary or a delegated State receives written notice that the subpoenaed records for the subject obligation are not in existence or are not in the lessee's or its designee's possession or control, or

(iii) a court has determined in a final decision that such records are not required to be produced , whichever occurs first.

(B)

(i) A subpoena for the purposes of this section which requires a lessee or its designee to produce records necessary to determine the proper reporting and payment of an obligation due the Secretary may only be issued by an Assistant Secretary of the Interior or an Acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations), or the Director or Acting Director of the respective bureau or agency, and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such subpoena, but may not delegate such authority to any other person.

(ii) A subpoena described in clause (i) may only be against a lessee or its designee during the limitation period provided in this section and only after the Secretary or a delegated State has in writing requested the records from the lessee or its designee related to the obligation which is the subject of the subpoena and has determined that-

(I) the lessee or its designee has failed to respond within a reasonable period of time to the Secretary's or the applicable delegated State's written request for such records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or such delegated State's responsibilities under this Act; or

(II) the lessee or its designee has in writing denied the Secretary's or the applicable delegated State's written request to produce such records in the lessee's or its designee's possession or control necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or such delegated State's responsibilities under this Act; or

(III) the lessee or its designee has unreasonably delayed in producing records necessary for an audit, or investigation or other inquiry made in accordance with the Secretary's or the applicable delegated State's responsibilities under this Act after the Secretary's or delegated State's written request.

(C) In seeking records, the Secretary or the applicable delegated State shall afford the lessee or its designee a reasonable period of time after a written request by the Secretary or a delegated State in which to provide such records prior to issuance of a subpoena.

(3) MISREPRESENTATION OR CONCEALMENT.- The intentional misrepresentation or concealment of a material fact for the purpose of evading the payment of an obligation in which case the limitation period shall be tolled for the period of such misrepresentation or such concealment.

(4) ORDER TO PERFORM RESTRUCTURED ACCOUNTING.-

(A)

(i) The issuance of a notice under subparagraph (D) that the lessee or its designee has not substantially complied with the requirement to perform a restructured accounting shall toll the limitation period with respect to the obligation which is the subject of the notice only for the period beginning on the date the lessee or its designee receives the notice and ending 120 days after the date on which (I) the Secretary or the applicable delegated State receives written notice that the accounting or other requirement has been performed, or (II) a court has determined in a final decision that the lessee is not required to perform the accounting, whichever occurs first.

(ii) If the lessee or its designee initiates an administrative appeal or judicial proceeding to contest an order to perform a restructured accounting issued under subparagraph(B)(i), the limitation period in subsection (b) shall be tolled from the date the lessee or its designee received the order until a final, nonappealable decision is issued in any such proceeding.

(B)

(i) The Secretary or the applicable delegated State may issue an order to perform a restructured accounting to a lessee or its designee when the Secretary or such delegated State determines during an audit of a lessee or its designee that the lessee or its designee should recalculate royalty due on an obligation based upon the Secretary's or the delegated State's finding that the lessee or its designee has made identified underpayments or overpayments which are demonstrated by the Secretary or the delegated State to be based upon repeated, systemic reporting errors for a significant number of leases or a single lease for a significant number of reporting months with the same type of error which constitutes a pattern of violations and which are likely to result in either significant underpayments or overpayments.

(ii) The power of the Secretary to issue an order to perform a restructured accounting may not be delegated below the most senior career professional position having responsibility for the royalty management program, which position is currently designated as the `Associate Director for Royalty Management', and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205 of this Act, the State, acting through the highest ranking State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such order to perform, which may not be delegated to any other person. An order to perform a restructured accounting shall-

(I) be issued within a reasonable period of time from when the audit identifies the systemic, reporting errors;

(II) specify the reasons and factual bases for such order;

(III) be specifically identified as an `order to perform a restructured accounting';

(IV) provide the lessee or its designee a reasonable period of time (but not less than 60 days) within which to perform the restructured accounting; and

(V) provide the lessee or its designee 60 days within which to file an administrative appeal of the order to perform a restructured accounting.

(C) An order to perform a restructured accounting shall not mean or be construed to include any other action by or on behalf of the Secretary or a delegated State.

(D) If a lessee or its designee fails to substantially comply with the requirement to perform a restructured accounting pursuant to this subsection, a notice shall be issued to the lessee or its designee that the lessee or its designee has not substantially complied with the requirements to perform a restructured accounting. A lessee or its designee shall be given a reasonable time within which to perform the restructured accounting. Such notice may be issued under this section only by an Assistant Secretary of the Interior or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such notice, which may not be delegated to any other person.

(e) TERMINATION OF LIMITATIONS PERIOD.-An action or an enforcement of an obligation by the Secretary or delegated State or a lessee or its designee shall be barred under this section prior to the running of the seven-year period provided in subsection (b) in the event-

(1) the Secretary or a delegated State has notified the lessee or its designee in writing that a time period is closed to further audit; or

(2) the Secretary or a delegated State and a lessee or its designee have so agreed in writing.

For purposes of this subsection, notice to, or an agreement by, the designee shall be binding on any lessee who is liable pursuant to section 102(a) for obligations that are the subject of the notice or agreement.

(f) RECORDS REQUIRED FOR DETERMINING COLLECTIONS.- Records required pursuant to section 103 of this Act by the Secretary or any delegated State for the purpose of determining obligations due and compliance with any applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for the same period of time during which a judicial proceeding or demand may be commenced under subsection (b). If a judicial proceeding or demand is timely commenced, the record holder shall maintain such records until the final nonappealable decision in such judicial proceeding is made, or with respect to that demand is rendered, unless the Secretary or the applicable delegated State authorizes in writing an earlier release of the requirement to maintain such records. Notwithstanding anything herein to the contrary, under no circumstance shall a record holder be required to maintain or produce any record relating to an obligation for any time period which is barred by the applicable limitation in this section. In connection with any hearing,

administrative proceeding, inquiry, investigation, or audit by the Secretary or a delegated State under this Act, the Secretary or the delegated State shall minimize the submission of multiple or redundant information and make a good faith effort to locate records previously submitted by a lessee or a designee to the Secretary or the delegated State, prior to requiring the lessee or the designee to provide such records.

(g) TIMELY COLLECTIONS.-In order to most effectively utilize resources available to the Secretary to maximize the collection of oil and gas receipts from lease obligations to the Treasury within the seven-year period of limitations, and consequently to maximize the State share of such receipts, the Secretary should not perform or require accounting, reporting, or audit activities if the Secretary and the State concerned determine that the cost of conducting or requiring the activity exceeds the expected amount to be collected by the activity, based on the most current 12 months of activity. This subsection shall not provide a defense to a demand or an order to perform a restructured accounting. To the maximum extent possible, the Secretary and delegated States shall reduce costs to the United States Treasury and the States by discontinuing requirements for unnecessary or duplicative data and other information, such as separate allowances and payor information, relating to obligations due. If the Secretary and the State concerned determine that collection will result sooner, the Secretary or the applicable delegated State may waive or forego interest in whole or in part.

(h) APPEALS AND FINAL AGENCY ACTION.-

(1) 33-MONTH PERIOD.-Demands or orders issued by the Secretary or a delegated State are subject to administrative appeal in accordance with the regulations of the Secretary. No State shall impose any conditions which would hinder a lessee's or its designee's immediate appeal of an order to the Secretary or the Secretary's designee. The Secretary shall issue a final decision in any administrative proceeding, including any administrative proceedings pending on the date of enactment of this section, within 33 months from the date such proceeding was commenced or 33 months from the date of such enactment, whichever is later. The 33-month period may be extended by any period of time agreed upon in writing by the Secretary and the appellant.

(2) Effect of failure to issue decision.-If no such decision has been issued by the Secretary within the 33-month period referred to in paragraph (1)-

(A) the Secretary shall be deemed to have issued and granted a decision in favor of the appellant as to any nonmonetary obligation and any monetary obligation the principal amount of which is less than $10,000; and

(B) the Secretary shall be deemed to have issued a final decision in favor of the Secretary, which decision shall be deemed to affirm those issues for which the agency rendered a decision prior to the end of such period, as to any monetary obligation the principal amount of which is $10,000 or more, and the appellant shall have a right to judicial review of such deemed final decision in accordance with title 5 of the United States Code.

(i) COLLECTIONS OF DISPUTED AMOUNTS DUE.-To expedite collections relating to disputed obligations due within the seven-year period beginning on the date the obligation became due, the

parties shall hold not less than one settlement consultation and the Secretary and the State concerned may take such action as is appropriate to compromise and settle a disputed obligation, including waiving or reducing interest and allowing offsetting of obligations among leases.

(j) ENFORCEMENT OF A CLAIM FOR JUDICIAL REVIEW.-In the event a demand subject to this section is properly and timely commenced, the obligation which is the subject of the demand may be enforced beyond the seven-year limitations period without being barred by this statute of limitations. In the event a demand subject to this section is properly and timely commenced, a judicial proceeding challenging the final agency action with respect to such demand shall be deemed timely so long as such judicial proceeding is commenced within 180 days from receipt of notice by the lessee or its designee of the final agency action.

(k) IMPLEMENTATION OF FINAL DECISION.- In the event a judicial proceeding or demand subject to this section is timely commenced and thereafter the limitation period in this section lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement a final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund or credit.

(l) Stay of Payment Obligation Pending Review.-Any person ordered by the Secretary or a delegated State to pay any obligation (other than an assessment) shall be entitled to a stay of such payment without bond or other surety instrument pending an administrative or judicial proceeding if the person periodically demonstrates to the satisfaction of the Secretary that such person is financially solvent or otherwise able to pay the obligation. In the event the person is not able to *so* demonstrate, the Secretary may require a bond or other surety instrument satisfactory to cover the obligation. Any person ordered by the Secretary or a delegated State to pay an assessment shall be entitled to a stay without bond or other surety instrument.

Sec. 116. ASSESSMENTS.

Beginning eighteen months after the date of enactment of this section, to encourage proper royalty payment the Secretary or the delegated State shall impose assessments on a person who chronically submits erroneous reports under this Act. Assessments under this Act may only be issued as provided for in this section.

Sec. 117. ALTERNATIVES FOR MARGINAL PROPERTIES.

(a) DETERMINATION OF BEST INTERESTS OF STATE CONCERNED AND THE UNITED STATES.-The Secretary and the State concerned, acting in the best interests of the United States and the State concerned to promote production, reduce administrative costs, and increase net receipts to the United States and the States, shall jointly determine, on a case by case basis, the amount of what marginal production from a lease or leases or well or wells, or parts thereof, shall be subject to a prepayment under subsection (b) or regulatory relief under subsection (c). If the State concerned does not consent, such prepayments or regulatory relief shall not be made available under this section for such marginal production: *Provided*, That if royalty payments from a lease or leases, or well or wells are not shared with any State, such determination shall be made solely by the Secretary.

(b) PREPAYMENT OF ROYALTY.-

(1) IN GENERAL.-Notwithstanding the provisions of any lease to the contrary, for any lease or leases or well or wells identified by the Secretary and the State concerned pursuant to subsection (a), the Secretary is authorized to accept a prepayment for royalties in lieu of monthly royalty payments under the lease for the remainder of the lease term if the affected lessee so agrees. Any prepayment agreed to by the Secretary, State concerned and lessee which is less than an average $500 per month in total royalties shall be effectuated under this section not earlier than two years after the date of enactment of this section and, any prepayment which is greater than an average $500 per month in total royalties shall be effectuated under this section not earlier than three years after the date of enactment of this section. The Secretary and the State concerned may condition their acceptance of the prepayment authorized under this section on the lessee's agreeing to such terms and conditions as the Secretary and the State concerned deem appropriate and consistent with the purposes of this Act. Such terms may-

(A) provide for prepayment that does not result in a loss of revenue to the United States in present value terms;

(B) include provisions for receiving additional prepayments or royalties for developments in the lease or leases or well or wells that deviate significantly from the assumptions and facts on which the valuation is determined; and

(C) require the lessee or *its* designee to provide such periodic production reports as may be necessary to allow the Secretary and the State concerned to monitor production for the purposes of subparagraph (B).

(2) STATE SHARE.-A prepayment under this section shall be shared by the Secretary with any State or other recipient to the same extent as any royalty payment for such lease.

(3) SATISFACTION OF OBLIGATION.-Except as may be provided in the terms and conditions established by the Secretary under subsection (b), a lessee or its designee who makes a prepayment under this section shall have satisfied in full the lessee's obligation to pay royalty on the production stream sold from the lease or leases or well or wells.

(c) ALTERNATIVE ACCOUNTING AND AUDITING REQUIREMENTS.-Within one year after the date of the enactment of this section, the Secretary or the delegated State shall provide accounting, reporting, and auditing relief that will encourage lessees to continue to produce and develop properties subject to subsection (a): *Provided,* That such relief will only be available to lessees in a State that concurs, which concurrence is not required if royalty payments from the lease or leases or well or wells are not shared with any State. Prior to granting such relief, the Secretary and, if appropriate, the State concerned shall agree that the type of marginal wells and relief provided under this paragraph is in the best interest of the United States and, if appropriate, the State concerned.

TITLE II - STATES AND INDIAN TRIBES

APPLICATION OF TITLE

Sec. 201. This title shall apply only with respect to oil and gas leases on Federal lands or Indian lands. Nothing in this title shall be construed to apply to any lease on the Outer Continental Shelf.

COOPERATIVE AGREEMENTS

Sec. 202. (a) The Secretary is authorized to enter into a cooperative agreement or agreements with any State or Indian tribe to share oil or gas royalty management information, to carry out inspection, auditing, investigation or enforcement (not including the collection of royalties, civil or criminal penalties or other payments) activities under this Act in cooperation with the Secretary, and to carry out any other activity described in section 108 of this Act. The Secretary shall not enter into any such cooperative agreement with a State with respect to any such activities on Indian lands, except with the permission of the Indian tribe involved.

(b) Except as provided in section 203, and pursuant to a cooperative agreement-

(1) each State shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Federal lands within the State; and

(2) each Indian tribe shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Indian lands under the jurisdiction of such tribe.

Information shall be made available under paragraphs (1) and (2) soon as practicable after it comes into the possession of the Secretary. Effective October 1, 1983, such information shall be made available under paragraphs (1) and (2) not later than 30 days after such information comes into the possession of the Secretary.

(c) Any cooperative agreement entered into pursuant to this section shall be in accordance with the provisions of the Federal Grant and Cooperative Agreement Act of 1977, and shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of this Act, including, but not limited to, a limitation on the use of Federal assistance to those costs which are directly required to carry out the agreed upon activities

INFORMATION

SEC. 203. (a) Trade secrets, proprietary and other confidential information shall be made available by the Secretary, pursuant to a cooperative agreement, to a State or Indian tribe upon request only if-

(1) such State or Indian tribe consents in writing to restrict the dissemination of the information to those who are directly involved in an audit or investigation under this Act and who have a need to know;

(2) such State or tribe accepts liability for wrongful disclosure;

(3) in the case of a State, such State demonstrates that such information is essential to the conduct of an audit or investigation or to litigation under section 204; and

(4) in the case of an Indian tribe, such tribe demonstrates that such information is essential to the conduct of an audit or investigation and waives sovereign immunity by express consent for wrongful disclosure by such tribe.

(b) The United States shall not be liable for the wrongful disclosure by any individual, State, or Indian

tribe of any information provided to such individual, State, or Indian tribe pursuant to any cooperative agreement or a delegation, authorized by this Act.

(c) Whenever any individual, State, or Indian tribe has obtained possession of information pursuant to a cooperative agreement authorized by this section, or any individual or State has obtained possession of information pursuant to a delegation under section 205, the individual shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to an officer or employee of the United States or of any department or agency thereof and the State or Indian tribe shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to the United States or any department or agency thereof. No State or State officer or employee who receives trade secrets, proprietary information, or other confidential information under this Act may be required to disclose such information under State law.

STATE SUITS UNDER FEDERAL LAW

Sec. 204. (a)

(1) A State may commence a civil action under this section against any person to recover any royalty, interest, or civil penalty which the State believes is due, based upon credible evidence, with respect to any oil and gas lease on Federal lands located within the State.

(2)

(A) No action may be commenced under paragraph (1) prior to 90 days after the State has given notice in writing to the Secretary of the payment required. Such 90-day limitation may be waived by the Secretary on a case-by-case basis.

(B) If, within the 90-day period specified in subparagraph (A), the Secretary issues a demand for the payment concerned, no action may be commenced under paragraph (1) with respect to such payment during a 45-day period after issuance of such demand. If, during such 45-day period, the Secretary receives payment in full, no action may be commenced under paragraph (1).

(C) If the Secretary refers the case to the Attorney General of the United States within the 45-day period referred to in subparagraph (B) or within 10 business days after the expiration of such 45-day period, no action may be commenced under paragraph (1) if the Attorney General, within 45 days after the date of such referral, commences, and thereafter diligently prosecutes, a civil action in a court of the United States with respect to the payment concerned.

(3) The State shall notify the Secretary and the Attorney General of the United States of any suit filed by the State under this section.

(4) A court in issuing any final order in any action brought under paragraph (1) may award costs of litigation including reasonable attorney and expert witness fees, to any party in such action if the court determines such an award is appropriate.

(b) An action brought under subsection (a) of this section may be brought only in a United States district court for the judicial district in which the lease site or the leasing activity complained of is located. Such district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the

parties, to require compliance or order payment in any such action.

(c)

(l) Notwithstanding any other provision of law, any civil penalty recovered by a State under subsection (a) shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate.

(2) Any rent, royalty, or interest recovered by a State under subsection (a) shall be deposited in the Treasury of the United States in the same manner, and subject to the same requirements, as are applicable in the case of any rent, royalty, or interest collected by an officer or employee of the United States, except that such amounts shall be deposited in the Treasury not later than 10 days after receipt by the State.

DELEGATION TO STATES

Sec. 205. DELEGATION OF ROYALTY COLLECTION AND RELATED ACTIVITIES

(a) Upon written request of any State, the Secretary is authorized to delegate , in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to:

(1) conduct inspections, audits, and investigations;

(2) receive and process production and financial reports;

(3) correct erroneous report data;

(4) perform automated verification; and

(5) issue demands, subpoenas, and orders to perform restructured accounting, for royalty management enforcement purposes, to any State with respect to all Federal land within the State.

(b) After notice and opportunity for a hearing, the Secretary is authorized to delegate such authorities and responsibilities granted under this section as the State has requested, if the Secretary finds that-

(1) it is likely that the State will provide adequate resources to achieve the purposes of this Act;

(2) the State has demonstrated that it will effectively and faithfully administer the rules and regulation of the Secretary under this Act in accordance with the requirements of subsections (c) and (d) of this section;

(3) such delegation will not create an unreasonable burden on any lessee;

(4) the State agrees to adopt standardized reporting procedures prescribed by the Secretary for royalty and production accounting purposes, unless the State and all affected parties (including the Secretary) otherwise agree;

(5) the State agrees to follow and adhere to regulations and guidelines issued by the

Secretary pursuant to the mineral leasing laws regarding valuation of production; and

(6) where necessary for a State to have authority to carry out and enforce a delegated activity, the State agrees to enact such laws and promulgate such regulations as are consistent with relevant Federal laws and regulations with respect to the Federal lands within the State.

(c) After notice and opportunity for hearing, the Secretary shall issue a ruling as to the consistency of a State's proposal with the provisions of this section and regulations under subsection (d) within 90 days after submission of such proposal. In any unfavorable ruling, the Secretary shall set forth the reasons therefor and state whether the Secretary will agree to delegate to the State if the State meets the conditions set forth in such ruling.

(d) After consultation with State authorities, the Secretary by rule shall promulgate, within 12 months after the date of enactment of this section, standards and regulations pertaining to the authorities and responsibilities to be delegated under subsection (a), including standards and regulations pertaining to-

(1) audits to be performed;

(2) records and accounts to be maintained;

(3) reporting procedures to be required by the States under this section;

(4) receipt and processing of production and financial reports;

(5) correction of erroneous report data;

(6) performance of automated verification;

(7) issuance of standards and guidelines in order to avoid duplication of effort;

(8) transmission of report data to the Secretary; and

(9) issuance of demands, subpoenas, and orders to perform restructured accounting, for royalty accounting purposes.

Such standards and regulations shall be designed provide reasonable assurance that a uniform and effective royalty management system will prevail among the States. The records and accounts under section (2) shall be sufficient to allow the Secretary to monitor the performance of any State under this section.

(e) If, after notice and opportunity for a hearing, the Secretary finds that any State to which any authority and responsibility of the Secretary has been delegated under this section is in violation of any requirement of this section or any rule thereunder, or that an affirmative finding by the Secretary under subsection (b) can no longer be made, the Secretary may revoke such delegation. If, after providing written notice to a delegated State and a reasonable opportunity to take corrective action requested by the Secretary, the Secretary determines that the State has failed to issue a demand or order to a Federal lessee within the State, that such failure may result in an underpayment of an obligation due the United States by such lessee, and that such underpayment may be uncollected without Secretarial intervention, the Secretary may issue such demand or

order in accordance with the provisions of this Act prior to or absent the withdrawal of the delegated authority.

(f) subject to appropriations, the Secretary shall compensate any State for those costs which may be necessary to carry out the delegated activities under this Section. Payment shall be made no less than every quarter during the fiscal year. Compensation to a State may not exceed the Secretary's reasonable anticipated expenditures for performance of such delegated activities by the Secretary. Such costs shall be allocated for the purpose of section 35(b) of the Act entitled "An act to promote the mining coal, phosphate, oil, oil shale, gas and sodium on the public domain", approved February 25, 1920 (commonly known as the Mineral Leasing Act) (30 U.S.C. 191 (b)) to the administration and enforcement of laws providing for the leasing of any onshore lands or interests in lands owned by the United States. Any further allocation of costs under section 35(b) made by the Secretary for oil and gas activities, other than those costs to compensate States for delegated activities under this Act, shall be only those costs associated with onshore oil and gas activities and may not include any duplication of costs allocated pursuant to the previous sentence. Nothing in this section affects the Secretary's authority to make allocations under section 35(b) for non-oil and gas mineral activities. All moneys received from sales, bonuses, rentals, royalties, assessments and interest, including money claimed to be due and owing pursuant to a delegation under this section, shall be payable and paid to the Treasury of the United States.

(g) Any action of the Secretary to approve or disapprove a proposal submitted by a State under this section shall be subject to judicial review in the United States district court which includes the capital of the State submitting the proposal.

(h) Any State operating pursuant to a delegation existing on the date of enactment of this Act may continue to operate under the terms and conditions of the delegation, except to the extent that a revision of the existing agreement is adopted pursuant to this section.

SHARED CIVIL PENALTIES

SEC. 206. An amount equal to 50 per centum of any civil penalty collected by the Federal Government under this Act resulting from activities conducted by a State or Indian tribe pursuant to a cooperative agreement under section 202 or a State under a delegation under section 205, shall be payable to such State or tribe. Such amount shall be deducted from any compensation due such State or Indian tribe under section 202 or such State under section 205.

TITLE III - GENERAL PROVISIONS

SECRETARIAL AUTHORITY

SEC. 301. (a) The Secretary shall prescribe such rules and regulations as he deems reasonably necessary to carry out this Act.

(b) Rules and regulations issued to implement this Act shall be issued in conformity with section 553 of title 5 of the United States Code, notwithstanding section 553(a)(2) of that title.

(c) In addition to entering into cooperative agreements or delegation of authority authorized under this Act, the Secretary may contract with such non-Federal Government inspectors, auditors, and other persons as he deems necessary to aid in carrying out his functions under this Act and its implementation.

With respect to his auditing and enforcement functions under this Act, the Secretary shall coordinate such functions so as to avoid to the maximum extent practicable, subjecting lessees, operators, or other persons to audits or investigations of the same subject matter by more than one auditing **or** investigating entity at the same time.

REPORTS

SEC. 302. (a) The Secretary shall submit to the Congress an annual report on the implementation of this Act. The information to be included in the report and the format of the report shall be developed by the Secretary after consulting with the Committees on Interior and Insular Affairs of the House of Representatives and on Energy and Natural Resources of the Senate. The Secretary shall also report on the progress of the Department in reconciling account balances.

(b) Commencing with fiscal year 1984, the Inspector General of the Department of the Interior shall conduct a biennial audit of the Federal royalty management system. The Inspector General shall submit the results of such audit to the Secretary and to the Congress.

STUDY OF OTHER MINERALS

Sec. 303. (a) The Secretary shall study the question of the adequacy of royalty management for coal, uranium and other energy and nonenergy minerals on Federal and Indian lands. The study shall include proposed legislation if the Secretary determines that such legislation is necessary to ensure prompt and proper collection of revenues owed to the United States, the States and Indian tribes or Indian allottees from the sale, lease or other disposal of such minerals.

(b) The study required by subsection (a) of this section shall be submitted to Congress not later than one year from the date of the enactment of this Act.

RELATION TO OTHER LAWS

SEC. 304. (a) The penalties and authorities provided in this Act are supplemental to, and not in derogation of, any penalties or authorities contained in any other provision of law.

(b) Nothing in this Act shall be construed to reduce the responsibilities of the Secretary to ensure prompt and proper collection of revenues from coal, uranium and other energy and nonenergy minerals on Federal and Indian lands, or to restrain the Secretary from entering into cooperative agreements or other appropriate arrangements with States and Indian tribes to share royalty management responsibilities and activities for such minerals under existing authorities.

(c) Except as expressly provided in subsection 302(b), nothing in this Act shall be construed to enlarge, diminish, or otherwise affect the authority or responsibility of the Inspector General of the Department of the Interior or of the Comptroller General of the United States:

(d) No provision of this Act impairs or affects lands and interests in land entrusted to the Tennessee Valley Authority.

EFFECTIVE DATE

SEC. 305. The provisions of this Act shall apply to oil and gas leases issued before, on, or after the date of the enactment of this Act, except that in the case of a lease issued before such date, no provision of

this Act or any rule or regulation prescribed tinder this Act shall alter the express and specific provisions of such a lease.

FUNDING

Sec. 306. Effective October 1, 1983, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, including such sums as may be necessary for the cooperative agreements, contracts, and delegations authorized by this Act: *Provided,* That nothing in this Act shall be construed to affect or impair any authority to enter into contracts or make payments under any other provision of law.

STATUTE OF LIMITATIONS

Sec. 307. Except in the case of fraud, any action to recover penalties under this Act shall be barred unless the action is commenced within 6 years after the date of the act or omission which is the basis for the action.

EXPANDED ROYALTY OBLIGATIONS

SEC. 308. Any lessee is liable for royalty payments on oil or gas lost or wasted from a lease site when such loss or waste is due to negligence on the part of the operator of the lease, or due to the failure to comply with any rule or regulation, order or citation issued under this Act or any mineral leasing law.

SEVERABILITY

SEC. 309. If any provision of this Act or the applicability thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

TITLE IV - REINSTATEMENT OF LEASES AND CONVERSION OF UNPATENTED OIL PLACER CLAIMS

AMENDMENT OF MINERAL LANDS LEASING ACT OF 1920

SEC. 401. Section 31 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188) is amended by redesignating subsection (d) as subsection (j) and by inserting after subsection (c) the following new subsections:

"(d)

(l) Where any oil and gas lease issued pursuant to section 17(b) or section 17(c) of this Act or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) has been, or is hereafter, terminated automatically by operation of law under this section for failure to pay on or before the anniversary date the full amount of the rental due, and such rental is not paid or tendered within twenty days thereafter, and it is shown to the satisfaction of the Secretary of the Interior that such failure was justifiable or not due to lack of reasonable diligence on the part of the lessee, or, no matter when the rental is paid after termination, it is shown to the satisfaction of the Secretary that such failure was inadvertent, the Secretary may reinstate the lease as of the date of termination for the unexpired portion of the primary term of the original lease or any extension thereof remaining at the date of termination, and so long thereafter as oil or gas is produced in paying quantities. In

any case where a lease is reinstated under this subsection and the Secretary finds that the reinstatement of such lease

(A) occurs after the expiration of the primary term or any extension thereof, or

(B) will not afford the lessee a reasonable opportunity to continue operations under the lease, the Secretary may, at his discretion, extend the term of such lease for such period as he deems reasonable, but in no event for more than two years from the date the Secretary authorizes the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

"(2) No lease shall be reinstated under paragraph (1) of this subsection unless-

"(A) with respect to any lease that terminated under subsection (b) of this section prior to enactment of the Federal Oil and Gas Royalty Management Act of 1982:

(i) the lessee tendered rental prior to enactment of such Act and the final determination that the lease terminated was made by the Secretary or a court less than three years before enactment of such Act, and

(ii) a petition for reinstatement together with the required back rental and royalty accruing from the date of termination, is filed with the Secretary on or before the one hundred and twentieth day after enactment of such Act, or

"(B) with respect to any lease that terminated under subsection (b) of this section on or after enactment of the Federal Oil and Gas Royalty Management Act of 1982, a petition for reinstatement together with the required back rental and royalty accruing from the date of termination is filed on or before the earlier of-

"(i) sixty days after the lessee receives from the Secretary notice of termination, whether by return of check or by any other form of actual notice, or

"(ii) fifteen months after termination of the lease.

"(e) Any reinstatement under subsection (d) of this section shall be made on if these conditions are met:

"(1) no valid lease, whether still in existence or not, shall have been issued affecting any of the lands covered by the terminated lease prior to the filing of such petition: *Provided, however,* That after receipt of a petition for reinstatement, the Secretary shall not issue any new lease affecting any of the lands covered by such terminated lease for a reasonable period, as determined in accordance with regulations issued by him;

"(2) payment of back rentals and either the inclusion in a reinstated lease issued pursuant to the provisions of section 17(b) of this Act of a requirement for future rentals at a rate of not less than $10 per acre per year, or the inclusion in a reinstated lease issued pursuant to the provisions of section 17(c) of this Act of a requirement that future rentals shall be at a rate not less than $5 per acre per year, all as determined by the Secretary;

"(3)

(A) payment of back royalties and the inclusion in a reinstated lease issued pursuant to the

provisions of section 17(b) of this Act of a requirement for future royalties at a rate of not less than 16% percent computed on a sliding scale based upon the average production per well per day, at a rate which shall be not less than 4 percentage points greater than the competitive royalty schedule then in force and used for royalty determination for competitive leases issued pursuant to such section as determined by the Secretary: *Provided,* That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the termination of the original lease;

"(B) payment of back royalties and inclusion in a reinstate,, lease issued pursuant to the provisions of section 17(c) of this Act of a requirement for future royalties at a rate not less than 16% percent: *Provided,* That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the cancellation or termination of the original lease; and

"(4) notice of the proposed reinstatement of a terminated lease, including the terms and conditions of reinstatement, shall be published in the Federal Register at least thirty days in advance of the reinstatement.

A copy of said notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the Secretary deemed significant in making this determination to reinstate, shall be furnished to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate at least thirty days in advance of the reinstatement. The lessee of a reinstated lease shall reimburse the Secretary for the administrative costs of reinstating the lease, but not to exceed $500. In addition the lessee shall reimburse the Secretary for the cost of publication in the Federal Register of the notice of proposed reinstatement.

"(f) Where an unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, has been or is hereafter deemed conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), and it is shown to the satisfaction of the Secretary that such failure was inadvertent, justifiable, or not due to lack of reasonable diligence on the part of the owner, the Secretary may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease, consistent with the provisions of section 17(e) of this Act, to be effective from the statutory date the claim was deemed conclusively abandoned. Issuance of such a lease shall be conditioned upon:

"(1) a petition for issuance of a noncompetitive oil and gas lease, together with the required rental and royalty, including back rental and royalty accruing from the statutory date of abandonment of the oil placer mining claim , being filed with the Secretary-

"(A) with respect to any claim deemed conclusively abandoned on or before the date of enactment of the Federal Oil and Gas Royalty Management Act of 1982, on or before the one hundred and twentieth day after such date of enactment, or

(B) with respect to any claim deemed conclusively abandoned after such date of enactment, on or before the one hundred and twentieth day after final notification by the Secretary or a court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim;

"(2) a valid lease not having been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of such petition: *Provided, however,* That after the filing of a petition for issuance of a lease under this subsection, the Secretary shall not issue any new lease affecting any of the lands covered by such abandoned oil placer mining claim for a reasonable period, as determined in accordance with regulations issued by him;

"(3) a requirement in the lease for payment of rental, including back rentals accruing from the statutory date of abandonment of the oil placer mining claim, of not less than $5 per acre per year;

"(4) a requirement in the lease for payment of royalty on production removed or sold from the oil placer mining claim, including all royalty on production made subsequent to the statutory date the claim was deemed conclusively abandoned, of not less than 12½ percent; and

"(5) compliance with the notice and reimbursement of costs provisions of paragraph (4) of subsection (e) but addressed to the petition covering the conversion of an abandoned unpatented oil placer mining claim to a noncompetitive oil and gas lease.

"(g)

(1) Except as otherwise provided in this section, a reinstated lease shall be treated as a competitive or a noncompetitive oil and gas lease in the same manner as the original lease issued pursuant to section 17(b) or 17(c) of this Act.

"(2) Except as otherwise provided in this section, the issuance of a lease in lieu of an abandoned patented oil placer mining claim shall be treated as a noncompetitive oil and gas lease issued pursuant to section 17(c) of this Act.

"(h) The minimum royalty provisions of section 17(j) and the provisions of section 39 of this Act shall be applicable to leases issued pursuant to subsections (d) and (f) of this section.

"(i)

(l) In acting on a petition to issue a noncompetitive, oil and gas lease, under subsection (f) of this section or in response to a request filed after issuance of such a lease, or both, the Secretary is authorized to reduce the royalty on such lease if in his judgment it is equitable to do so or the circumstances warrant such relief due to uneconomic or other circumstances which could cause undue hardship or premature termination of production.

"(2) In acting on a petition for reinstatement pursuant to subsection (d) of this section or in response to a request filed after reinstatement, or both, the Secretary is authorized to reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes if, in his judgment, there are uneconomic or other circumstances which could cause undue hardship or premature termination of production; or because of any written action of the United States, its agents or employees, which preceded, and was a major consideration in, the lessee's expenditure of funds to develop the property under the lease after the rent had become due and had not been paid; or if in the judgment of the Secretary it is equitable to do so for any reason.".

Approved January 12, 1983.

Federal Onshore Oil and Gas Leasing Reform Act of 1987.
Contracts

Subtitle B—Federal Onshore Oil and Gas Leasing Reform Act of 1987

SEC. 5101. SHORT TITLE; REFERENCES.

30 USC 181 note.

(a) SHORT TITLE.—This subtitle may be cited as the "Federal Onshore Oil and Gas Leasing Reform Act of 1987".

(b) REFERENCES.—Any reference in this subtitle to the "Act of February 25, 1920", is a reference to the Act of February 25, 1920, entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain" (30 U.S.C. 181 and following).

SEC. 5102. OIL AND GAS LEASING SYSTEM.

(a) COMPETITIVE BIDDING.—Section 17(b)(1) of the Act of February 25, 1920 (30 U.S.C. 226(b)(1)), is amended to read as follows:

"(b)(1)(A) All lands to be leased which are not subject to leasing under paragraph (2) of this subsection shall be leased as provided in this paragraph to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 2,560 acres, except in Alaska, where units shall be not more than 5,760 acres. Such units shall be as nearly compact as possible. Lease sales shall be conducted by oral bidding. Lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary. A lease shall be conditioned upon the payment of a royalty at a rate of not less than 12.5 percent in amount or value of the production removed or sold from the lease. The Secretary shall accept the highest bid from a responsible qualified bidder which is equal to or greater than the national minimum acceptable bid, without evaluation of the value of the lands proposed for lease. Leases shall be issued within 60 days following payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year. All bids for less than the national minimum acceptable bid shall be rejected. Lands for which no bids are received or for which the highest bid is less than the national minimum acceptable bid shall be offered promptly within 30 days for leasing under subsection (c) of this section and shall remain available for leasing for a period of 2 years after the competitive lease sale.

"(B) The national minimum acceptable bid shall be $2 per acre for a period of 2 years from the date of enactment of the Federal Onshore Oil and Gas Leasing Reform Act of 1987. Thereafter, the Secretary may establish by regulation a higher national minimum acceptable bid for all leases based upon a finding that such action is necessary: (i) to enhance financial returns to the United States; and (ii) to promote more efficient management of oil and gas resources on Federal lands. Ninety days before the Secretary makes any change in the national minimum acceptable bid, the Secretary shall notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The proposal or promulgation of any regulation to establish a national minimum acceptable bid shall not be considered a major Federal action subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969.".

Regulations.

(b) NONCOMPETITIVE LEASING.—Section 17(c) of the Act of February 25, 1920 (30 U.S.C. 226(c)), is amended to read as follows:

"(c)(1) If the lands to be leased are not leased under subsection (b)(1) of this section or are not subject to competitive leasing under subsection (b)(2) of this section, the person first making application for the lease who is qualified to hold a lease under this Act shall be entitled to a lease of such lands without competitive bidding, upon payment of a non-refundable application fee of at least $75. A lease under this subsection shall be conditioned upon the payment of a royalty at a rate of 12.5 percent in amount or value of the production removed or sold from the lease. Leases shall be issued within 60 days of the date on which the Secretary identifies the first responsible qualified applicant.

"(2)(A) Lands (i) which were posted for sale under subsection (b)(1) of this section but for which no bids were received or for which the highest bid was less than the national minimum acceptable bid and (ii) for which, at the end of the period referred to in subsection (b)(1) of this section no lease has been issued and no lease application is pending under paragraph (1) of this subsection, shall again be available for leasing only in accordance with subsection (b)(1) of this section.

"(B) The land in any lease which is issued under paragraph (1) of this subsection or under subsection (b)(1) of this section which lease terminates, expires, is cancelled or is relinquished shall again be available for leasing only in accordance with subsection (b)(1) of this section.".

(c) RENTALS.—Section 17(d) of the Act of February 25, 1920 (30 U.S.C. 226(d)), is amended to read as follows:

"(d) All leases issued under this section, as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, shall be conditioned upon payment by the lessee of a rental of not less than $1.50 per acre per year for the first through fifth years of the lease and not less than $2 per acre per year for each year thereafter. A minimum royalty in lieu of rental of not less than the rental which otherwise would be required for that lease year shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.".

(d) NOTICE AND RECLAMATION.—(1) Section 17 of the Act of February 25, 1920 (30 U.S.C. 226), is amended by redesignating subsections (f) through (k) as subsections (i) through (n) and by adding the following new subsections (f) through (h):

Public information

"(f) At least 45 days before offering lands for lease under this section, and at least 30 days before approving applications for permits to drill under the provisions of a lease or substantially modifying the terms of any lease issued under this section, the Secretary shall provide notice of the proposed action. Such notice shall be posted in the appropriate local office of the leasing and land management agencies. Such notice shall include the terms or modified lease terms and maps or a narrative description of the affected lands. Where the inclusion of maps in such notice is not practicable, maps of the affected lands shall be made available to the public for review. Such maps shall show the location of all tracts to be leased, and of all leases already issued in the general area. The requirements of this subsection are in addition to any public notice required by other law.

Regulations

"(g) The Secretary of the Interior, or for National Forest lands, the Secretary of Agriculture, shall regulate all surface-disturbing

activities conducted pursuant to any lease issued under this Act, and shall determine reclamation and other actions as required in the interest of conservation of surface resources. No permit to drill on an oil and gas lease issued under this Act may be granted without the analysis and approval by the Secretary concerned of a plan of operations covering proposed surface-disturbing activities within the lease area. The Secretary concerned shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface-disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. The Secretary shall not issue a lease or leases or approve the assignment of any lease or leases under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the Secretary of the Interior or Secretary of Agriculture, such entity has failed or refused to comply in any material respect with the reclamation requirements and other standards established under this section for any prior lease to which such requirements and standards applied. Prior to making such determination with respect to any such entity the concerned Secretary shall provide such entity with adequate notification and an opportunity to comply with such reclamation requirements and other standards and shall consider whether any administrative or judicial appeal is pending. Once the entity has complied with the reclamation requirement or other standard concerned an oil or gas lease may be issued to such entity under this Act.

"(h) The Secretary of the Interior may not issue any lease on National Forest System Lands reserved from the public domain over the objection of the Secretary of Agriculture.".

(2) Section 31(h) of the Act of February 25, 1920 (30 U.S.C. 188(h)), is amended by striking out "section 17(j)" and substituting "section 17(m)".

SEC. 5103. ASSIGNMENTS.

Sections 30(a) and 30(b) of the Act of February 25, 1920 (30 U.S.C. 187a, 187b), are redesignated as sections 30A and 30B, respectively, and the third sentence of section 30A, as so redesignated, is amended to read as follows: "The Secretary shall disapprove the assignment or sublease only for lack of qualification of the assignee or sublessee or for lack of sufficient bond: *Provided, however,* That the Secretary may, in his discretion, disapprove an assignment of any of the following, unless the assignment constitutes the entire lease or is demonstrated to further the development of oil and gas:

"(1) A separate zone or deposit under any lease.

"(2) A part of a legal subdivision.

"(3) Less than 640 acres outside Alaska or of less than 2,560 acres within Alaska.

Requests for approval of assignment or sublease shall be processed promptly by the Secretary. Except where the assignment or sublease is not in accordance with applicable law, the approval shall be given within 60 days of the date of receipt by the Secretary of a request for such approval.".

SEC. 5104. LEASE CANCELLATION.

The first sentence of section 31(b) of the Act of February 25, 1920 (30 U.S.C. 188(b)) is amended to read as follows: "Any lease issued after August 21, 1935, under the provisions of section 17 of this Act shall be subject to cancellation by the Secretary of the Interior after 30 days notice upon the failure of the lessee to comply with any of the provisions of the lease, unless or until the leasehold contains a well capable of production of oil or gas in paying quantities, or the lease is committed to an approved cooperative or unit plan or communitization agreement under section 17(m) of this Act which contains a well capable of production of unitized substances in paying quantities.".

SEC. 5105. ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.

Section 1008 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3148) is amended as follows:

(1) Subsections (c) and (e) are deleted in their entirety.

(2) The second sentence of subsection 1008(d) is deleted.

SEC. 5106. PENDING APPLICATIONS, OFFERS, AND BIDS. 30 USC 226 note.

(a) Notwithstanding any other provision of this subtitle and except as provided in subsection (b) of this section, all noncompetitive oil and gas lease applications and offers and competitive oil and gas bids pending on the date of enactment of this subtitle shall be processed, and leases shall be issued under the provisions of the Act of February 25, 1920, as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law.

(b) No noncompetitive lease applications or offers pending on the date of enactment of this subtitle for lands within the Shawnee National Forest, Illinois; the Ouachita National Forest, Arkansas; Fort Chafee, Arkansas; or Eglin [78] Air Force Base, Florida; shall be processed until these lands are posted for competitive bidding in accordance with section 5102 of this subtitle. If any such tract does not receive a bid equal to or greater than the national minimum acceptable bid from a responsible qualified bidder then the noncompetitive applications or offers pending for such a tract shall be reinstated and noncompetitive leases issued under the Act of February 25, 1920, as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law. If competitive leases are issued for any such tract, then the pending noncompetitive application or offer shall be rejected.

(c) Except as provided in subsections (a) and (b) of this section, all oil and gas leasing pursuant to the Act of February 25, 1920, after the date of enactment of this subtitle shall be conducted in accordance with the provisions of this subtitle.

SEC. 5107. REGULATIONS; TEST SALE. 30 USC 226 note.

(a) REGULATIONS.—The Secretary shall issue final regulations to implement this subtitle within 180 days after the enactment of this subtitle. The regulations shall be effective when published in the Federal Register. Effective date. Federal Register, publication.

(b) TREATMENT UNDER OTHER LAW.—The proposal or promulgation of such regulations shall not be considered a major Federal

---

[78] Copy read "Elgin"

action subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969.

(c) TEST SALE.—The Secretary may hold one or more lease sales conducted in accordance with the amendments made by this subtitle before promulgation of regulations referred to in subsection (a). Sale procedures for such sale shall be established in the notice of sale.

SEC. 5108. ENFORCEMENT.

The Act of February 25, 1920, is amended by inserting after section 40 the following new section:

30 USC 195.

"SEC. 41. ENFORCEMENT.

"(a) VIOLATIONS.—It shall be unlawful for any person:

"(1) to organize or participate in any scheme, arrangement, plan, or agreement to circumvent or defeat the provisions of this Act or its implementing regulations, or

"(2) to seek to obtain or to obtain any money or property by means of false statements of material facts or by failing to state material facts concerning:

"(A) the value of any lease or portion thereof issued or to be issued under this Act;

"(B) the availability of any land for leasing under this Act;

"(C) the ability of any person to obtain leases under this Act; or

"(D) the provisions of this Act and its implementing regulations.

"(b) PENALTY.—Any person who knowingly violates the provisions of subsection (a) of this section shall be punished by a fine of not more than $500,000, imprisonment for not more than five years, or both.

"(c) CIVIL ACTIONS.—Whenever it shall appear that any person is engaged, or is about to engage, in any act which constitutes or will constitute a violation of subsection (a) of this section, the Attorney General may institute a civil action in the district court of the United States for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located, for a temporary restraining order, injunction, civil penalty of not more than $100,000 for each violation, or other appropriate remedy, including but not limited to, a prohibition from participation in exploration, leasing, or development of any Federal mineral, or any combination of the foregoing.

"(d) CORPORATIONS.—(1) Whenever a corporation or other entity is subject to civil or criminal action under this section, any officer, employee, or agent of such corporation or entity who knowingly authorized, ordered, or carried out the proscribed activity shall be subject to the same action.

"(2) Whenever any officer, employee, or agent of a corporation or other entity is subject to civil or criminal action under this section for activity conducted on behalf of the corporation or other entity, the corporation or other entity shall be subject to the same action, unless it is shown that the officer, employee, or agent was acting without the knowledge or consent of the corporation or other entity.

"(e) REMEDIES, FINES, AND IMPRISONMENT.—The remedies, penalties, fines, and imprisonment prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies, penalties,

fines, and imprisonment prescribed in this section shall be in addition to any other remedies, penalties, fines, and imprisonment afforded by any other law or regulation.

"(f) STATE CIVIL ACTIONS.—(1) A State may commence a civil action under subsection (c) of this section against any person conducting activity within the State in violation of this section. Civil actions brought by a State shall only be brought in the United States district court for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to order appropriate remedies and penalties as described in subsection (c) of this section.

"(2) A State shall notify the Attorney General of the United States of any civil action filed by the State under this subsection within 30 days of filing of the action. The Attorney General of the United States shall notify a State of any civil action arising from activity conducted within that State filed by the Attorney General under this subsection within 30 days of filing of the action.

"(3) Any civil penalties recovered by a State under this subsection shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate. If a civil action is jointly brought by the Attorney General and a State, by more than one State or by the Attorney General and more than one State, any civil penalties recovered as a result of the joint action shall be shared by the parties bringing the action in the manner determined by the court rendering judgment in such action.

"(4) If a State has commenced a civil action against a person conducting activity within the State in violation of this section, the Attorney General may join in such action but may not institute a separate action arising from the same activity under this section. If the Attorney General has commenced a civil action against a person conducting activity within a State in violation of this section, that State may join in such action but may not institute a separate action arising from the same activity under this section.

"(5) Nothing in this section shall deprive a State of jurisdiction to enforce its own civil and criminal laws against any person who may also be subject to civil and criminal action under this section.".

SEC. 5109. PAYMENTS TO STATES.

Section 35 of the Act of February 25, 1920 (30 U.S.C. 191) is amended by adding the following at the end thereof: "In determining the amount of payments to States under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.".

SEC. 5110. REPORT. 30 USC 226 note.

The Secretary shall submit annually for 5 years after enactment of this subtitle to the Congress a report containing appropriate information to facilitate congressional monitoring of this subtitle. Such report shall include, but not be limited to—

(1) the number of acres leased, and the number of leases issued, competitively and noncompetitively;

(2) the amount of revenue received from bonus bids, filing fees, rentals, and royalties;

(3) the amount of production from competitive and noncompetitive leases; and

(4) such other data and information as will facilitate—

(A) an assessment of the onshore oil and gas leasing system, and

(B) a comparison of the system as revised by this subtitle with the system in operation prior to the enactment of this subtitle.

30 USC 226 note.

SEC. 5111. LAND USE STUDY.

The National Academy of Sciences and the Comptroller General of the United States shall conduct a study of the manner in which oil and gas resources are considered in the land use plans developed by the Secretary of the Interior in accordance with provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) and the Secretary of Agriculture in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476), as amended by the National Forest Management Act of 1976 (90 Stat. 2949), and recommend any improvements that may be necessary to ensure that—

(1) potential oil and gas resources are adequately addressed in planning documents;

(2) the social, economic, and environmental consequences of exploration and development of oil and gas resources are determined; and

(3) any stipulations to be applied to oil and gas leases are clearly identified.

SEC. 5112. LANDS NOT SUBJECT TO OIL AND GAS LEASING.

The Act of February 25, 1920, is amended by adding the following at the end thereof:

30 USC 226-3.

"SEC. 43. LANDS NOT SUBJECT TO OIL AND GAS LEASING.

"(a) PROHIBITION.—The Secretary shall not issue any oil and gas lease under this Act on any of the following Federal lands:

"(1) Lands recommended for wilderness allocation by the surface managing agency.

"(2) Lands within Bureau of Land Management wilderness study areas.

"(3) 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.

"(4) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119), unless such 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.

"(b) EXPLORATION.—In the case of any area of National Forest or public lands subject to this section, nothing in this section shall affect any authority of the Secretary of the Interior (or for National Forest Lands reserved from the public domain, the Secretary of Agriculture) to issue permits for exploration for oil and gas by means not requiring construction of roads or improvement of existing roads if such activity is conducted in a manner compatible with the preservation of the wilderness environment.".

SEC. 5113. SHORT TITLE.

The Act of February 25, 1920, is amended by inserting after section 43 the following new section:

"SEC. 44. SHORT TITLE.

"This Act may be cited as the 'Mineral Leasing Act'.". Mineral Leasing Act.
30 USC 181 note.

Subtitle C—Land and Water Conservation Fund and Tongass Timber Supply Fund

SEC. 5201. LAND AND WATER CONSERVATION FUND ACT AMENDMENTS.

(a) ADMISSION FEES.—Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a)) is amended as follows:

(1) Paragraph (1) is amended by striking out "$10" and inserting in lieu thereof "$25" in the first sentence.

(2) Paragraph (1) is further amended by striking out "(1)" and inserting in lieu thereof "(1)(A)" and adding the following new subparagraph at the end thereof:

"(B) For admission into a specific designated unit of the National Park System, or into several specific units located in a particular geographic area, the Secretary is authorized to make available an annual admission permit for a reasonable fee. The fee shall not exceed $15 regardless of how many units of the park system are covered. The permit shall convey the privileges of, and shall be subject to the same terms and conditions as, the Golden Eagle Passport, except that it shall be valid only for admission into the specific unit or units of the National Park System indicated at the time of purchase.".

(3) Paragraph (2) is amended by adding the following sentences at the end thereof: "The fee for a single-visit permit at any designated area applicable to those persons entering by private, noncommercial vehicle shall be no more than $5 per vehicle. The single-visit permit shall admit the permittee and all persons accompanying him in a single vehicle. The fee for a single-visit permit at any designated area applicable to those persons entering by any means other than a private noncommercial vehicle shall be no more than $3 per person. Except as otherwise provided in this subsection, the maximum fee amounts set forth in this paragraph shall apply to all designated areas.".

(4) Paragraph (3) is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this Act, no admission fee may be charged at any unit of the National Park System which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations.".

(5) Add the following new paragraphs:

"(6)(A) No later than 60 days after the date of enactment of this paragraph, the Secretary of the Interior shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report on the entrance fees proposed to be charged at units of the National Park System. The report shall include a list of units of the Reports.

H. R. 1975

One Hundred Fourth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Wednesday, the third day of January, one thousand nine hundred and ninety-six

An Act

To improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Oil and Gas Royalty Simplification and Fairness Act of 1996".

SEC. 2. DEFINITIONS.

Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended—

(1) by amending paragraph (7) to read as follows:

"(7) 'lessee' means any person to whom the United States issues an oil and gas lease or any person to whom operating rights in a lease have been assigned;"; and

(2) by striking "and" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting a semicolon, and by adding at the end the following:

"(17) 'adjustment' means an amendment to a previously filed report on an obligation, and any additional payment or credit, if any, applicable thereto, to rectify an underpayment or overpayment on an obligation;

"(18) 'administrative proceeding' means any Department of the Interior agency process in which a demand, decision or order issued by the Secretary or a delegated State is subject to appeal or has been appealed;

"(19) 'assessment' means any fee or charge levied or imposed by the Secretary or a delegated State other than—

"(A) the principal amount of any royalty, minimum royalty, rental bonus, net profit share or proceed of sale;

"(B) any interest; or

"(C) any civil or criminal penalty;

"(20) 'commence' means—

"(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, cross claim, or other pleading seeking affirmative relief or seeking credit or recoupment: *Provided,* That if the Secretary commences a judicial proceeding against a designee, the Secretary shall give notice of that commencement to the lessee who designated the designee, but the Secretary is not required to give notice to other lessees who may be liable pursuant to section 102(a) of this Act, for the obligation that is the subject of the judicial proceeding; or

"(B) with respect to a demand, the receipt by the Secretary or a delegated State or a lessee or its designee (with written notice to the lessee who designated the designee) of the demand;

"(21) 'credit' means the application of an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

"(22) 'delegated State' means a State which, pursuant to an agreement or agreements under section 205 of this Act, performs authorities, duties, responsibilities, or activities of the Secretary;

"(23) 'demand' means—

"(A) an order to pay issued by the Secretary or the applicable delegated State to a lessee or its designee (with written notice to the lessee who designated the designee) that has a reasonable basis to conclude that the obligation in the amount of the demand is due and owing; or

"(B) a separate written request by a lessee or its designee which asserts an obligation due the lessee or its designee that provides a reasonable basis to conclude that the obligation in the amount of the demand is due and owing, but does not mean any royalty or production report, or any information contained therein, required by the Secretary or a delegated State;

"(24) 'designee' means the person designated by a lessee pursuant to section 102(a) of this Act, with such written designation effective on the date such designation is received by the Secretary and remaining in effect until the Secretary receives notice in writing that the designation is modified or terminated;

"(25) 'obligation' means—

"(A) any duty of the Secretary or, if applicable, a delegated State—

"(i) to take oil or gas royalty in kind; or

"(ii) to pay, refund, offset, or credit monies including (but not limited to)—

"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale; or

"(II) any interest; and

"(B) any duty of a lessee or its designee (subject to the provision of section 102(a) of this Act)—

"(i) to deliver oil or gas royalty in kind; or

"(ii) to pay, offset or credit monies including (but not limited to)—

"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

"(II) any interest;

"(III) any penalty; or

"(IV) any assessment,

which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;

"(26) 'order to pay' means a written order issued by the Secretary or the applicable delegated State to a lessee or its

designee (with notice to the lessee who designated the designee) which—

"(A) asserts a specific, definite, and quantified obligation claimed to be due, and

"(B) specifically identifies the obligation by lease, production month and monetary amount of such obligation claimed to be due and ordered to be paid, as well as the reason or reasons such obligation is claimed to be due, but such term does not include any other communication or action by or on behalf of the Secretary or a delegated State;

"(27) 'overpayment' means any payment by a lessee or its designee in excess of an amount legally required to be paid on an obligation and includes the portion of any estimated payment for a production month that is in excess of the royalties due for that month;

"(28) 'payment' means satisfaction, in whole or in part, of an obligation;

"(29) 'penalty' means a statutorily authorized civil fine levied or imposed for a violation of this Act, any mineral leasing law, or a term or provision of a lease administered by the Secretary;

"(30) 'refund' means the return of an overpayment;

"(31) 'State concerned' means, with respect to a lease, a State which receives a portion of royalties or other payments under the mineral leasing laws from such lease;

"(32) 'underpayment' means any payment or nonpayment by a lessee or its designee that is less than the amount legally required to be paid on an obligation; and

"(33) 'United States' means the United States Government and any department, agency, or instrumentality thereof, the several States, the District of Columbia, and the territories of the United States.".

SEC. 3. DELEGATION OF ROYALTY COLLECTIONS AND RELATED ACTIVITIES.

(a) GENERAL AUTHORITY.—Section 205 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735) is amended to read as follows:

"SEC. 205. DELEGATION OF ROYALTY COLLECTIONS AND RELATED ACTIVITIES.

"(a) Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to:

"(1) conduct inspections, audits, and investigations;

"(2) receive and process production and financial reports;

"(3) correct erroneous report data;

"(4) perform automated verification; and

"(5) issue demands, subpoenas, and orders to perform restructured accounting, for royalty management enforcement purposes,

to any State with respect to all Federal land within the State.

"(b) After notice and opportunity for a hearing, the Secretary is authorized to delegate such authorities and responsibilities granted under this section as the State has requested, if the Secretary finds that—

"(1) it is likely that the State will provide adequate resources to achieve the purposes of this Act;

"(2) the State has demonstrated that it will effectively and faithfully administer the rules and regulations of the Secretary under this Act in accordance with the requirements of subsections (c) and (d) of this section;

"(3) such delegation will not create an unreasonable burden on any lessee;

"(4) the State agrees to adopt standardized reporting procedures prescribed by the Secretary for royalty and production accounting purposes, unless the State and all affected parties (including the Secretary) otherwise agree;

"(5) the State agrees to follow and adhere to regulations and guidelines issued by the Secretary pursuant to the mineral leasing laws regarding valuation of production; and

"(6) where necessary for a State to have authority to carry out and enforce a delegated activity, the State agrees to enact such laws and promulgate such regulations as are consistent with relevant Federal laws and regulations

with respect to the Federal lands within the State.

"(c) After notice and opportunity for hearing, the Secretary shall issue a ruling as to the consistency of a State's proposal with the provisions of this section and regulations under subsection (d) within 90 days after submission of such proposal. In any unfavorable ruling, the Secretary shall set forth the reasons therefor and state whether the Secretary will agree to delegate to the State if the State meets the conditions set forth in such ruling.

"(d) After consultation with State authorities, the Secretary shall by rule promulgate, within 12 months after the date of enactment of this section, standards and regulations pertaining to the authorities and responsibilities to be delegated under subsection (a), including standards and regulations pertaining to—

"(1) audits to be performed;

"(2) records and accounts to be maintained;

"(3) reporting procedures to be required by States under this section;

"(4) receipt and processing of production and financial reports;

"(5) correction of erroneous report data;

"(6) performance of automated verification;

"(7) issuance of standards and guidelines in order to avoid duplication of effort;

"(8) transmission of report data to the Secretary; and

"(9) issuance of demands, subpoenas, and orders to perform restructured accounting, for royalty management enforcement purposes.

Such standards and regulations shall be designed to provide reasonable assurance that a uniform and effective royalty management system will prevail among the States. The records and accounts under paragraph (2) shall be sufficient to allow the Secretary to monitor the performance of any State under this section.

"(e) If, after notice and opportunity for a hearing, the Secretary finds that any State to which any authority or responsibility of the Secretary has been delegated under this section is in violation of any requirement of this section or any rule thereunder, or that an affirmative finding by the Secretary under subsection (b) can no longer be made, the Secretary may revoke such delegation.

If, after providing written notice to a delegated State and a reasonable opportunity to take corrective action requested by the Secretary, the Secretary determines that the State has failed to issue a demand or order to a Federal lessee within the State, that such failure may result in an underpayment of an obligation due the United States by such lessee, and that such underpayment may be uncollected without Secretarial intervention, the Secretary may issue such demand or order in accordance with the provisions of this Act prior to or absent the withdrawal of delegated authority.

"(f) Subject to appropriations, the Secretary shall compensate any State for those costs which may be necessary to carry out the delegated activities under this Section. Payment shall be made no less than every quarter during the fiscal year. Compensation to a State may not exceed the Secretary's reasonably anticipated expenditure for performance of such delegated activities by the Secretary. Such costs shall be allocable for the purposes of section 35(b) of the Act entitled 'An act to promote the mining of coal, phosphate, oil, oil shale, gas and sodium on the public domain', approved February 25, 1920 (commonly known as the Mineral Leasing Act) (30 U.S.C. 191 (b)) to the administration and enforcement of laws providing for the leasing of any onshore lands or interests in land owned by the United States. Any further allocation of costs under section 35(b) made by the Secretary for oil and gas activities, other than those costs to compensate States for delegated activities under this Act, shall be only those costs associated with onshore oil and gas activities and may not include any duplication of costs allocated pursuant to the previous sentence. Nothing in this section affects the Secretary's authority to make allocations under section 35(b) for non-oil and gas mineral activities. All moneys received from sales, bonuses, rentals, royalties, assessments and interest, including money claimed to be due and owing pursuant to a delegation under this section, shall be payable and paid to the Treasury of the United States.

"(g) Any action of the Secretary to approve or disapprove a proposal submitted by a State under this section shall be subject to judicial review in the United States district court which includes the capital of the State submitting the proposal.

"(h) Any State operating pursuant to a delegation existing on the date of enactment of this Act may continue to operate under the terms and conditions of the delegation, except to the extent that a revision of the existing agreement is adopted pursuant to this section.".

(b) CLERICAL AMENDMENT.—The item relating to section 205 in the table of contents in section 1 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701) is amended to read as follows:

"Sec. 205. Delegation of royalty collections and related activities.".

SEC. 4. SECRETARIAL AND DELEGATED STATES' ACTIONS AND LIMITATION PERIODS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 114 the following new section:

"SEC. 115. SECRETARIAL AND DELEGATED STATES' ACTIONS AND LIMITATION PERIODS.

"(a) IN GENERAL.—The respective duties, responsibilities, and activities with respect to a lease shall be performed by the Secretary, delegated States, and lessees or their designees in a timely manner.

"(b) LIMITATION PERIOD.—

"(1) IN GENERAL.—A judicial proceeding or demand which arises from, or relates to an obligation, shall be commenced within seven years from the date on which the obligation becomes due and if not so commenced shall be barred. If commencement of a judicial proceeding or demand for an obligation is barred by this section, the Secretary, a delegated State, or a lessee or its designee (A) shall not take any other or further action regarding that obligation, including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty or the initiation, pursuit or completion of an audit with respect to that obligation; and (B) shall not pursue any other equitable or legal remedy, whether under statute or common law, with respect to an action on or an enforcement of said obligation.

"(2) RULE OF CONSTRUCTION.—A judicial proceeding or demand that is timely commenced under paragraph (1) against a designee shall be considered timely commenced as to any lessee who is liable pursuant to section 102(a) of this Act for the obligation that is the subject of the judicial proceeding or demand.

"(3) APPLICATION OF CERTAIN LIMITATIONS.—The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code, and section 42 of the Mineral Leasing Act (30 U.S.C. 226–2) shall not apply to any obligation to which this Act applies. Section 3716 of title 31, United States Code, may be applied to an obligation the enforcement of which is not barred by this Act, but may not be applied to any obligation the enforcement of which is barred by this Act.

"(c) OBLIGATION BECOMES DUE.—

"(1) IN GENERAL.—For purposes of this Act, an obligation becomes due when the right to enforce the obligation is fixed.

"(2) ROYALTY OBLIGATIONS.—The right to enforce any royalty obligation for any given production month for a lease is fixed for purposes of this Act on the last day of the calendar month following the month in which oil or gas is produced.

"(d) TOLLING OF LIMITATION PERIOD.—The running of the limitation period under subsection (b) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including an action by the Secretary or a delegated State, other than the following:

"(1) TOLLING AGREEMENT.—A written agreement executed during the limitation period between the Secretary or a delegated State and a lessee or its designee (with notice to the lessee who designated the designee) shall toll the limitation period for the amount of time during which the agreement is in effect.

"(2) SUBPOENA.—

"(A) The issuance of a subpoena to a lessee or its designee (with notice to the lessee who designated the designee, which notice shall not constitute a subpoena to the lessee) in accordance with the provisions of subparagraph (B)(i) shall toll the limitation period with respect to the obligation which is the subject of a subpoena only for the period beginning on the date the lessee or its designee receives the subpoena and ending on the date on which (i) the lessee or its designee has produced such subpoenaed records for the subject obligation, (ii) the Secretary or a delegated State receives written notice that the subpoenaed records for the subject obligation are not in existence or are not in the lessee's or its designee's possession or control, or (iii) a court has determined in a final decision that such records are not required to be produced, whichever occurs first.

"(B)(i) A subpoena for the purposes of this section which requires a lessee or its designee to produce records necessary to determine the proper reporting and payment of an obligation due the Secretary may be issued only by an Assistant Secretary of the Interior or an Acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations), or the Director or Acting Director of the respective bureau or agency, and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such subpoena, but may not delegate such authority to any other person.

"(ii) A subpoena described in clause (i) may only be issued against a lessee or its designee during the limitation period provided in this section and only after the Secretary or a delegated State has in writing requested the records from the lessee or its designee related to the obligation which is the subject of the subpoena and has determined that—

"(I) the lessee or its designee has failed to respond within a reasonable period of time to the Secretary's or the applicable delegated State's written request for such records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or such delegated State's responsibilities under this Act; or

"(II) the lessee or its designee has in writing denied the Secretary's or the applicable delegated State's written request to produce such records in the lessee's or its designee's possession or control necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or such delegated State's responsibilities under this Act; or

"(III) the lessee or its designee has unreasonably delayed in producing records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or the applicable delegated State's

responsibilities under this Act after the Secretary's or delegated State's written request.

"(C) In seeking records, the Secretary or the applicable delegated State shall afford the lessee or its designee a reasonable period of time after a written request by the Secretary or such delegated State in which to provide such records prior to the issuance of any subpoena.

"(3) MISREPRESENTATION OR CONCEALMENT.—The intentional misrepresentation or concealment of a material fact for the purpose of evading the payment of an obligation in which case the limitation period shall be tolled for the period of such misrepresentation or such concealment.

"(4) ORDER TO PERFORM RESTRUCTURED ACCOUNTING.—A)(i) The issuance of a notice under subparagraph (D) that the lessee or its designee has not substantially complied with the requirement to perform a restructured accounting shall toll the limitation period with respect to the obligation which is the subject of the notice only for the period beginning on the date the lessee or its designee receives the notice and ending 120 days after the date on which (I) the Secretary or the applicable delegated State receives written notice that the accounting or other requirement has been performed, or (II) a court has determined in a final decision that the lessee is not required to perform the accounting, whichever occurs first.

"(ii) If the lessee or its designee initiates an administrative appeal or judicial proceeding to contest an order to perform a restructured accounting issued under subparagraph (B)(i), the limitation period in subsection (b) shall be tolled from the date the lessee or its designee received the order until a final, nonappealable decision is issued in any such proceeding.

"(B)(i) The Secretary or the applicable delegated State may issue an order to perform a restructured accounting to a lessee or its designee when the Secretary or such delegated State determines during an audit of a lessee or its designee that the lessee or its designee should recalculate royalty due on an obligation based upon the Secretary's or the delegated State's finding that the lessee or its designee has made identified underpayments or overpayments which are demonstrated by the Secretary or the delegated State to be based upon repeated, systemic reporting errors for a significant number of leases or a single lease for a significant number of reporting months with the same type of error which constitutes a pattern of violations and which are likely to result in either significant underpayments or overpayments.

"(ii) The power of the Secretary to issue an order to perform a restructured accounting may not be delegated below the most senior career professional position having responsibility for the royalty management program, which position is currently designated as the 'Associate Director for Royalty Management', and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205 of this Act, the State, acting through the highest ranking State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such order to perform, which may not be delegated to any other person. An order to perform a restructured accounting shall—

"(I) be issued within a reasonable period of time from when the audit identifies the systemic, reporting errors;

"(II) specify the reasons and factual bases for such order;

"(III) be specifically identified as an 'order to perform a restructured accounting';

"(IV) provide the lessee or its designee a reasonable period of time (but not less than 60 days) within which to perform the restructured accounting; and

"(V) provide the lessee or its designee 60 days within which to file an administrative appeal of the order to perform a restructured accounting.

"(C) An order to perform a restructured accounting shall not mean or be construed to include any other action by or on behalf of the Secretary or a delegated State.

"(D) If a lessee or its designee fails to substantially comply with the requirement to perform a restructured accounting pursuant to this subsection, a notice shall be issued to the lessee or its designee that the lessee or its designee has not substantially complied with the requirements to perform a restructured accounting. A lessee or its designee shall be given a reasonable time within which to perform the restructured accounting. Such notice may be issued under this section only by an Assistant Secretary of the Interior or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such notice, which may not be delegated to any other person.

"(e) TERMINATION OF LIMITATIONS PERIOD.—An action or an enforcement of an obligation by the Secretary or delegated State or a lessee or its designee shall be barred under this section prior to the running of the seven-year period provided in subsection (b) in the event—

"(1) the Secretary or a delegated State has notified the lessee or its designee in writing that a time period is closed to further audit; or

"(2) the Secretary or a delegated State and a lessee or its designee have so agreed in writing.

For purposes of this subsection, notice to, or an agreement by, the designee shall be binding on any lessee who is liable pursuant to section 102(a) for obligations that are the subject of the notice or agreement.

"(f) RECORDS REQUIRED FOR DETERMINING COLLECTIONS.—Records required pursuant to section 103 of this Act by the Secretary or any delegated State for the purpose of determining obligations due and compliance with any applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for the same period of time during which a judicial proceeding or demand may be commenced under subsection (b). If a judicial proceeding or demand is timely commenced, the record holder shall maintain such records until the final nonappealable decision in such judicial proceeding is made, or with respect to

that demand is rendered, unless the Secretary or the applicable delegated State authorizes in writing an earlier release of the requirement to maintain such records. Notwithstanding anything herein to the contrary, under no circumstance shall a record holder be required to maintain or produce any record relating to an obligation for any time period which is barred by the applicable limitation in this section. In connection with any hearing, administrative proceeding, inquiry, investigation, or audit by the Secretary or a delegated State under this Act, the Secretary or the delegated State shall minimize the submission of multiple or redundant information and make a good faith effort to locate records previously submitted by a lessee or a designee to the Secretary or the delegated State, prior to requiring the lessee or the designee to provide such records.

"(g) TIMELY COLLECTIONS.—In order to most effectively utilize resources available to the Secretary to maximize the collection of oil and gas receipts from lease obligations to the Treasury within the seven-year period of limitations, and consequently to maximize the State share of such receipts, the Secretary should not perform or require accounting, reporting, or audit activities if the Secretary and the State concerned determine that the cost of conducting or requiring the activity exceeds the expected amount to be collected by the activity, based on the most current 12 months of activity. This subsection shall not provide a defense to a demand or an order to perform a restructured accounting. To the maximum extent possible, the Secretary and delegated States shall reduce costs to the United States Treasury and the States by discontinuing requirements for unnecessary or duplicative data and other information, such as separate allowances and payor information, relating to obligations due. If the Secretary and the State concerned determine that collection will result sooner, the Secretary or the applicable delegated State may waive or forego interest in whole or in part.

"(h) APPEALS AND FINAL AGENCY ACTION.—

"(1) 33-MONTH PERIOD.—Demands or orders issued by the Secretary or a delegated State are subject to administrative appeal in accordance with the regulations of the Secretary. No State shall impose any conditions which would hinder a lessee's or its designee's immediate appeal of an order to the Secretary or the Secretary's designee. The Secretary shall issue a final decision in any administrative proceeding, including any administrative proceedings pending on the date of enactment of this section, within 33 months from the date such proceeding was commenced or 33 months from the date of such enactment, whichever is later. The 33-month period may be extended by any period of time agreed upon in writing by the Secretary and the appellant.

"(2) EFFECT OF FAILURE TO ISSUE DECISION.—If no such decision has been issued by the Secretary within the 33-month period referred to in paragraph (1)—

"(A) the Secretary shall be deemed to have issued and granted a decision in favor of the appellant as to any nonmonetary obligation and any monetary obligation the principal amount of which is less than $10,000; and

"(B) the Secretary shall be deemed to have issued a final decision in favor of the Secretary, which decision shall be deemed to affirm those issues for which the agency

rendered a decision prior to the end of such period, as to any monetary obligation the principal amount of which is $10,000 or more, and the appellant shall have a right to judicial review of such deemed final decision in accordance with title 5 of the United States Code.

"(i) COLLECTIONS OF DISPUTED AMOUNTS DUE.—To expedite collections relating to disputed obligations due within the seven-year period beginning on the date the obligation became due, the parties shall hold not less than one settlement consultation and the Secretary and the State concerned may take such action as is appropriate to compromise and settle a disputed obligation, including waiving or reducing interest and allowing offsetting of obligations among leases.

"(j) ENFORCEMENT OF A CLAIM FOR JUDICIAL REVIEW.—In the event a demand subject to this section is properly and timely commenced, the obligation which is the subject of the demand may be enforced beyond the seven-year limitations period without being barred by this statute of limitations. In the event a demand subject to this section is properly and timely commenced, a judicial proceeding challenging the final agency action with respect to such demand shall be deemed timely so long as such judicial proceeding is commenced within 180 days from receipt of notice by the lessee or its designee of the final agency action.

"(k) IMPLEMENTATION OF FINAL DECISION.—In the event a judicial proceeding or demand subject to this section is timely commenced and thereafter the limitation period in this section lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement a final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund or credit.

"(l) STAY OF PAYMENT OBLIGATION PENDING REVIEW.—Any person ordered by the Secretary or a delegated State to pay any obligation (other than an assessment) shall be entitled to a stay of such payment without bond or other surety instrument pending an administrative or judicial proceeding if the person periodically demonstrates to the satisfaction of the Secretary that such person is financially solvent or otherwise able to pay the obligation. In the event the person is not able to demonstrate, the Secretary may require a bond or other surety instrument satisfactory to cover the obligation. Any person ordered by the Secretary or a delegated State to pay an assessment shall be entitled to a stay without bond or other surety instrument.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701) is amended by inserting after the item relating to section 114 the following new item:

"Sec. 115. Secretarial and delegated States' actions and limitation periods.".

SEC. 5. ADJUSTMENT AND REFUNDS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by inserting after section 111 the following:

"SEC. 111A. ADJUSTMENTS AND REFUNDS.

"(a) ADJUSTMENTS TO ROYALTIES PAID TO THE SECRETARY OR A DELEGATED STATE.—

"(1) If, during the adjustment period, a lessee or its designee determines that an adjustment or refund request is necessary to correct an underpayment or overpayment of an obligation, the lessee or its designee shall make such adjustment or request a refund within a reasonable period of time and only during the adjustment period. The filing of a royalty report which reflects the underpayment or overpayment of an obligation shall constitute prior written notice to the Secretary or the applicable delegated State of an adjustment.

"(2)(A) For any adjustment, the lessee or its designee shall calculate and report the interest due attributable to such adjustment at the same time the lessee or its designee adjusts the principle amount of the subject obligation, except as provided by subparagraph (B).

"(B) In the case of a lessee or its designee who determines that subparagraph (A) would impose a hardship, the Secretary or such delegated State shall calculate the interest due and notify the lessee or its designee within a reasonable time of the amount of interest due, unless such lessee or its designee elects to calculate and report interest in accordance with subparagraph (A).

"(3) An adjustment or a request for a refund for an obligation may be made after the adjustment period only upon written notice to and approval by the Secretary or the applicable delegated State, as appropriate, during an audit of the period which includes the production month for which the adjustment is being made. If an overpayment is identified during an audit, then the Secretary or the applicable delegated State, as appropriate, shall allow a credit or refund in the amount of the overpayment.

"(4) For purposes of this section, the adjustment period for any obligation shall be the six-year period following the date on which an obligation became due. The adjustment period shall be suspended, tolled, extended, enlarged, or terminated by the same actions as the limitation period in section 115.

"(b) REFUNDS.—

"(1) IN GENERAL.—A request for refund is sufficient if it—

"(A) is made in writing to the Secretary and, for purposes of section 115, is specifically identified as a demand;

"(B) identifies the person entitled to such refund;

"(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought; and

"(D) provides the reasons why the payment was an overpayment.

"(2) PAYMENT BY SECRETARY OF THE TREASURY.—The Secretary shall certify the amount of the refund to be paid under paragraph (1) to the Secretary of the Treasury who shall make such refund. Such refund shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act and the Outer Continental Shelf Lands Act, which are not payable to a State or

the Reclamation Fund. The portion of any such refund attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any recipient prescribed by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.

"(3) PAYMENT PERIOD.—A refund under this subsection shall be paid or denied (with an explanation of the reasons for the denial) within 120 days of the date on which the request for refund is received by the Secretary. Such refund shall be subject to later audit by the Secretary or the applicable delegated State and subject to the provisions of this Act.

"(4) PROHIBITION AGAINST REDUCTION OF REFUNDS OR CREDITS.—In no event shall the Secretary or any delegated State directly or indirectly claim or offset any amount or amounts against, or reduce any refund or credit (or interest accrued thereon) by the amount of any obligation the enforcement of which is barred by section 115 of this Act.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701) is amended by inserting after the item relating to section 111 the following new item:

"Sec. 111A. Adjustments and refunds.".

SEC. 6. ROYALTY TERMS AND CONDITIONS, INTEREST, AND PENALTIES.

(a) LESSEE OR DESIGNEE INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding after subsection (g) the following:

"(h) Interest shall be allowed and paid or credited on any overpayment, with such interest to accrue from the date such overpayment was made, at the rate obtained by applying the provisions of subparagraphs (A) and (B) of section 6621(a)(1) of the Internal Revenue Code of 1986, but determined without regard to the sentence following subparagraph (B) of section 6621(a)(1). Interest which has accrued on any overpayment may be applied to reduce an underpayment. This subsection applies to overpayments made later than six months after the date of enactment of this subsection or September 1, 1996, whichever is later. Such interest shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act, and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such interest payment attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any other recipient designated by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.".

(b) LIMITATION ON INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982, as amended by subsection (a), is further amended by adding at the end the following:

"(i) Upon a determination by the Secretary that an excessive overpayment (based upon all obligations of a lessee or its designee

for a given reporting month) was made for the sole purpose of receiving interest, interest shall be paid on the excessive amount of such overpayment. For purposes of this Act, an 'excessive overpayment' shall be the amount that any overpayment a lessee or its designee pays for a given reporting month (excluding payments for demands for obligations determined to be due as a result of judicial or administrative proceedings or agreed to be paid pursuant to settlement agreements) for the aggregate of all of its Federal leases exceeds 10 percent of the total royalties paid that month for those leases.".

(c) ESTIMATED PAYMENT.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by subsections (a) and (b), is further amended by adding at the end the following:

"(j) A lessee or its designee may make a payment for the approximate amount of royalties (hereinafter in this subsection 'estimated payment') that would otherwise be due for such lease by the rate royalties are due for that lease. When an estimated payment is made, actual royalties are payable at the end of the month following the month in which the estimated payment is made. If the estimated payment was less than the amount of actual royalties due, interest is owned on the underpaid amount. If the estimated payment exceeds the actual royalties due, interest is owned on the overpayment. If the lessee or its designee makes a payment for such actual royalties, the lessee or its designee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated at any time by the lessee or its designee.".

(d) VOLUME ALLOCATION OF OIL AND GAS PRODUCTION.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by subsections (a) through (c), is amended by adding at the end the following:

"(k)(1) Except as otherwise provided by this subsection—

"(A) a lessee or its designee of a lease in a unit or communitization agreement which contains only Federal leases with the same royalty rate and funds distribution shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee;

"(B) a lessee or its designee of a lease in any other unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allocated to the lease in accordance with the terms of the agreement; and

"(C) a lessee or its designee of a lease that is not contained in a unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.

"(2) This subsection applies only to requirements for reporting and paying royalties. Nothing in this subsection is intended to alter a lessee's liability for royalties on oil or gas production based on the share of production allocated to the lease in accordance with the terms of the lease, a unit or communitization agreement, or any other agreement.

"(3) For any unit or communitization agreement if all lessees contractually agree to an alternative method of royalty reporting and payment, the lessees may submit such alternative method to the Secretary or the delegated State for approval and make payments in accordance with such approved alternative method so long as such alternative method does not reduce the amount of the royalty obligation.

"(4) The Secretary or the delegated State shall grant an exception from the reporting and payment requirements for marginal properties by allowing for any calendar year or portion thereof royalties to be paid each month based on the volume of production sold. Interest shall not accrue on the difference for the entire calendar year or portion thereof between the amount of oil and gas actually sold and the share of production allocated to the lease until the beginning of the month following such calendar year or portion thereof. Any additional royalties dues or overpaid royalties and associated interest shall be paid, refunded, or credited within six months after the end of each calendar year in which royalties are paid based on volumes of production sold. For the purpose of this subsection, the term 'marginal property' means a lease that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90 thousand cubic feet of gas per well per day, or a combination thereof, determined by dividing the average daily production of crude oil and natural gas from producing wells on such lease by the number of such wells, unless the Secretary, together with the State concerned, determines that a different production is more appropriate.

"(5) Not later than two years after the date of the enactment of this subsection, the Secretary shall issue any appropriate demand for all outstanding royalty payment disputes regarding who is required to report and pay royalties on production from units and communitization agreements outstanding on the date of the enactment of this subsection, and collect royalty amounts owed on such production.".

(e) PRODUCTION ALLOCATION.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by subsections (a) through (d), is amended by adding at the end the following:

"(l) The Secretary shall issue all determinations of allocations of production for units and communitization agreements within 120 days of a request for determination. If the Secretary fails to issue a determination within such 120-day period, the Secretary shall waive interest due on obligations subject to the determination until the end of the month following the month in which the determination is made.".

(f) NEW ASSESSMENT TO ENCOURAGE PROPER ROYALTY PAYMENTS.—

(1) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by section 4(a), is further amended by adding at the end the following:

"SEC. 116. ASSESSMENTS.

"Beginning eighteen months after the date of enactment of this section, to encourage proper royalty payment the Secretary or the delegated State shall impose assessments on a person who chronically submits erroneous reports under this Act. Assessments under this Act may only be issued as provided for in this section.".

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 115 the following new item:

"Sec. 116. Assessments.".

(g) LIABILITY FOR ROYALTY PAYMENTS.—Section 102(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1712(a)) is amended to read as follows:

"(a) In order to increase receipts and achieve effective collections of royalty and other payments, a lessee who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary or the applicable delegated State. A lessee may designate a person to make all or part of the payments due under a lease on the lessee's behalf and shall notify the Secretary or the applicable delegated State in writing of such designation, in which event said designated person may, in its own name, pay, offset or credit monies, make adjustments, request and receive refunds and submit reports with respect to payments required by the lessee. Notwithstanding any other provision of this Act to the contrary, a designee shall not be liable for any payment obligation under the lease. The person owning operating rights in a lease shall be primarily liable for its pro rata share of payment obligations under the lease. If the person owning the legal record title in a lease is other than the operating rights owner, the person owning the legal record title shall be secondarily liable for its pro rata share of such payment obligations under the lease.".

(h) CLERICAL AMENDMENTS.—(1) The heading of section 111 of the Federal Oil and Gas Royalty management Act of 1982 (30 U.S.C. 1721) is amended to read as follows:

"ROYALTY TERMS AND CONDITIONS, INTEREST, AND PENALTIES".

(2) The item relating to section 111 in the table of contents in section 1 of such Act (30 U.S.C. 1701) is amended to read as follows:

"Sec. 111. Royalty terms and conditions, interest, and penalties.".

SEC. 7. ALTERNATIVES FOR MARGINAL PROPERTIES.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), as amended by section 6 of this Act, is further amended by adding at the end the following:

"SEC. 117. ALTERNATIVES FOR MARGINAL PROPERTIES.

"(a) DETERMINATION OF BEST INTERESTS OF STATE CONCERNED AND THE UNITED STATES.—The Secretary and the State concerned, acting in the best interests of the United States and the State concerned to promote production, reduce administrative costs, and increase net receipts to the United States and the States, shall jointly determine, on a case by case basis, the amount of what marginal production from a lease or leases or well or wells, or parts thereof, shall be subject to a prepayment under subsection (b) or regulatory relief under subsection (c). If the State concerned does not consent, such prepayments or regulatory relief shall not be made available under this section for such marginal production: *Provided,* That if royalty payments from a lease or leases, or well or wells are not shared with any State, such determination shall be made solely by the Secretary.

"(b) PREPAYMENT OF ROYALTY.—

"(1) IN GENERAL.—Notwithstanding the provisions of any lease to the contrary, for any lease or leases or well or wells identified by the Secretary and the State concerned pursuant to subsection (a), the Secretary is authorized to accept a prepayment for royalties in lieu of monthly royalty payments under the lease for the remainder of the lease term if the affected lessee so agrees. Any prepayment agreed to by the Secretary, State concerned and lessee which is less than an average $500 per month in total royalties shall be effectuated under this section not earlier than two years after the date of enactment of this section and, any prepayment which is greater than an average $500 per month in total royalties shall be effectuated under this section not earlier than three years after the date of enactment of this section. The Secretary and the State concerned may condition their acceptance of the prepayment authorized under this section on the lessee's agreeing to such terms and conditions as the Secretary and the State concerned deem appropriate and consistent with the purposes of this Act. Such terms may—

"(A) provide for prepayment that does not result in a loss of revenue to the United States in present value terms;

"(B) include provisions for receiving additional prepayments or royalties for developments in the lease or leases or well or wells that deviate significantly from the assumptions and facts on which the valuation is determined; and

"(C) require the lessee or it designee to provide such periodic production reports as may be necessary to allow the Secretary and the State concerned to monitor production for the purposes of subparagraph (B).

"(2) STATE SHARE.—A prepayment under this section shall be shared by the Secretary with any State or other recipient to the same extent as any royalty payment for such lease.

"(3) SATISFACTION OF OBLIGATION.—Except as may be provided in the terms and conditions established by the Secretary under subsection (b), a lessee or its designee who makes a prepayment under this section shall have satisfied in full the lessee's obligation to pay royalty on the production stream sold from the lease or leases or well or wells.

"(c) ALTERNATIVE ACCOUNTING AND AUDITING REQUIREMENTS.—Within one year after the date of the enactment of this section, the Secretary or the delegated State shall provide accounting, reporting, and auditing relief that will encourage lessees to continue to produce and develop properties subject to subsection (a): *Provided,* That such relief will only be available to lessees in a State that concurs, which concurrence is not required if royalty payments from the lease or leases or well or wells are not shared with any State. Prior to granting such relief, the Secretary and, if appropriate, the State concerned shall agree that the type of marginal wells and relief provided under this paragraph is in the best interest of the United States and, if appropriate, the State concerned.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 116 the following new item:

"Sec. 117. Alternatives for marginal properties.".

SEC. 8. APPLICABILITY.

(a) FOGRMA.—With respect to Federal lands, sections 202 and 307 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732 and 1755), are no longer applicable. The applicability of those sections to Indian leases is not affected.

(b) OCSLA.—Effective on the date of the enactment of this Act, section 10 of the Outer Continental Shelf Lands Act (43 U.S.C. 1339) is repealed.

SEC. 9. INDIAN LANDS.

The amendments made by this Act shall not apply with respect to Indian lands, and the provisions of the Federal Oil and Gas Royalty Management Act of 1982 as in effect on the day before the date of enactment of this Act shall continue to apply after such date with respect to Indian lands.

SEC. 10. PRIVATE LANDS.

This Act shall not apply to any privately owned minerals.

SEC. 11. EFFECTIVE DATE.

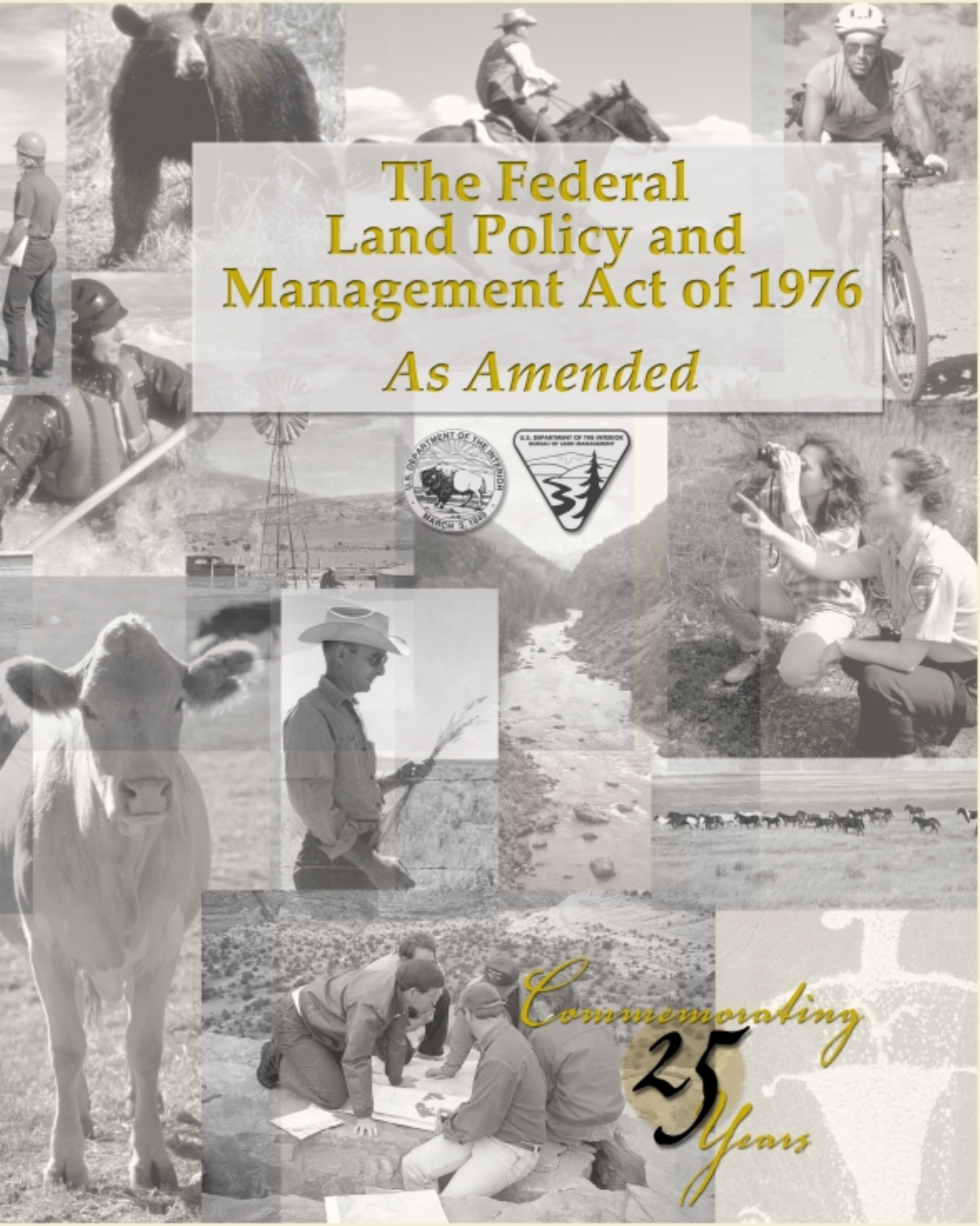
Except as provided by section 115(h), section 111(h), section 111(k)(5), and section 117 of the Federal Oil and Gas Royalty Management Act of 1982 (as added by this Act), this Act, and the amendments made by this Act, shall apply with respect to the production of oil and gas after the first day of the month following the date of the enactment of this Act.

SEC. 12. SAVINGS CLAUSE.

Nothing in this Act shall be construed to give a State a property right or interest in any Federal lease or land.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.



The Federal Land Policy and Management Act of 1976

As Amended

Commemorating 25 Years

The Federal Land Policy and Management Act of 1976, as amended, is the Bureau of Land Management "organic act" that establishes the agency's multiple-use mandate to serve present and future generations.

Copies of this publication are available from:

Bureau of Land Management
Printed Materials Distribution Services
P.O. Box 25047
Denver, Colorado 80225-0047
303-236-7637

Stock #P-141

Index # BLM/WO/GI-01-002

The Federal Land Policy and Management Act of 1976
As Amended

Compiled by
U.S. Department of the Interior
Bureau of Land Management
and
Office of the Solicitor

Washington, D.C

October 2001

This publication may be cited as follows:

U.S. Department of the Interior, Bureau of Land Management and Office of the Solicitor (editors). 2001. The Federal Land Policy and Management Act, as amended. U.S. Department of the Interior, Bureau of Land Management Office of Public Affairs, Washington, D.C. 69 pp.

FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976

Public Law 94-579
94th Congress

An Act

To establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled [italics in original],

Editor's Note

This version of FLPMA was created and updated to include all sections of the Act as originally passed by Congress in 1976; consequently, it is more inclusive and annotated than most. In the text, additions have been italicized and deletions have been removed. Editor's notes are in a different, smaller font, and are framed by brackets "[ ]."

This document was prepared by the Bureau of Land Management and the Office of the Solicitor. Great care was taken to ensure that all amendments were included correctly and with precision. Nevertheless, we recognize that this document still could contain errors. The user is encouraged to consult the official United States Code if there is any doubt about the accuracy of the information contained herein.

TABLE OF CONTENTS

FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976
Public Law 94–579 – 94th Congress. iii

TITLE I—SHORT TITLE; POLICIES; DEFINITIONS
Sec. 101. Short title. 1
Sec. 102. Declaration of policy. 1
Sec. 103. Definitions. 2

TITLE II— LAND USE PLANNING; LAND ACQUISITION AND DISPOSITION
Sec. 201. Inventory and identification. 4
Sec. 202. Land use planning. 4
Sec. 203. Sales. 6
Sec. 204. Withdrawals. 7
Sec. 205. Acquisitions. 10
Sec. 206. Exchanges. 11
Sec. 207. Qualified conveyees. 14
Sec. 208. Conveyances. 14
Sec. 209. Reservation and conveyance of mineral interest 15
Sec. 210. Coordination with State and local governments. 15
Sec. 211. Omitted lands. 15
Sec. 212. Recreation and Public Purposes Act. 16
Sec. 213. National forest townsites. 17
Sec. 214. Unintentional Trespass Act. 17

TITLE III— ADMINISTRATION
Sec. 301. BLM directorate and functions. 20
Sec. 302. Management of use, occupancy, and development. 20
Sec. 303. Enforcement authority. 22
Sec. 304. Service charges and reimbursements. 23
Sec. 305. Deposits and forfeitures. 24
Sec. 306. Working capital fund. 24
Sec. 307. Studies, cooperative agreements, and contributions. 25
Sec. 308. Contracts for surveys and resource protection. 25
Sec. 309. Advisory councils and public participation. 25
Sec. 310. Rules and regulations. 26
Sec. 311. Program report. 26
Sec. 312. Search and rescue. 26
Sec. 313. Sunshine in government. 27
Sec. 314. Recordation of mining claims and abandonment. 27
Sec. 315. Recordable disclaimers of interest. 28
Sec. 316. Correction of conveyance documents. 28
Sec. 317. Mineral revenues. 28
Sec. 318. Appropriation authorization. 30

TITLE IV— RANGE MANAGEMENT
Sec. 401. Grazing fees. 31
Sec. 402. Grazing leases and permits. 32
Sec. 403. Grazing advisory boards. 33
Sec. 404. Management of certain horses and burros. 34

TITLE V—RIGHTS-OF-WAY
Sec. 501. Authorization to grant rights-of-way. 35
Sec. 502. Cost-share road authorization. 37
Sec. 503. Corridors. 38
Sec. 504. General provisions. 38
Sec. 505. Terms and conditions. 40
Sec. 506. Suspension and termination of rights-of-way. 40
Sec. 507. Rights-of-way for Federal agencies. 41
Sec. 508. Conveyance of lands. 41
Sec. 509. Existing rights-of-way. 41
Sec. 510. Effect on other laws. 41
Sec. 511. Coordination of applications. 42

TITLE VI— DESIGNATED MANAGEMENT AREAS
Sec. 601. California desert conservation area. 43
Sec. 602. King range. 44
Sec. 603. Bureau of land management wilderness study 44
43 U.S.C. 1783. Yaquina Head Outstanding Natural Area. 45
43 U.S.C. 1784. Lands in Alaska; designation as wilderness; management by Bureau of Land Management pending congressional action. 47
43 U.S.C. 1785. Fossil Forest Research Natural Area. 47

TITLE VII— EFFECT ON EXISTING RIGHTS: REPEAL OF EXISTING LAWS; SEVERABILITY
Sec. 701. Effect on existing rights. 49
Sec. 702. Repeal of laws relating to homesteading and small tracts. 50
Sec. 703. Repeal of laws related to disposal. 52
Sec. 704. Repeal of withdrawal laws. 54
Sec. 705. Repeal of laws relating to administration of public lands. 56
Sec. 706. Repeal of laws relating to rights-of-way. 56
Sec. 707. Severability. 57

Remembering Eleanor Schwartz 58

A Capsule Examination of the Legislative History of the Federal Land Policy and Management Act of 1976 *by Eleanor R. Schwartz* 59

TITLE I

SHORT TITLE, DECLARATION OF POLICY, AND DEFINITIONS

SHORT TITLE

Sec. 101. [43 U.S.C. 1701 note] This Act may be cited as the "Federal Land Policy and Management Act of 1976".

DECLARATION OF POLICY

Sec. 102. [43 U.S.C. 1701] (a) The Congress declares that it is the policy of the United States that–

(1) the public lands be retained in Federal ownership, unless as a result of the land use planning procedure provided for in this Act, it is determined that disposal of a particular parcel will serve the national interest;

(2) the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts;

(3) public lands not previously designated for any specific use and all existing classifications of public lands that were effected by executive action or statute before the date of enactment of this Act be reviewed in accordance with the provisions of this Act;

(4) the Congress exercise its constitutional authority to withdraw or otherwise designate or dedicate Federal lands for specified purposes and that Congress delineate the extent to which the Executive may withdraw lands without legislative action;

(5) in administering public land statutes and exercising discretionary authority granted by them, the Secretary be required to establish comprehensive rules and regulations after considering the views of the general public; and to structure adjudication procedures to assure adequate third party participation, objective administrative review of initial decisions, and expeditious decision making;

(6) judicial review of public land adjudication decisions be provided by law;

(7) goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law;

(8) the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use;

(9) the United States receive fair market value of the use of the public lands and their resources unless otherwise provided for by statute;

(10) uniform procedures for any disposal of public land, acquisition of non-Federal land for public purposes, and the exchange of such lands be established by statute, requiring each disposal, acquisition, and exchange to be consistent with the prescribed mission of the department or agency involved, and reserving to the Congress review of disposals in excess of a specified acreage;

(11) regulations and plans for the protection of public land areas of critical environmental concern be promptly developed;

(12) the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from

the public lands including implementation of the Mining and Minerals Policy Act of 1970 (84 Stat. 1876, 30 U.S.C. 21a) as it pertains to the public lands; and

(13) the Federal Government should, on a basis equitable to both the Federal and local taxpayer, provide for payments to compensate States and local governments for burdens created as a result of the immunity of Federal lands from State and local taxation.

(b) The policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation and shall then be construed as supplemental to and not in derogation of the purposes for which public lands are administered under other provisions of law.

DEFINITIONS

Sec. 103. [43 U.S.C. 1702] Without altering in any way the meaning of the following terms as used in any other statute, whether or not such statute is referred to in, or amended by, this Act, as used in this Act–

(a) The term "areas of critical environmental concern" means areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.

(b) The term "holder" means any State or local governmental entity, individual, partnership, corporation, association, or other business entity receiving or using a right-of-way under title V of this Act.

(c) The term "multiple use" means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

(d) The term "public involvement" means the opportunity for participation by affected citizens in rule making, decision making, and planning with respect to the public lands, including public meetings or hearings held at locations near the affected lands, or advisory mechanisms, or such other procedures as may be necessary to provide public comment in a particular instance.

(e) The term "public lands" means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except–

(1) lands located on the Outer Continental Shelf; and

(2) lands held for the benefit of Indians, Aleuts, and Eskimos.

(f) The term "right-of-way" includes an easement, lease, permit, or license to occupy, use, or traverse public lands granted for the purpose listed in title V of this Act.

(g) The term "Secretary," unless specifically designated otherwise, means the Secretary of the Interior.

(h) The term "sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use.

(i) The term "wilderness" as used in section 603 shall have the same meaning as it does in section 2(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131–1136).

(j) The term "withdrawal" means withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land, other than "property" governed by the Federal Property and Administrative Services Act, as amended (40 U.S.C. 472) from one department, bureau or agency to another department, bureau or agency.

(k) An "allotment management plan" means a document prepared in consultation with the lessees or permittees involved, which applies to livestock operations on the public lands or on lands within National Forests in the eleven contiguous Western States and which:

(1) prescribes the manner in, and extent to, which livestock operations will be conducted in order to meet the multiple-use, sustained-yield, economic and other needs and objectives as determined for the lands by the Secretary concerned; and

(2) describes the type, location, ownership, and general specifications for the range improvements to be installed and maintained on the lands to meet the livestock grazing and other objectives of land management; and

(3) contains such other provisions relating to livestock grazing and other objectives found by the Secretary concerned to be consistent with the provisions of this Act and other applicable law.

(l) The term "principal or major uses" includes, and is limited to, domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way, outdoor recreation, and timber production.

(m) The term "department" means a unit of the executive branch of the Federal Government which is headed by a member of the President's Cabinet and the term "agency" means a unit of the executive branch of the Federal Government which is not under the jurisdiction of a head of a department.

(n) The term "Bureau" means the Bureau of Land Management.

(o) The term "eleven contiguous Western States" means the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(p) The term "grazing permit and lease" means any document authorizing use of public lands or lands in National Forests in the eleven contiguous Western States for the purpose of grazing domestic livestock.

[The term "sixteen contiguous Western States," where changed by P.L. 95-514, refers to: Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington and Wyoming. This term is defined by P.L. 95-514 and found in sections 401(b)(1), 402(a) and 403(a).]

TITLE II

LAND USE PLANNING; LAND ACQUISITION AND DISPOSITION

INVENTORY AND IDENTIFICATION

Sec. 201. [43 U.S.C. 1711] (a) The Secretary shall prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern. This inventory shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change of the management or use of public lands.

(b) As funds and manpower are made available, the Secretary shall ascertain the boundaries of the public lands; provide means of public identification thereof including, where appropriate, signs and maps; and provide State and local governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in proximity of such public lands.

LAND USE PLANNING

Sec. 202. [43 U.S.C. 1712] (a) The Secretary shall, with public involvement and consistent with the terms and conditions of this Act, develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands. Land use plans shall be developed for the public lands regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses.

(b) In the development and revision of land use plans, the Secretary of Agriculture shall coordinate land use plans for lands in the National Forest System with the land use planning and management programs of and for Indian tribes by, among other things, considering the policies of approval tribal land resource management programs.

(c) In the development and revision of land use plans, the Secretary shall–

(1) use and observe the principles of multiple use and sustained yield set forth in this and other applicable law;

(2) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences;

(3) give priority to the designation and protection of areas of critical environmental concern;

(4) rely, to the extent it is available, on the inventory of the public lands, their resources, and other values;

(5) consider present and potential uses of the public lands;

(6) consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values;

(7) weigh long-term benefits to the public against short-term benefits;

(8) provide for compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementation plans; and

(9) to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the

lands are located, including, but not limited to, the statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 897), as amended [16 U.S.C. 460l–4 et seq. note], and of or for Indian tribes by, among other things, considering the policies of approved State and tribal land resource management programs. In implementing this directive, the Secretary shall, to the extent he finds practical, keep apprised of State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant impact on non-Federal lands. Such officials in each State are authorized to furnish advice to the Secretary with respect to the development and revision of land use plans, land use guidelines, land use rules, and land use regulations for the public lands within such State and with respect to such other land use matters as may be referred to them by him. Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.

(d) Any classification of public lands or any land use plan in effect on the date of enactment of this Act is subject to review in the land use planning process conducted under this section, and all public lands, regardless of classification, are subject to inclusion in any land use plan developed pursuant to this section. The Secretary may modify or terminate any such classification consistent with such land use plans.

(e) The Secretary may issue management decisions to implement land use plans developed or revised under this section in accordance with the following:

(1) Such decisions, including but not limited to exclusions (that is, total elimination) of one or more of the principal or major uses made by a management decision shall remain subject to reconsideration, modification, and termination through revision by the Secretary or his delegate, under the provisions of this section, of the land use plan involved.

(2) Any management decision or action pursuant to a management decision that excludes (that is, totally eliminates) one or more of the principal or major uses for two or more years with respect to a tract of land of one hundred thousand acres or more shall be reported by the Secretary to the House of Representatives and the Senate. If within ninety days from the giving of such notice (exclusive of days on which either House has adjourned for more than three consecutive days), the Congress adopts a concurrent resolution of nonapproval of the management decision or action, then the management decision or action shall be promptly terminated by the Secretary. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the management decision or action. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same management decision or action. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be

debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) Withdrawals made pursuant to section 204 of this Act may be used in carrying out management decisions, but public lands shall be removed from or restored to the operation of the Mining Law of 1872, as amended (R.S. 2318–2352; 30 U.S.C. 21 et seq.) or transferred to another department, bureau, or agency only by withdrawal action pursuant to section 204 or other action pursuant to applicable law: *Provided*, That nothing in this section shall prevent a wholly owned Government corporation from acquiring and holding rights as a citizen under the Mining Law of 1872.

(f) The Secretary shall allow an opportunity for public involvement and by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands.

SALES

Sec. 203. [43 U.S.C. 1713] (a) A tract of the public lands (except land in units of the National Wilderness Preservation System, National Wild and Scenic Rivers Systems, and National System of Trails) may be sold under this Act where, as a result of land use planning required under section 202 of this Act, the Secretary determines that the sale of such tract meets the following disposal criteria:

(1) such tract because of its location or other characteristics is difficult and uneconomic to manage as part of the public lands, and is not suitable for management by another Federal department or agency; or

(2) such tract was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or

(3) disposal of such tract will serve important public objectives, including but not limited to, expansion of communities and economic development, which cannot be achieved prudently or feasibly on land other than public land and which outweigh other public objectives and values, including, but not limited to, recreation and scenic values, which would be served by maintaining such tract in Federal ownership.

(b) Where the Secretary determines that land to be conveyed under clause (3) of subsection (a) of this section is of agricultural value and is desert in character, such land shall be conveyed either under the sale authority of this section or in accordance with other existing law.

(c) Where a tract of the public lands in excess of two thousand five hundred acres has been designated for sale, such sale may be made only after the end of the ninety days (not counting days on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the day the Secretary has submitted notice of such designation to the Senate and the House of Representatives, and then only if the Congress has not adopted a concurrent resolution stating that such House does not approve of such designation. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the designation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same designation. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the

consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(d) Sales of public lands shall be made at a price not less than their fair market value as determined by the Secretary.

(e) The Secretary shall determine and establish the size of tracts of public lands to be sold on the basis of the land use capabilities and development requirements of the lands; and, where any such tract which is judged by the Secretary to be chiefly valuable for agriculture is sold, its size shall be no larger than necessary to support a family-sized farm.

(f) Sales of public lands under this section shall be conducted under competitive bidding procedures to be established by the Secretary. However, where the Secretary determines it necessary and proper in order (1) to assure equitable distribution among purchasers of lands, or (2) to recognize equitable considerations or public policies, including but not limited to, a preference to users, he may sell those lands with modified competitive bidding or without competitive bidding. In recognizing public policies, the Secretary shall give consideration to the following potential purchasers:

(1) the State in which the land is located;

(2) the local government entities in such State which are in the vicinity of the land;

(3) adjoining landowners;

(4) individuals; and

(5) any other person.

(g) The Secretary shall accept or reject, in writing, any offer to purchase made through competitive bidding at his invitation no later than thirty days after the receipt of such offer or, in the case of a tract in excess of two thousand five hundred acres, at the end of thirty days after the end of the ninety-day period provided in subsection (c) of this section, whichever is later, unless the offeror waives his right to a decision within such thirty-day period. Prior to the expiration of such periods the Secretary may refuse to accept any offer or may withdraw any land or interest in land from sale under this section when he determines that consummation of the sale would not be consistent with this Act or other applicable law.

WITHDRAWALS

Sec. 204. [43 U.S.C. 1714] (a) On and after the effective date of this Act the Secretary is authorized to make, modify, extend, or revoke withdrawals but only in accordance with the provisions and limitations of this section. The Secretary may delegate this withdrawal authority only to individuals in the Office of the Secretary who have been appointed by the President, by and with the advice and consent of the Senate.

(b) (1) Within thirty days of receipt of an application for withdrawal, and whenever he proposes a withdrawal on his own motion, the Secretary shall publish a notice in the Federal Register stating that the application has been submitted for filing or the proposal has been made and the extent to which the land is to be segregated while the application is being considered by the Secretary. Upon publication of such notice the land shall be segregated from the operation of the public land laws to the extent specified in the notice. The segregative effect of the application shall terminate upon (a) rejection of the application by the Secretary, (b) withdrawal of lands by the Secretary, or (c) the expiration of two years from the date of the notice.

(2) The publication provisions of this subsection are not applicable to withdrawals under subsection (e) hereof.

(c) (1) On and after the dates of approval of this Act a withdrawal aggregating five thousand acres or more may be made (or such a withdrawal or any other withdrawal involving in the aggregate five thousand acres or more which terminates after such date of approval may be extended) only for a period of not more than twenty years by the Secretary on his own motion or upon request by a department or agency head. The Secretary shall notify both Houses of Congress of such a withdrawal no later than its effective date and the withdrawal shall terminate and become ineffective at

the end of ninety days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) beginning on the day notice of such withdrawal has been submitted to the Senate and the House of Representatives, if the Congress has adopted a concurrent resolution stating that such House does not approve the withdrawal. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the Presidential recommendation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential recommendation. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(2) With the notices required by subsection (c)(1) of this section and within three months after filing the notice under subsection (e) of this section, the Secretary shall furnish to the committees–

(1) a clear explanation of the proposed use of the land involved which led to the withdrawal;

(2) an inventory and evaluation of the current natural resource uses and values of the site and adjacent public and nonpublic land and how it appears they will be affected by the proposed use, including particularly aspects of use that might cause degradation of the environment, and also the economic impact of the change in use on individuals, local communities, and the Nation;

(3) an identification of present users of the land involved, and how they will be affected by the proposed use;

(4) an analysis of the manner in which existing and potential resource uses are incompatible with or in conflict with the proposed use, together with a statement of the provisions to be made for continuation or termination of existing uses, including an economic analysis of such continuation or termination;

(5) an analysis of the manner in which such lands will be used in relation to the specific requirements for the proposed use;

(6) a statement as to whether any suitable alternative sites are available (including cost estimates) for the proposed use or for uses such a withdrawal would displace;

(7) a statement of the consultation which has been or will be had with other Federal departments and agencies, with regional, State, and local government bodies, and with other appropriate individuals and groups;

(8) a statement indicating the effect of the proposed uses, if any, on State and local government interests and the regional economy;

(9) a statement of the expected length of time needed for the withdrawal;

(10) the time and place of hearings and of other public involvement concerning such withdrawal;

(11) the place where the records on the withdrawal can be examined by interested parties; and

(12) a report prepared by a qualified mining engineer, engineering geologist, or geologist which shall include but not be limited to information on: general geology, known mineral deposits, past and present mineral production, mining claims, mineral leases, evaluation of future mineral potential, present and potential market demands.

(d) A withdrawal aggregating less than five thousand acres may be made under this subsection by the Secretary on his own motion or upon request by a department or an agency head–

(1) for such period of time as he deems desirable for a resource use; or

(2) for a period of not more than twenty years for any other use, including but not limited to use for administrative sites, location of facilities, and other proprietary purposes; or

(3) for a period of not more than five years to preserve such tract for a specific use then under consideration by the Congress.

(e) When the Secretary determines, or when the *Committee on Natural Resources of the House of Representatives or the Committee on Energy and Natural Resources of the Senate* [P.L. 103-437, 1994] notifies the Secretary, that an emergency situation exists and that extraordinary measures must be taken to preserve values that would otherwise be lost, the Secretary notwithstanding the provisions of subsections (c) (1) and (d) of this section, shall immediately make a withdrawal and file notice of such emergency withdrawal with *both of those Committees* [P.L. 103-437, 1994]. Such emergency withdrawal shall be effective when made but shall last only for a period not to exceed three years and may not be extended except under the provisions of subsection (c) (1) or (d), whichever is applicable, and (b) (1) of this section. The information required in subsection (c) (2) of this subsection shall be furnished the committees within three months after filing such notice.

(f) All withdrawals and extensions thereof, whether made prior to or after approval of this Act, having a specific period shall be reviewed by the Secretary toward the end of the withdrawal period and may be extended or further extended only upon compliance with the provisions of subsection (c) (1) or (d), whichever is applicable, and only if the Secretary determines that the purpose for which the withdrawal was first made requires the extension, and then only for a period no longer than the length of the original withdrawal period. The Secretary shall report on such review and extensions to the *Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate*. [P.L. 103-437, 1994]

(g) All applications for withdrawal pending on the date of approval of this Act shall be processed and adjudicated to conclusion within fifteen years of the date of approval of this Act, in accordance with the provisions of this section. The segregative effect of any application not so processed shall terminate on that date.

(h) All new withdrawals made by the Secretary under this section (except an emergency withdrawal made under subsection (e) of this section) shall be promulgated after an opportunity for a public hearing.

(i) In the case of lands under the administration of any department or agency other than the Department of the Interior, the Secretary shall make, modify, and revoke withdrawals only with the consent of the head of the department or agency concerned, except when the provisions of subsection (e) of this section apply.

(j) The Secretary shall not make, modify, or revoke any withdrawal created by Act of Congress; make a withdrawal which can be made only by Act of Congress; modify or revoke any withdrawal creating national monuments under the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431–433); or modify, or revoke any withdrawal which added lands to the National Wildlife Refuge System prior to the date of approval of this Act or which thereafter adds lands to that System under the terms of this Act. Nothing in this Act is intended to modify or change any provision of the Act of February 27, 1976 (90 Stat. 199; 16 U.S.C. 668dd (a)).

(k) There is hereby authorized to be appropriated the sum of $10,000,000 for the purpose of processing withdrawal applications pending on the effective date of this Act, to be available until expended.

(l) (1) The Secretary shall, within fifteen years of the date of enactment of this Act, review withdrawals existing on the date of approval of this Act, in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming of (1) all Federal lands other than withdrawals of the public lands

administered by the Bureau of Land Management and of lands which, on the date of approval of this Act, were part of Indian reservations and other Indian holdings, the National Forest System, the National Park System, the National Wildlife Refuge System, other lands administered by the Fish and Wildlife Service or the Secretary through the Fish and Wildlife Service, the National Wild and Scenic Rivers System, and the National System of Trails; and (2) all public lands administered by the Bureau of Land Management and of lands in the National Forest System (except those in wilderness areas, and those areas formally identified as primitive or natural areas or designated as national recreation areas) which closed the lands to appropriation under the Mining Law of 1872 (17 Stat. 91, as amended; 30 U.S.C. 22 et seq.) or to leasing under the Mineral Leasing Act of 1920 (41 Stat. 437, as amended; 30 U.S.C. 181 et seq.).

(2) In the review required by paragraph (1) of this subsection, the Secretary shall determine whether, and for how long, the continuation of the existing withdrawal of the lands would be, in his judgment, consistent with the statutory objectives of the programs for which the lands were dedicated and of the other relevant programs. The Secretary shall report his recommendations to the President, together with statements of concurrence or nonconcurrence submitted by the heads of the departments or agencies which administer the lands. The President shall transmit this report to the President of the Senate and the Speaker of the House of Representatives, together with his recommendations for action by the Secretary, or for legislation. The Secretary may act to terminate withdrawals other than those made by Act of the Congress in accordance with the recommendations of the President unless before the end of ninety days (not counting days on which the Senate and the House of Representatives has adjourned for more than three consecutive days) beginning on the day the report of the President has been submitted to the Senate and the House of Representatives the Congress has adopted a concurrent resolution indicating otherwise. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the Presidential recommendation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential recommendation. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) There are hereby authorized to be appropriated not more than $10,000,000 for the purpose of paragraph (1) of this subsection to be available until expended to the Secretary and to the heads of other departments and agencies which will be involved.

ACQUISITIONS

Sec. 205. [43 U.S.C. 1715] (a) Notwithstanding any other provisions of law, the Secretary, with respect to the public lands and the Secretary of Agriculture, with respect to the acquisition of access over non-Federal lands to units of the National Forest System, are authorized to acquire pursuant to this Act by purchase, exchange, donation, or eminent domain, lands or interests therein: *Provided*, That with respect to the public lands, the Secretary may exercise the power of eminent domain only if necessary to secure access to public lands, and then only if the lands so acquired are

confined to as narrow a corridor as is necessary to serve such purpose. Nothing in this subsection shall be construed as expanding or limiting the authority of the Secretary of Agriculture to acquire land by eminent domain within the boundaries of units of the National Forest System.

(b) Acquisitions pursuant to this section shall be consistent with the mission of the department involved and with applicable departmental land-use plans.

(c) *Except as provided in subsection (e) of this section* [P.L. 99-632, 1986], lands and interests in lands acquired by the Secretary pursuant to this section or section 206 shall, upon acceptance of title, become public lands, and, for the administration of public land laws not repealed by this Act, shall remain public lands. If such acquired lands or interests in lands are located within the exterior boundaries of a grazing district established pursuant to the first section of the Act of June 28, 1934 (48 Stat. 1269, as amended; 43 U.S.C. 315) (commonly known as the " Taylor Grazing Act"), they shall become a part of that district. Lands and interests in lands acquired pursuant to this section which are within boundaries of the National Forest System may be transferred to the Secretary of Agriculture and shall then become National Forest System lands and subject to all the laws, rules, and regulations applicable thereto.

(d) Lands and interests in lands acquired by the Secretary of Agriculture pursuant to this section shall, upon acceptance of title, become National Forest System lands subject to all the laws, rules, and regulations applicable thereto.

(e) *Lands acquired by the Secretary pursuant to this section or section 206* [43 U.S.C. 1716] *in exchange for lands which were revested in the United States pursuant to the provisions of the Act of June 9, 1916 (39 Stat. 218) or reconveyed to the United States pursuant to the provisions of the Act of February 26, 1919* [16 U.S.C. 342] *(40 Stat. 1179), shall be considered for all purposes to have the same status as, and shall be administered in accordance with the same provisions of law applicable to, the revested or reconveyed lands exchanged for the lands acquired by the Secretary.* [P.L. 99-632, 1986]

EXCHANGES

Sec. 206. [43 U.S.C. 1716] (a) A tract of public land or interests therein may be disposed of by exchange by the Secretary under this Act and a tract of land or interests therein within the National Forest System may be disposed of by exchange by the Secretary of Agriculture under applicable law where the Secretary concerned determines that the public interest will be well served by making that exchange: *Provided*, That when considering public interest the Secretary concerned shall give full consideration to better Federal land management and the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife and the Secretary concerned finds that the values and the objectives which Federal lands or interests to be conveyed may serve if retained in Federal ownership are not more than the values of the non-Federal lands or interests and the public objectives they could serve if acquired.

(b) In exercising the exchange authority granted by subsection (a) or by section 205 (a) of this Act, the Secretary *concerned* [P.L. 100-409 §3, Aug. 20, 1988] may accept title to any non-Federal land or interests therein in exchange for such land, or interests therein which he finds proper for transfer out of Federal ownership and which are located in the same State as the non-Federal land or interest to be acquired. For the purposes of this subsection, unsurveyed school sections which, upon survey by the Secretary, would become State lands, shall be considered as "non-Federal lands". The values of the lands exchanged by the Secretary under this Act and by the Secretary of Agriculture under applicable law relating to lands within the National Forest System either shall be equal, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary concerned as the circumstances require so long as payment does not exceed 25 per centum of the total value of the lands or interests transferred out of Federal ownership. *The Secretary concerned and the other party or parties involved in the exchange may mutually agree to waive the requirement for the payment of money to equalize*

values where the Secretary concerned determines that the exchange will be expedited thereby and that the public interest will be better served by such a waiver of cash equalization payments and where the amount to be waived is no more than 3 per centum of the value of the lands being transferred out of Federal ownership or $15,000, whichever is less, except that the Secretary of Agriculture shall not agree to waive any such requirement for payment of money to the United States. [P.L. 100-409 §9, Aug. 20, 1988] The Secretary concerned shall try to reduce the amount of the payment of money to as small an amount as possible.

(c) Lands acquired by *the Secretary* by exchange under this section which are within the boundaries of *any unit* of the National Forest System, *National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, or any other system established by Act of Congress, or the boundaries of the California Desert Conservation Area, or the boundaries of any national conservation area or national recreation area established by Act of Congress, upon acceptance of title by the United States shall immediately be reserved for and become a part of the unit or area within which they are located, without further action by the Secretary, and shall thereafter be managed in accordance with all laws, rules, and regulations applicable to such unit or area.* [P.L. 100-409 §3, Aug. 20, 1988]

(d)(1) No later than ninety days after entering into an agreement to initiate an exchange of land or interests therein pursuant to this Act or other applicable law, the Secretary concerned and other party or parties involved in the exchange shall arrange for appraisal (to be completed within a time frame and under such terms as are negotiated by the parties) of the lands or interests therein involved in the exchange in accordance with subsection (f) of this section.

(2) If within one hundred and eighty days after the submission of an appraisal or appraisals for review and approval by the Secretary concerned, the Secretary concerned and the other party or parties involved cannot agree to accept the findings of an appraisal or appraisals, the appraisal or appraisals shall be submitted to an arbitrator appointed by the Secretary from a list of arbitrators submitted to him by the American Arbitration Association for arbitration to be conducted in accordance with the real estate valuation arbitration rules of the American Arbitration Association. Such arbitration shall be binding for a period of not to exceed two years on the Secretary concerned and the other party or parties involved in the exchange insofar as concerns the value of the lands which were the subject of the appraisal or appraisals.

(3) Within thirty days after the completion of the arbitration, the Secretary concerned and the other party or parties involved in the exchange shall determine whether to proceed with the exchange, modify the exchange to reflect the findings of the arbitration or any other factors, or to withdraw from the exchange. A decision to withdraw from the exchange may be made by either the Secretary concerned or the other party or parties involved.

(4) Instead of submitting the appraisal to an arbitrator, as provided in paragraph (2) of this section, the Secretary concerned and the other party or parties involved in an exchange may mutually agree to employ a process of bargaining or some other process to determine the values of the properties involved in the exchange.

(5) The Secretary concerned and the other party or parties involved in an exchange may mutually agree to suspend or modify any of the deadlines contained in this subsection.

(e) Unless mutually agreed otherwise by the Secretary concerned and the other party or parties involved in an exchange pursuant to this Act or other applicable law, all patents or titles to be issued for land or interests therein to be acquired by the Federal Government and lands or interests therein to be transferred out of Federal ownership shall be issued simultaneously after the Secretary concerned has taken any necessary steps to assure that the United States will receive acceptable title.

(f)(1) Within one year after August 20, 1988, the Secretaries of the Interior and Agriculture shall promulgate new and comprehensive rules and regulations governing exchanges of land and interests

therein pursuant to this Act and other applicable law. Such rules and regulations shall fully reflect the changes in law made by subsections (d) through (i) of this section and shall include provisions pertaining to appraisals of lands and interests therein involved in such exchanges.

(2) The provisions of the rules and regulations issued pursuant to paragraph (1) of this subsection governing appraisals shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisitions: Provided, however, That the provisions of such rules and regulations shall –

(A) ensure that the same nationally approved appraisal standards are used in appraising lands or interest therein being acquired by the Federal Government and appraising lands or interests therein being transferred out of Federal ownership; and

(B) with respect to costs or other responsibilities or requirements associated with land exchanges –

(i) recognize that the parties involved in an exchange may mutually agree that one party (or parties) will assume, without compensation, all or part of certain costs or other responsibilities or requirements ordinarily borne by the other party or parties; and

(ii) also permit the Secretary concerned, where such Secretary determines it is in the public interest and it is in the best interest of consummating an exchange pursuant to this Act or other applicable law, and upon mutual agreement of the parties, to make adjustments to the relative values involved in an exchange transaction in order to compensate a party or parties to the exchange for assuming costs or other responsibilities or requirements which would ordinarily be borne by the other party or parties.

As used in this subparagraph, the term "costs or other responsibilities or requirements" shall include, but not be limited to, costs or other requirements associated with land surveys and appraisals, mineral examinations, title searches, archeological surveys and salvage, removal of encumbrances, arbitration pursuant to subsection (d) of this section, curing deficiencies preventing highest and best use, and other costs to comply with laws, regulations and policies applicable to exchange transactions, or which are necessary to bring the Federal or non-Federal lands or interests involved in the exchange to their highest and best use for the appraisal and exchange purposes. Prior to making any adjustments pursuant to this subparagraph, the Secretary concerned shall be satisfied that the amount of such adjustment is reasonable and accurately reflects the approximate value of any costs or services provided or any responsibilities or requirements assumed.

(g) Until such time as new and comprehensive rules and regulations governing exchange of land and interests therein are promulgated pursuant to subsection (f) of this section, land exchanges may proceed in accordance with existing laws and regulations, and nothing in the Act shall be construed to require any delay in, or otherwise hinder, the processing and consummation of land exchanges pending the promulgation of such new and comprehensive rules and regulations. Where the Secretary concerned and the party or parties involved in an exchange have agreed to initiate an exchange of land or interests therein prior to the day of enactment of such subsections, subsections (d) through (i) of this section shall not apply to such exchanges unless the Secretary concerned and the party or parties involved in the exchange mutually agree otherwise.

(h)(1) Notwithstanding the provisions of this Act and other applicable laws which require that exchanges of land or interests therein be for equal value, where the Secretary concerned determines it is in the public interest and that the consummation of a particular exchange will be expedited thereby, the Secretary concerned may exchange lands or interests therein which are of approximately equal value in cases where –

(A) the combined value of the lands or interests therein to be transferred from Federal ownership by the Secretary concerned in such exchange is not more than $150,000; and

(B) the Secretary concerned finds in accordance with the regulations to be promulgated pur-

suant to subsection (f) of this section that a determination of approximately equal value can be made without formal appraisals, as based on a statement of value made by a qualified appraiser and approved by an authorized officer; and

(C) the definition of and procedure for determining "approximately equal value" has been set forth in regulations by the Secretary concerned and the Secretary concerned documents how such determination was made in the case of the particular exchange involved.

(2) As used in this subsection, the term "approximately equal value" shall have the same meaning with respect to lands managed by the Secretary of Agriculture as it does in the Act of January 22, 1983 (commonly known as the "Small Tracts Act").

(i)(1) Upon receipt of an offer to exchange lands or interests in lands pursuant to this Act or other applicable laws, at the request of the head of the department or agency having jurisdiction over the lands involved, the Secretary of the Interior may temporarily segregate the Federal lands under consideration for exchange from appropriation under the mining laws. Such temporary segregation may only be made for a period of not to exceed five years. Upon a decision not to proceed with the exchange or upon deletion of any particular parcel from the exchange offer, the Federal lands involved or deleted shall be promptly restored to their former status under the mining laws. Any segregation pursuant to this paragraph shall be subject to valid existing rights as of the date of such segregation.

(2) All non-Federal lands which are acquired by the United States through exchange pursuant to this Act or pursuant to other laws applicable to lands managed by the Secretary of Agriculture shall be automatically segregated from appropriation under the public land law, including the mining laws, for ninety days after acceptance of title by the United States. Such segregation shall be subject to valid existing rights as of the date of such acceptance of title. At the end of such ninety day period, such segregation shall end and such lands shall be open to operation of the public land laws and to entry, location, and patent under the mining laws except to the extent otherwise provided by this Act or other applicable law, or appropriate actions pursuant thereto.

[P.L. 100-409 §3, Aug. 20, 1988]

QUALIFIED CONVEYEES

Sec. 207. [43 U.S.C. 1717] No tract of land may be disposed of under this Act, whether by sale, exchange, or donation, to any person who is not a citizen of the United States, or in the case of a corporation, is not subject to the laws of any State or of the United States.

CONVEYANCES

Sec. 208. [43 U.S.C. 1718] The Secretary shall issue all patents or other documents of conveyance after any disposal authorized by this Act. The Secretary shall insert in any such patent or other document of conveyance he issues, except in the case of land exchanges, for which the provisions of subsection 206 (b) of this Act shall apply, such terms, covenants, conditions, and reservations as he deems necessary to insure proper land use and protection of the public interest: *Provided*, That a conveyance of lands by the Secretary, subject to such terms, covenants, conditions, and reservations, shall not exempt the grantee from compliance with applicable Federal or State law or State land use plans: *Provided further,* That the Secretary shall not make conveyances of public lands containing terms and conditions which would, at the time of the conveyance, constitute a violation of any law or regulation pursuant to State and local land use plans, or programs.

RESERVATION AND CONVEYANCE OF MINERALS

Sec. 209. [43 U.S.C. 1719] (a) All conveyances of title issued by the Secretary, except those involving land exchanges provided for in section 206, shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe,

except that if the Secretary makes the findings specified in subsection (b) of this section, the minerals may then be conveyed together with the surface to the prospective surface owner as provided in subsection (b).

(b) (1) The Secretary, after consultation with the appropriate department or agency head, may convey mineral interests owned by the United States where the surface is or will be in non-Federal ownership, regardless of which Federal entity may have administered the surface, if he finds (1) that there are no known mineral values in the land, or (2) that the reservation of the mineral rights in the United States is interfering with or precluding appropriate non-mineral development of the land and that such development is a more beneficial use of the land than mineral development.

(2) Conveyance of mineral interests pursuant to this section shall be made only to the existing or proposed record owner of the surface, upon payment of administrative costs and the fair market value of the interests being conveyed.

(3) Before considering an application for conveyance of mineral interests pursuant to this section–

(i) the Secretary shall require the deposit by the applicant of a sum of money which he deems sufficient to cover administrative costs including, but not limited to, costs of conducting an exploratory program to determine the character of the mineral deposits in the land, evaluating the data obtained under the exploratory program to determine the fair market value of the mineral interests to be conveyed, and preparing and issuing the documents of conveyance: *Provided,* That, if the administrative costs exceed the deposit, the applicant shall pay the outstanding amount; and, if the deposit exceeds the administrative costs, the applicant shall be given a credit for or refund of the excess; or

(ii) the applicant, with the consent of the Secretary, shall have conducted, and submitted to the Secretary the results of, such an exploratory program, in accordance with standards promulgated by the Secretary.

(4) Moneys paid to the Secretary for administrative costs pursuant to this subsection shall be paid to the agency which rendered the service and deposited to the appropriation then current.

COORDINATION WITH STATE AND LOCAL GOVERNMENTS

Sec. 210. [43 U.S.C. 1720] At least sixty days prior to offering for sale or otherwise conveying public lands under this Act, the Secretary shall notify the Governor of the State within which such lands are located and the head of the governing body of any political subdivision of the State having zoning or other land use regulatory jurisdiction in the geographical area within which such lands are located, in order to afford the appropriate body the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning the use of such lands prior to such conveyance. The Secretary shall also promptly notify such public officials of the issuance of the patent or other document of conveyance for such lands.

OMITTED LANDS

Sec. 211. [43 U.S.C. 1721] Omitted Lands.– (a) The Secretary is hereby authorized to convey to States or their political subdivisions under the Recreation and Public Purposes Act (44 Stat. 741 as amended; 43 U.S.C. 869 et seq.), as amended, but without regard to the acreage limitations contained therein, unsurveyed islands determined by the Secretary to be public lands of the United States. The conveyance of any such island may be made without survey: *Provided, however*, That such island may be surveyed at the request of the applicant State or its political subdivision if such State or subdivision donates money or services to the Secretary for such survey, the Secretary accepts such money or services, and such services are conducted pursuant to criteria established by the Director of the Bureau of Land Management. Any such island so surveyed shall not be conveyed without approval of such survey by the Secretary prior to the conveyance.

(b) (1) The Secretary is authorized to convey to States and their political subdivisions under the Recreation and Public Purposes Act, [43 U.S.C. 869 to 869-4] but without regard to the acreage limitations contained therein, lands other than islands determined by him after survey to be public lands of the United States erroneously or fraudulently omitted from the original surveys (hereinafter referred to as "omitted lands"). Any such conveyance shall not be made without a survey: *Provided*, That the prospective recipient may donate money or services to the Secretary for the surveying necessary prior to conveyance if the Secretary accepts such money or services, such services are conducted pursuant to criteria established by the Director of the Bureau of Land Management, and such survey is approved by the Secretary prior to the conveyance.

(2) The Secretary is authorized to convey to the occupant of any omitted lands which, after survey, are found to have been occupied and developed for a five-year period prior to January 1, 1975, if the Secretary determines that such conveyance is in the public interest and will serve objectives which outweigh all public objectives and values which would be served by retaining such lands in Federal ownership. Conveyance under this subparagraph shall be made at not less than the fair market value of the land, as determined by the Secretary, and upon payment in addition of administrative costs, including the cost of making the survey, the cost of appraisal, and the cost of making the conveyance.

(c) (1) No conveyance shall be made pursuant to this section until the relevant State government, local government, and area wide planning agency designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262) [42 U.S.C. 3334] and/or title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103–4) [31 U.S.C. 6506(a)-(e)] have notified the Secretary as to the consistency of such conveyance with applicable State and local government land use plans and programs.

(2) The provisions of section 210 of this Act shall be applicable to all conveyances under this section.

(d) The final sentence of section 1(c) of the Recreation and Public Purposes Act [43 U.S.C. 869(c)] shall not be applicable to conveyances under this section.

(e) No conveyance pursuant to this section shall be used as the basis for determining the baseline between Federal and State ownership, the boundary of any State for purposes of determining the extent of a State's submerged lands or the line of demarcation of Federal jurisdiction, or any similar or related purpose.

(f) The provisions of this section shall not apply to any lands within the National Forest System, defined in the Act of August 17, 1974 (88 Stat. 476; 16 U.S.C. 1601), the National Park System, the National Wildlife Refuge System, and the National Wild and Scenic Rivers System.

(g) Nothing in this section shall supersede the provisions of the Act of December 22, 1928 (45 Stat. 1069; 43 U.S.C. 1068), as amended, and the Act of May 31, 1962 (76 Stat. 89), or any other Act authorizing the sale of specific omitted lands.

RECREATION AND PUBLIC PURPOSES ACT

Sec. 212. The Recreation and Public Purposes Act of 1926 (44 Stat. 741, as amended; 43 U.S.C. 869 et seq.), as amended, is further amended as follows:

(a) The second sentence of subsection (a) of the first section of that Act (43 U.S.C. 869(a)) is amended to read as follows: "Before the land may be disposed of under this Act it must be shown to the satisfaction of the Secretary that the land is to be used for an established or definitely proposed project, that the land involved is not of national significance nor more than is reasonably necessary for the proposed use, and that for proposals of over 640 acres comprehensive land use plans and zoning regulations applicable to the area in which the public lands to be disposed of are located have been adopted by the appropriate State or local authority. The Secretary shall provide an opportunity for participation by affected citizens in disposals under this Act, including public hearings or

meetings where he deems it appropriate to provide public comments, and shall hold at least one public meeting on any proposed disposal of more than six hundred forty acres under this Act."

(b) Subsection (b) (i) of the first section of that Act (43 U.S.C. 869(b)) is amended to read as follows:

"(b) Conveyances made in any one calendar year shall be limited as follows:

"(i) For recreational purposes:

"(A) To any State or the State park agency or any other agency having jurisdiction over the State park system of such State designated by the Governor of that State as its sole representative for acceptance of lands under this provision, hereinafter referred to as the State, or to any political subdivision of such State, six thousand four hundred acres, and such additional acreage as may be needed for small road-side parks and rest sites of not more than ten acres each.

"(B) To any nonprofit corporation or nonprofit association, six hundred and forty acres.

"(C) No more than twenty-five thousand six hundred acres may be conveyed for recreational purposes under this Act in any one State per calendar year. Should any State or political subdivision, however, fail to secure, in any one year, six thousand four hundred acres, not counting lands for small roadside parks and rest sites, conveyances may be made thereafter if pursuant to an application on file with the Secretary of the Interior on or before the last day of said year and to the extent that the conveyance would not have exceeded the limitations of said year."

(c) Section 2(a) of that Act (43 U.S.C. 869–1) is amended by inserting "or recreational purposes" immediately after "historic-monument purposes".

(d) Section 2(b) of that Act (43 U.S.C. 869–1) is amended by adding ", except that leases of such lands for recreational purposes shall be made without monetary consideration" after the phase "reasonable annual rental".

NATIONAL FOREST TOWNSITES

Sec. 213. The Act of July 31, 1958 (72 Stat. 438, 7 U.S.C. 1012a, 16 U.S.C. 478a), is amended to read as follows: "When the Secretary of Agriculture determines that a tract of National Forest System land in Alaska or in the eleven contiguous Western States is located adjacent to or contiguous to an established community, and that transfer of such land would serve indigenous community objectives that outweigh the public objectives and values which would be served by maintaining such tract in Federal ownership, he may, upon application, set aside and designate as a townsite an area of not to exceed six hundred and forty acres of National Forest System land for any one application. After public notice, and satisfactory showing of need therefor by any county, city, or other local governmental subdivision, the Secretary may offer such area for sale to a governmental subdivision at a price not less than the fair market value thereof: *Provided, however,* That the Secretary may condition conveyances of townsites upon the enactment, maintenance, and enforcement of a valid ordinance which assures any land so conveyed will be controlled by the governmental subdivision so that use of the area will not interfere with the protection, management, and development of adjacent or contiguous National Forest System lands."

UNINTENTIONAL TRESPASS ACT

Sec. 214. [43 U.S.C. 1722] (a) Notwithstanding the provisions of the Act of September 26, 1968 (82 Stat. 870; 43 U.S.C. 1431–1435), hereinafter called the "1968 Act," with respect to applications under the 1968 Act which were pending before the Secretary as of the effective date of this subsection and which he approves for sale under the criteria prescribed by the 1968 Act, he shall give the right of first refusal to those having a preference right under section 2 of the 1968 Act. The Secretary shall offer such lands to such preference right holders at their fair market value (exclusive of any values added to the land by such holders and their predecessors in interest) as determined by the Secretary as of September 26, 1973.

(b) Within three years after the date of approval of this Act, the Secretary shall notify the filers of applications subject to paragraph (a) of this section whether he will offer them the lands applied for and at what price; that is, their fair market value as of September 26, 1973, excluding any value added to the lands by the applicants or their predecessors in interest. He will also notify the President of the Senate and the Speaker of the House of Representatives of the lands which he has determined not to sell pursuant to paragraph (a) of this section and the reasons therefor. With respect to such lands which the Secretary determined not to sell, he shall take no other action to convey those lands or interests in them before the end of ninety days (not counting days on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the date the Secretary has submitted such notice to the Senate and House of Representatives. If, during that ninety-day period, the Congress adopts a concurrent resolution stating the length of time such suspension of action should continue, he shall continue such suspension for the specified time period. If the committee to which a resolution has been referred during the said ninety-day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the suspension of action. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same suspension of action. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(c) Within five years after the date of approval of this Act, the Secretary shall complete the processing of all applications filed under the 1968 Act and hold sales covering all lands which he has determined to sell thereunder.

Sec. 215. [43 U.S.C. 1723] (a) When the sole impediment to consummation of an exchange of lands or interests therein (hereinafter referred to as an exchange) determined to be in the public interest, is the inability of the Secretary of the Interior to revoke, modify, or terminate part or all of a withdrawal or classification because of the order (or subsequent modification or continuance thereof) of the United States District Court for the District of Columbia dated February 10, 1986, in Civil Action No. 85-2238 (National Wildlife Federation v. Robert E. Burford, et al.), the Secretary of the Interior is hereby authorized, notwithstanding such order (or subsequent modification or continuance thereof) to use the authority contained herein, in lieu of other authority provided in this Act including section 204, to revoke, modify, or terminate in whole or in part, withdrawals or classifications to the extent deemed necessary by the Secretary to enable the United States to transfer land or interests therein out of Federal ownership pursuant to an exchange.

(b) REQUIREMENTS. – The authority specified in subsection (a) of this section may be exercised only in cases where –

(1) a particular exchange is proposed to be carried out pursuant to this Act, as amended, or other applicable law authorizing such an exchange;

(2) the proposed exchange has been prepared in compliance with all laws applicable to such exchange;

(3) the head of each Federal agency managing the lands proposed for such transfer has submitted to the Secretary of the Interior a statement of concurrence with the proposed revocation, modification, or termination;

(4) at least sixty days have elapsed since the Secretary of the Interior has published in the Federal Register a notice of the proposed revocation, modification, or termination; and

(5) at least sixty days have elapsed since the Secretary of the Interior has transmitted to the Committee on Natural Resources [P.L. 103-437 1994] of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report which includes –

(A) a justification for the necessity of exercising such authority in order to complete an exchange;

(B) an explanation of the reasons why the continuation of the withdrawal or a classification or portion thereof proposed for revocation, modification, or termination is no longer necessary for the purposes of the statutory or other program or programs for which the withdrawal or classification was made or other relevant programs;

(C) assurances that all relevant documents concerning the proposed exchange or purchase for which such authority is proposed to be exercised (including documents related to compliance with the National Environmental Policy Act of 1969 and all other applicable provisions of law) are available for public inspection in the office of the Secretary concerned located nearest to the lands proposed for transfer out of Federal ownership in furtherance of such exchange and that the relevant portions of such documents are also available in the offices of the Secretary concerned in Washington, District of Columbia; and

(D) an explanation of the effect of the revocation, modification, or termination of a withdrawal or classification or portion thereof and the transfer of lands out of Federal ownership pursuant to the particular proposed exchange, on the objectives of the land management plan which is applicable at the time of such transfer to the land to be transferred out of Federal ownership.

(c) LIMITATIONS. – (1) Nothing in this section shall be construed as affirming or denying any of the allegations made by any party in the civil action specified in subsection (a), or as constituting an expression of congressional opinion with respect to the merits of any allegation, contention, or argument made or issue raised by any party in such action, or as expanding or diminishing the jurisdiction of the United States District Court for the District of Columbia.

(2) Except as specifically provided in this section, nothing in this section shall be construed as modifying, terminating, revoking, or otherwise affecting any provision of law applicable to land exchanges, withdrawals, or classifications.

(3) The availability or exercise of the authority granted in subsection (a) may not be considered by the Secretary of the Interior in making a determination pursuant to this Act or other applicable law as to whether or not any proposed exchange is in the public interest.

(d) TERMINATION. – The authority specified in subsection (a) shall expire either (1) on December 31, 1990, or (2) when the Court order (or subsequent modification or continuation thereof) specified in subsection (a) is no longer in effect, whichever occurs first. [P.L. 100-409 1988]

[The termination clause in subsection (d) was satisfied on November 4, 1988, when the Court order specified in subsection (a) was vacated by National Wildlife Federation v. Burford, 699 F. Supp. 327, 332 (D.D.C. 1988). That reversal was upheld in a 1989 Appeals court decision, 878 F.2d 422, and by the Supreme Court in 1990, 497 U.S. 871.]

TITLE III

ADMINISTRATION

BLM DIRECTORATE AND FUNCTIONS

Sec. 301. [43 U.S.C. 1731] (a) The Bureau of Land Management established by Reorganization Plan Numbered 3, of 1946 (5 U.S.C. App. 519) shall have as its head a Director. Appointments to the position of Director shall hereafter be made by the President, by and with the advice and consent of the Senate. The Director of the Bureau shall have a broad background and substantial experience in public land and natural resource management. He shall carry out such functions and shall perform such duties as the Secretary may prescribe with respect to the management of lands and resources under his jurisdiction according to the applicable provisions of this Act and any other applicable law.

(b) Subject to the discretion granted to him by Reorganization Plan Numbered 3 of 1950 (43 U.S.C. 1451 note), the Secretary shall carry out through the Bureau all functions, powers, and duties vested in him and relating to the administration of laws which, on the date of enactment of this section, were carried out by him through the Bureau of Land Management established by section 403 of Reorganization Plan Numbered 3 of 1946. The Bureau shall administer such laws according to the provisions thereof existing as of the date of approval of this Act as modified by the provisions of this Act or by subsequent law.

(c) In addition to the Director, there shall be an Associate Director of the Bureau and so many Assistant Directors, and other employees, as may be necessary, who shall be appointed by the Secretary subject to the provisions of title 5, United States Code [5 U.S.C. 101 et seq.], governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title [5 U.S.C. 5101 et seq., 5331] relating to classification and General Schedule pay rates.

(d) Nothing in this section shall affect any regulation of the Secretary with respect to the administration of laws administered by him through the Bureau on the date of approval of this section.

MANAGEMENT OF USE, OCCUPANCY, AND DEVELOPMENT

Sec. 302. [43 U.S.C. 1732] (a) The Secretary shall manage the public lands under principles of multiple use and sustained yield, in accordance with the land use plans developed by him under section 202 of this Act when they are available, except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law.

(b) In managing the public lands, the Secretary shall, subject to this Act and other applicable law and under such terms and conditions as are consistent with such law, regulate, through easements, permits, leases, licenses, published rules, or other instruments as the Secretary deems appropriate, the use, occupancy, and development of the public lands, including, but not limited to, long-term leases to permit individuals to utilize public lands for habitation, cultivation, and the development of small trade or manufacturing concerns: *Provided*, That unless otherwise provided for by law, the Secretary may permit Federal departments and agencies to use, occupy, and develop public lands only through rights-of-way under section 507 of this Act, withdrawals under section 204 of this Act, and, where the proposed use and development are similar or closely related to the programs of the Secretary for the public lands involved, cooperative agreements under subsection (b) of section 307 of this Act: *Provided further*, That nothing in this Act shall be construed as authorizing the Secretary concerned to require Federal permits to hunt and fish on public lands or on lands in the National Forest System and adjacent waters or as

enlarging or diminishing the responsibility and authority of the States for management of fish and resident wildlife. However, the Secretary concerned may designate areas of public land and of lands in the National Forest System where, and establish periods when, no hunting or fishing will be permitted for reasons of public safety, administration, or compliance with provisions of applicable law. Except in emergencies, any regulations of the Secretary concerned relating to hunting and fishing pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department. Nothing in this Act shall modify or change any provision of Federal law relating to migratory birds or to endangered or threatened species. Except as provided in section 314, section 603, and subsection (f) of section 601 of this Act and in the last sentence of this paragraph, no provision of this section or any other section of this Act shall in any way amend the Mining Law of 1872 or impair the rights of any locators or claims under that Act, including, but not limited to, rights of ingress and egress. In managing the public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.

(c) The Secretary shall insert in any instrument providing for the use, occupancy, or development of the public lands a provision authorizing revocation or suspension, after notice and hearing, of such instrument upon a final administrative finding of a violation of any term or condition of the instrument, including, but not limited to, terms and conditions requiring compliance with regulations under Acts applicable to the public lands and compliance with applicable State or Federal air or water quality standard or implementation plan: *Provided*, That such violation occurred on public lands covered by such instrument and occurred in connection with the exercise of rights and privileges granted by it: *Provided further*, That the Secretary shall terminate any such suspension no later than the date upon which he determines the cause of said violation has been rectified: *Provided further,* That the Secretary may order an immediate temporary suspension prior to a hearing or final administrative finding if he determines that such a suspension is necessary to protect health or safety or the environment: *Provided further,* That, where other applicable law contains specific provisions for suspension, revocation, or cancellation of a permit, license, or other authorization to use, occupy, or develop the public lands, the specific provisions of such law shall prevail.

(d) (1) The Secretary of the Interior, after consultation with the Governor of Alaska, may issue to the Secretary of Defense or to the Secretary of a military department within the Department of Defense or to the Commandant of the Coast Guard a nonrenewable general authorization to utilize public lands in Alaska (other than within a conservation system unit or the Steese National Conservation Area or the White Mountains National Recreation Area) for purposes of military maneuvering, military training, or equipment testing not involving artillery firing, aerial or other gunnery, or other use of live ammunition or ordnance.

(2) Use of public lands pursuant to a general authorization under this subsection shall be limited to areas where such use would not be inconsistent with the plans prepared pursuant to section 202. Each such use shall be subject to a requirement that the using department shall be responsible for any necessary cleanup and decontamination of the lands used, and to such other terms and conditions (including but not limited to restrictions on use of off-road or all-terrain vehicles) as the Secretary of the Interior may require to –

(A) minimize adverse impacts on the natural, environmental, scientific, cultural, and other resources and values (including fish and wildlife habitat) of the public lands involved; and

(B) minimize the period and method of such use and the interference with or restrictions on other uses of the public lands involved.

(3) (A) A general authorization issued pursuant to this subsection shall not be for a term of more than three years and shall be revoked in whole or in part, as the Secretary of the Interior finds necessary, prior to the end of such term upon a determination by the Secretary of the Interior that there has been a failure to comply with its terms and conditions or that activities pursuant to such an authorization have had or might have a significant

adverse impact on the resources or values of the affected lands.

(B) Each specific use of a particular area of public lands pursuant to a general authorization under this subsection shall be subject to specific authorization by the Secretary and to appropriate terms and conditions, including such as are described in paragraph (2) of this subsection.

(4) Issuance of a general authorization pursuant to this subsection shall be subject to the provisions of section 202(f) of this Act, section 810 of the Alaska National Interest Lands Conservation Act, and all other applicable provisions of law. The Secretary of a military department (or the Commandant of the Coast Guard) requesting such authorization shall reimburse the Secretary of the Interior for the costs of implementing this paragraph. An authorization pursuant to this subsection shall not authorize the construction of permanent structures or facilities on the public lands.

(5) To the extent that public safety may require closure to public use of any portion of the public lands covered by an authorization issued pursuant to this subsection, the Secretary of the military department concerned or the Commandant of the Coast Guard shall take appropriate steps to notify the public concerning such closure and to provide appropriate warnings of risks to public safety.

(6) For purposes of this subsection, the term "conservation system unit" has the same meaning as specified in section 102 of the Alaska National Interest Lands Conservation Act [16 U.S.C. 3102]. [P.L. 100-586, 1988]

ENFORCEMENT AUTHORITY

Sec. 303. [43 U.S.C. 1733] (a) The Secretary shall issue regulations necessary to implement the provisions of this Act with respect to the management, use, and protection of the public lands, including the property located thereon. Any person who knowingly and willfully violates any such regulation which is lawfully issued pursuant to this Act shall be fined no more than $1,000 or imprisoned no more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate *judge* [P.L. 101-650, 1990] designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18 of the United States Code.

(b) At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from utilizing public lands in violation of regulations issued by the Secretary under this Act.

(c) (1) When the Secretary determines that assistance is necessary in enforcing Federal laws and regulations relating to the public lands or their resources he shall offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions with the view of achieving maximum feasible reliance upon local law enforcement officials in enforcing such laws and regulations. The Secretary shall negotiate on reasonable terms with such officials who have authority to enter into such contracts to enforce such Federal laws and regulations. In the performance of their duties under such contracts such officials and their agents are authorized to carry firearms; execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; search without warrant or process any person, place, or conveyance according to any Federal law or rule of law; and seize without warrant or process any evidentiary item as provided by Federal law. The Secretary shall provide such law enforcement training as he deems necessary in order to carry out the contracted for responsibilities. While exercising the powers and authorities provided by such contract pursuant to this section, such law enforcement officials and their agents shall have all the immunities of Federal law enforcement officials.

(2) The Secretary may authorize Federal personnel or appropriate local officials to carry out his law enforcement responsibilities with respect to the public lands and their resources.

Such designated personnel shall receive the training and have the responsibilities and authority provided for in paragraph (1) of this subsection.

(d) In connection with the administration and regulation of the use and occupancy of the public lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or subdivision. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of the public lands.

(e) Nothing in this section shall prevent the Secretary from promptly establishing a uniformed desert ranger force in the California Desert Conservation Area established pursuant to section 601 of this Act for the purpose of enforcing Federal laws and regulations relating to the public lands and resources managed by him in such area. The officers and members of such ranger force shall have the same responsibilities and authority as provided for in paragraph (1) of subsection (c) of this section.

(f) Nothing in this Act shall be construed as reducing or limiting the enforcement authority vested in the Secretary by any other statute.

(g) The use, occupancy, or development of any portion of the public lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

SERVICE CHARGES, REIMBURSEMENT PAYMENTS, AND EXCESS PAYMENTS

Sec. 304. [43 U.S.C. 1734] (a) Notwithstanding any other provision of law, the Secretary may establish reasonable filing and service fees and reasonable charges, and commissions with respect to applications and other documents relating to the public lands and may change and abolish such fees, charges, and commissions.

(b) The Secretary is authorized to require a deposit of any payments intended to reimburse the United States for reasonable costs with respect to applications and other documents relating to such lands. The moneys received for reasonable costs under this subsection shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended. As used in this section "reasonable costs" include, but are not limited to, the costs of special studies; environmental impact statements; monitoring construction, operation, maintenance, and termination of any authorized facility; or other special activities. In determining whether costs are reasonable under this section, the Secretary may take into consideration actual costs (exclusive of management overhead), the monetary value of the rights or privileges sought by the applicant, the efficiency to the government processing involved, that portion of the cost incurred for the benefit of the general public interest rather than for the exclusive benefit of the applicant, the public service provided, and other factors relevant to determining the reasonableness of the costs.

(c) In any case where it shall appear to the satisfaction of the Secretary that any person has made a payment under any statute relating to the sale, lease, use, or other disposition of public lands which is not required or is in excess of the amount required by applicable law and the regulations issued by the Secretary, the Secretary, upon application or otherwise, may cause a refund to be made from applicable funds.

[43 U.S.C. 1734a] *In Fiscal Year 1997 and thereafter, all fees, excluding mining claim fees, in excess of the fiscal year 1996 collections established by the Secretary of the Interior under the authority of section 1734 of this title for processing, recording, or documenting authorizations to use public lands or public land natural resources (including cultural, historical, and mineral) and for providing specific services to public land users, and which are not presently being covered into any Bureau of Land Management appropriation accounts, and not otherwise dedicated by law for a specific distribution, shall be made immediately available for program operations in this account and remain available until expended.* [P.L. 104-208, 1996]

DEPOSITS AND FORFEITURES

Sec. 305. [43 U.S.C. 1735] (a) Any moneys received by the United States as a result of the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fulfill the requirements of his contract or permit or does not comply with the regulations of the Secretary; or as a result of a compromise or settlement of any claim whether sounding in tort or in contract involving present or potential damage to the public lands shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available, until expended as the Secretary may direct, to cover the cost to the United States of any improvement, protection, or rehabilitation work on those public lands which has been rendered necessary by the action which has led to the forfeiture, compromise, or settlement.

(b) Any moneys collected under this Act in connection with lands administered under the Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a-1181j), shall be expended for the benefit of such land only.

(c) If any portion of a deposit or amount forfeited under this Act is found by the Secretary to be in excess of the cost of doing the work authorized under this Act, the Secretary, upon application or otherwise, may cause a refund of the amount in excess to be made from applicable funds.

[43 U.S.C. 1735 note. P.L. 106-291, 2000, defines the conditions under which excess repair funds may be used to repair other lands. P.L. 106-291 was intended to clarify, but did not amend 43 U.S.C. 1735. It should be consulted when relevant (see Title I, "Service Charges, Deposits, And Forfeitures").]

WORKING CAPITAL FUND

Sec. 306. [43 U.S.C. 1736] (a) There is hereby established a working capital fund for the management of the public lands. This fund shall be available without fiscal year limitation for expenses necessary for furnishing, in accordance with the Federal Property and Administrative Services Act of 1949 (63 Stat. 377, as amended), [40 U.S.C. 471 note] and regulations promulgated thereunder, supplies and equipment services in support of Bureau programs, including but not limited to, the purchase or construction of storage facilities, equipment yards, and related improvements and the purchase, lease, or rent of motor vehicles, aircraft, heavy equipment, and fire control and other resource management equipment within the limitations set forth in appropriations made to the Secretary for the Bureau.

(b) The initial capital of the fund shall consist of appropriations made for that purpose together with the fair and reasonable value at the fund's inception of the inventories, equipment, receivables, and other assets, less the liabilities, transferred to the fund. The Secretary is authorized to make such subsequent transfers to the fund as he deems appropriate in connection with the functions to be carried on through the fund.

(c) The fund shall be credited with payments from appropriations, and funds of the Bureau, other agencies of the Department of the Interior, other Federal agencies, and other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities, supplies, equipment, and services (including depreciation and accrued annual leave). Such payments may be made in advance in connection with firm orders, or by way of reimbursement.

(d) There is hereby authorized to be appropriated a sum not to exceed $3,000,000 as initial capital of the working capital fund.

[43 U.S.C. 1736a] *There is hereby established in the Treasury of the United States a special fund to be derived hereafter* [October 5, 1992] *from the Federal share of moneys received from the disposal of salvage timber prepared for sale from the lands under the jurisdiction of the Bureau of Land Management, Department of the Interior. The money in this fund shall be immediately available to the Bureau of Land Management without further appropriation, for the purposes of planning and preparing salvage timber for disposal, the administration of salvage timber sales, and subsequent site preparation and reforestation.* [P.L. 102-381, 1992]

STUDIES, COOPERATIVE AGREEMENTS, AND CONTRIBUTIONS

Sec. 307. [43 U.S.C. 1737] (a) The Secretary may conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the management, protection, development, acquisition, and conveying of the public lands.

(b) Subject to the provisions of applicable law, the Secretary may enter into contracts and cooperative agreements involving the management, protection, development, and sale of public lands.

(c) The Secretary may accept contributions or donations of money, services, and property, real, personal, or mixed, for the management, protection, development, acquisition, and conveying of the public lands, including the acquisition of rights-of-way for such purposes. He may accept contributions for cadastral surveying performed on federally controlled or intermingled lands. Moneys received hereunder shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available until expended, as the Secretary may direct, for payment of expenses incident to the function toward the administration of which the contributions were made and for refunds to depositors of amounts contributed by them in specific instances where contributions are in excess of their share of the cost.

(d) The Secretary may recruit, without regard to the civil service classification laws, rules, or regulations, the services of individuals contributed without compensation as volunteers for aiding in or facilitating the activities administered by the Secretary through the Bureau of Land Management.

(e) In accepting such services of individuals as volunteers, the Secretary –

(1) shall not permit the use of volunteers in hazardous duty or law enforcement work, or in policymaking processes or to displace any employee; and

(2) may provide for services or costs incidental to the utilization of volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision.

(f) Volunteers shall not be deemed employees of the United States except for the purposes of – [P.L. 98-540, 1984]

(1) the tort claims provisions of title 28;

(2) subchapter 1 of chapter 81 of title 5; and

(3) claims relating to damage to, or loss of, personal property of a volunteer incident to volunteer service, in which case the provisions of 31 U.S.C. 3721 shall apply. [P.L. 101-286, 1990]

(g) Effective with fiscal years beginning after September 30, 1984, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (d), but not more than $250,000 may be appropriated for any one fiscal year. [P.L. 98-540, 1984]

CONTRACTS FOR SURVEYS AND RESOURCE PROTECTION

Sec. 308. [43 U.S.C. 1738] (a) The Secretary is authorized to enter into contracts for the use of aircraft, and for supplies and services, prior to the passage of an appropriation therefor, for airborne cadastral survey and resource protection operations of the Bureau. He may renew such contracts annually, not more than twice, without additional competition. Such contracts shall obligate funds for the fiscal years in which the costs are incurred.

(b) Each such contract shall provide that the obligation of the United States for the ensuing fiscal years is contingent upon the passage of an applicable appropriation, and that no payment shall be made under the contract for the ensuing fiscal years until such appropriation becomes available for expenditure.

ADVISORY COUNCILS AND PUBLIC PARTICIPATION

Sec. 309. [43 U.S.C. 1739] (a) The Secretary *shall* [P.L. 95-514, 1978] establish advisory councils of not less than ten and not more than fifteen members appointed by him from among persons who are representative of the various major citizens' interests concerning the problems relating to land use

planning or the management of the public lands located within the area for which an advisory council is established. At least one member of each council shall be an elected official of general purpose government serving the people of such area. To the extent practicable there shall be no overlap or duplication of such councils. Appointments shall be made in accordance with rules prescribed by the Secretary. The establishment and operation of an advisory council established under this section shall conform to the requirements of the Federal Advisory Committee Act (86 Stat. 770; 5 U. S.C. App. 1).

(b) Notwithstanding the provisions of subsection (a) of this section, each advisory council established by the Secretary under this section shall meet at least once a year with such meetings being called by the Secretary.

(c) Members of advisory councils shall serve without pay, except travel and per diem will be paid each member for meetings called by the Secretary.

(d) An advisory council may furnish advice to the Secretary with respect to the land use planning, classification, retention, management, and disposal of the public lands within the area for which the advisory council is established and such other matters as may be referred to it by the Secretary.

(e) In exercising his authorities under this Act, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for, and the management of, the public lands.

RULES AND REGULATIONS

Sec. 310. [43 U.S.C. 1740] The Secretary, with respect to the public lands, shall promulgate rules and regulations to carry out the purposes of this Act and of other laws applicable to the public lands, and the Secretary of Agriculture, with respect to lands within the National Forest System, shall promulgate rules and regulations to carry out the purposes of this Act. The promulgation of such rules and regulations shall be governed by the provisions of chapter 5 of title 5 of the United States Code, without regard to section 553 (a) (2). Prior to the promulgation of such rules and regulations, such lands shall be administered under existing rules and regulations concerning such lands to the extent practical.

PUBLIC LANDS PROGRAM REPORT

Sec. 311. [43 U.S.C. 1741] (a) For the purpose of providing information that will aid Congress in carrying out its oversight responsibilities for public lands programs and for other purposes, the Secretary shall prepare a report in accordance with subsections (b) and (c) and submit it to the Congress no later than one hundred and twenty days after the end of each fiscal year beginning with the report for fiscal year 1979.

(b) A list of programs and specific information to be included in the report as well as the format of the report shall be developed by the Secretary after consulting with the *Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate* [P.L. 103-437, 1994] and shall be provided to the committees prior to the end of the second quarter of each fiscal year.

(c) The report shall include, but not be limited to, program identification information, program evaluation information, and program budgetary information for the preceding current and succeeding fiscal years.

SEARCH AND RESCUE

Sec. 312. [43 U.S.C. 1742] Where in his judgment sufficient search, rescue, and protection forces are not otherwise available, the Secretary is authorized in cases of emergency to incur such expenses as may be necessary (a) in searching for and rescuing, or in cooperating in the search for and rescue of, persons lost on the public lands, (b) in protecting or rescuing, or in cooperating in the protection and rescue of, persons or animals endangered by an act of God, and (c) in transporting deceased persons

or persons seriously ill or injured to the nearest place where interested parties or local authorities are located.

SUNSHINE IN GOVERNMENT

Sec. 313. [43 U.S.C. 1743] (a) Each officer or employee of the Secretary and the Bureau who–

(1) performs any function or duty under this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit, lease, or right-of-way under, or (B) applies for or acquires any land or interests therein under, or (C) is otherwise subject to the provisions of, this Act, shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary shall–

(1) act within ninety days after the date of enactment of this Act–

(A) to define the term "known financial interests" for the purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

RECORDATION OF MINING CLAIMS AND ABANDONMENT

Sec. 314. [43 U.S.C. 1744] (a) The owner of an unpatented lode or placer mining claim located prior to the date of this Act shall, within the three-year period following the date of the approval of this Act and prior to December 31 of each year thereafter, file the instruments required by paragraphs (1) and (2) of this subsection. The owner of an unpatented lode or placer mining claim located after the date of this Act shall, prior to December 31 of each year following the calendar year in which the said claim was located, file the instruments required by paragraphs (1) and (2) of this subsection:

(1) File for record in the office where the location notice or certificate is recorded either a notice of intention to hold the mining claim (including but not limited to such notices as are provided by law to be filed when there has been a suspension or deferment of annual assessment work), an affidavit of assessment work performed thereon, on a detailed report provided by the Act of September 2, 1958 (72 Stat. 1701; 30 U.S.C. 28–1), relating thereto.

(2) File in the office of the Bureau designated by the Secretary a copy of the official record of the instrument filed or recorded pursuant to paragraph (1) of this subsection, including a description of the location of the mining claim sufficient to locate the claimed lands on the ground.

(b) The owner of an unpatented lode or placer mining claim or mill or tunnel site located prior to the date of approval of this Act shall, within the three-year period following the date of approval of this Act, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground. The owner of an unpatented lode or placer mining claim or mill or tunnel site located after the date of approval of this Act shall, within ninety days after the date of

location of such claim, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground.

(c) The failure to file such instruments as required by subsections (a) and (b) shall be deemed conclusively to constitute an abandonment of the mining claim or mill or tunnel site by the owner; but it shall not be considered a failure to file if the instrument is defective or not timely filed for record under other Federal laws permitting filing or recording thereof, or if the instrument is filed for record by or on behalf of some but not all of the owners of the mining claim or mill or tunnel site.

(d) Such recordation or application by itself shall not render valid any claim which would not be otherwise valid under applicable law. Nothing in this section shall be construed as a waiver of the assessment and other requirements of such law.

RECORDABLE DISCLAIMERS OF INTEREST IN LAND

Sec. 315. [43 U.S.C. 1745] (a) After consulting with any affected Federal agency, the Secretary is authorized to issue a document of disclaimer of interest or interests in any lands in any form suitable for recordation, where the disclaimer will help remove a cloud on the title of such lands and where he determines (1) a record interest of the United States in lands has terminated by operation of law or is otherwise invalid; or (2) the lands lying between the meander line shown on a plat of survey approved by the Bureau or its predecessors and the actual shoreline of a body of water are not lands of the United States; or (3) accreted, relicted, or avulsed lands are not lands of the United States.

(b) No document or disclaimer shall be issued pursuant to this section unless the applicant therefor has filed with the Secretary an application in writing and notice of such application setting forth the grounds supporting such application has been published in the Federal Register at least ninety days preceding the issuance of such disclaimer and until the applicant therefor has paid to the Secretary the administrative costs of issuing the disclaimer as determined by the Secretary. All receipts shall be deposited to the then-current appropriation from which expended.

(c) Issuance of a document of disclaimer by the Secretary pursuant to the provisions of this section and regulations promulgated hereunder shall have the same effect as a quit-claim deed from the United States.

CORRECTION OF CONVEYANCE DOCUMENTS

Sec. 316. [43 U.S.C. 1746] The Secretary may correct patents or documents of conveyance issued pursuant to section 208 of this Act or to other Acts relating to the disposal of public lands where necessary in order to eliminate errors. In addition, the Secretary may make corrections of errors in any documents of conveyance which have heretofore been issued by the Federal Government to dispose of public lands.

MINERAL REVENUES

Sec. 317. [30 U.S.C. 191] (a) Section 35 of the Act of February 25, 1920 (41 Stat. 437, 450; 30 U.S.C. 181, 191), as amended, is further amended to read as follows: "All money received from sales, bonuses, royalties, and rentals of the public lands under the provisions of this Act and the Geothermal Steam Act of 1970 [30 U.S.C. 1001 note.], notwithstanding the provisions of section 20 thereof, shall be paid into the Treasury of the United States; 50 per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after March 31 and September 30 of each year to the State other than Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys paid to any of such States on or after January 1, 1976, to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act, for (i) planning, (ii) construction and maintenance of

public facilities, and (iii) provision of public service; and excepting those from Alaska, 40 per centum thereof shall be paid into, reserved, appropriated, as part of the reclamation fund created by the Act of Congress known as the Reclamation Act [43 U.S.C. 391 note.], approved June 17, 1902, and of those from Alaska as soon as practicable after March 31 and September 30 of each year, 90 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof: *Provided*, That all moneys which may accrue to the United States under the provisions of this Act and the Geothermal Steam Act of 1970 [30 U.S.C. 1001 note.] from lands within the naval petroleum reserves shall be deposited in the Treasury as 'miscellaneous receipts', as provided by the Act of June 4, 1920 (41 Stat. 813), as amended June 30, 1938 (52 Stat. 1252). All moneys received under the provisions of this Act and the Geothermal Steam Act of 1970 not otherwise disposed of by this section shall be credited to miscellaneous receipts."

(b) Funds now held pursuant to said section 35 [30 U.S.C. 191 note.] by the States of Colorado and Utah separately from the Department of the Interior oil shale test leases known as C-A; C-B; U-A and U-B shall be used by such States and subdivisions as the legislature of each State may direct giving priority to those subdivisions socially or economically impacted by the development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services.

[43 U.S.C. 1747](c)(1) The Secretary is authorized to make loans to States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of minerals leased in such States pursuant to the Act of February 25, 1920, as amended [30 U.S.C. 181 et seq.]. Such loans shall be confined to the uses specified for the 50 per centum of mineral leasing revenues to be received by such States and subdivisions pursuant to section 35 of such Act [30 U.S.C. 191].

(2) The total amount of loans outstanding pursuant to this subsection for any State and political subdivisions thereof in any year shall be not more than the anticipated mineral leasing revenues to be received by that State pursuant to section 35 of the Act of February 25, 1920, as amended [30 U.S.C. 191], for the ten years following.

(3) The Secretary, after consultation with the Governors of the affected States, shall allocate such loans among the States and their political subdivisions in a fair and equitable manner, giving priority to those States and subdivisions suffering the most severe impacts.

(4) Loans made pursuant to this subsection shall be subject to such terms and conditions as the Secretary determines necessary to assure the achievement of the purpose of this subsection. The Secretary shall promulgate such regulations as may be necessary to carry out the provisions of this subsection no later than three months after August 20, 1978.

(5) Loans made pursuant to this subsection shall bear interest equivalent to the lowest interest rate paid on an issue of at least $1,000,000 of tax exempt bonds of such State or any agency thereof within the preceding calendar year.

(6) Any loan made pursuant to this subsection shall be secured only by a pledge of the revenues received by the State or the political subdivision thereof pursuant to section 35 of the Act of February 25, 1920, as amended [30 U.S.C. 191], and shall not constitute an obligation upon the general property or taxing authority of such unit of government.

(7) Notwithstanding any other provision of law, loans made pursuant to this subsection may be used for the non-Federal share of the aggregate cost of any project or program otherwise funded by the Federal Government which requires a non-Federal share for such project or program and which provides planning or public facilities otherwise eligible for assistance under this subsection.

(8) Nothing in this subsection shall be construed to preclude any forbearance for the benefit of the borrower including loan restructuring, which may be determined by the Secretary as justified by the failure of anticipated mineral development or related revenues to materialize as expected when the loan was made pursuant to this subsection.

(9) Recipients of loans made pursuant to this subsection shall keep such records as the Secretary shall prescribe by regulation, including records which fully disclose the disposition of the proceeds of such assistance and such other records as the Secretary may require to facilitate an effective audit. The Secretary and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records.

(10) No person in the United States shall, on the grounds of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or part with funds made available under this subsection.

(11) All amounts collected in connection with loans made pursuant to this subsection, including interest payments or repayments of principal on loans, fees, and other moneys, derived in connection with this subsection, shall be deposited in the Treasury as miscellaneous receipts. [P.L. 95-352, 1978]

APPROPRIATION AUTHORIZATION

Sec. 318. [43 U.S.C. 1748] (a) There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act, but no amounts shall be appropriated to carry out after *October 1, 2002* [P.L. 104-333, 1996], any program, function, or activity of the Bureau under this or any other Act unless such sums are specifically authorized to be appropriated as of October 21, 1976, or are authorized to be appropriated in accordance with the provisions of subsection (b) of this section.

(b) Consistent with section 607 of the Congressional Budget Act of 1974 [31 U.S.C. 1110], beginning May 15, 1977, and not later than May 15 of each second even numbered year thereafter, the Secretary shall submit to the Speaker of the House of Representatives and the President of the Senate a request for the authorization of appropriations for all programs, functions, and activities of the Bureau to be carried out during the four-fiscal-year period beginning on October 1 of the calendar year following the calendar year in which such request is submitted. The Secretary shall include in his request, in addition to the information contained in his budget request and justification statement to the Office of Management and Budget, the funding levels which he determines can be efficiently and effectively utilized in the execution of his responsibilities for each such program, function, or activity, notwithstanding any budget guidelines or limitations imposed by any official or agency of the executive branch.

(c) Nothing in this section shall apply to the distribution of receipts of the Bureau from the disposal of lands, natural resources, and interests in lands in accordance with applicable law, nor to the use of contributed funds, private deposits for public survey work, and townsite trusteeships, nor to fund allocations from other Federal agencies, reimbursements from both Federal and non-Federal sources, and funds expended for emergency firefighting and rehabilitation.

(d) In exercising the authority to acquire by purchase granted by subsection (a) of section 205 of this Act, the Secretary may use the Land and Water Conservation Fund to purchase lands which are necessary for proper management of public lands which are primarily of value for outdoor recreation purposes.

TITLE IV

RANGE MANAGEMENT

GRAZING FEES

Sec. 401. [43 U.S.C. 1751] (a) The Secretary of Agriculture and the Secretary of the Interior shall jointly cause to be conducted a study to determine the value of grazing on the lands under their jurisdiction in the eleven Western States with a view to establishing a fee to be charged for domestic livestock grazing on such lands which is equitable to the United States and to the holders of grazing permits and leases on such lands. In making such study, the Secretaries shall take into consideration the costs of production normally associated with domestic livestock grazing in the eleven Western States, differences in forage values, and such other factors as may relate to the reasonableness of such fees. The Secretaries shall report the result of such study to the Congress not later than one year from and after the date of approval of this Act, together with recommendations to implement a reasonable grazing fee schedule based upon such study. If the report required herein has not been submitted to the Congress within one year after the date of approval of this Act, the grazing fee charge then in effect shall not be altered and shall remain the same until such report has been submitted to the Congress. Neither Secretary shall increase the grazing fee in the 1977 grazing year.

(b) (1) Congress finds that a substantial amount of the Federal range lands is deteriorating in quality, and that installation of additional range improvements could arrest much of the continuing deterioration and could lead to substantial betterment of forage conditions with resulting benefits to wildlife, watershed protection, and livestock production. Congress therefore directs that 50 per centum or *$10,000,000 per annum, whichever is greater* [P.L. 95-514, 1978] of all moneys received by the United States as fees for grazing domestic livestock on public lands (other than from ceded Indian lands) under the Taylor Grazing Act (48 Stat. 1269; 43 U.S.C. 315 et seq.) and the Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181d), and on lands in National Forests in the *sixteen* [P.L. 95-514, 1978] contiguous Western States under the provisions of this section shall be credited to a separate account in the Treasury, one-half of which is authorized to be appropriated and made available for use in the district, region, or national forest from which such moneys were derived, as the respective Secretary may direct after consultation with district, regional, or national forest user representatives, for the purpose of on-the-ground range rehabilitation, protection, and improvements on such lands, and the remaining one-half shall be used for on-the-ground range rehabilitation, protection, and improvements as the Secretary concerned directs. Any funds so appropriated shall be in addition to any other appropriations made to the respective Secretary for planning and administration of the range betterment program and for other range management. Such rehabilitation, protection, and improvements shall include all forms of range land betterment including, but not limited to, seeding and reseeding, fence construction, weed control, water development, and fish and wildlife habitat enhancement as the respective Secretary may direct after consultation with user representatives. The annual distribution and use of range betterment funds authorized by this paragraph shall not be considered a major Federal action requiring a detailed statement pursuant to section 4332(c) of title 42 of the United States Code.

(2) The first clause of section 10 (b) of the Taylor Grazing Act (48 Stat. 1269), as amended by the Act of August 6, 1947 (43 U.S.C. 315i), [43 U.S.C. 1751] is hereby repealed. All distributions of moneys made under section (b) (1) of this section shall be in addition to distributions made under section 10 of the Taylor Grazing Act [43 U.S.C. 315i] and shall not apply to distribution of moneys made under section 11 of that Act [43 U.S.C. 315j]. The

remaining moneys received by the United States as fees for grazing domestic livestock on the public lands shall be deposited in the Treasury as miscellaneous receipts.

(3) Section 3 of the Taylor Grazing Act, [43 U.S.C. 315b] as amended (43 U.S.C. 315), is further amended by–

(a) Deleting the last clause of the first sentence thereof, which begins with "and in fixing," deleting the comma after "time," and adding to that first sentence the words "in accordance with governing law."

(b) Deleting the second sentence thereof.

GRAZING LEASES AND PERMITS

Sec. 402. [43 U.S.C. 1752] (a) Except as provided in subsection (b) of this section, permits and leases for domestic livestock grazing on public lands issued by the Secretary under the Act of June 28, 1934 (48 Stat. 1269, as amended; 43 U.S.C. 315 et seq.) or the Act of August 28, 1937 (50 Stat. 874, as amended; 43 U.S.C. 1181a-1181j), or by the Secretary of Agriculture, with respect to lands within National Forests in the *sixteen* [P.L. 95-914, 1978] contiguous Western States, shall be for a term of ten years subject to such terms and conditions the Secretary concerned deems appropriate and consistent with the governing law, including, but not limited to, the authority of the Secretary concerned to cancel, suspend, or modify a grazing permit or lease, in whole or in part, pursuant to the terms and conditions thereof, or to cancel or suspend a grazing permit or lease for any violation of a grazing regulation or of any term or condition of such grazing permit or lease.

(b) Permits or leases may be issued by the Secretary concerned for a period shorter than ten years where the Secretary concerned determines that–

(1) the land is pending disposal; or

(2) the land will be devoted to a public purpose prior to the end of ten years; or

(3) it will be in the best interest of sound land management to specify a shorter term: *Provided, That the absence from an allotment management plan of details the Secretary concerned would like to include but which are undeveloped shall not be the basis for establishing a term shorter than ten years: Provided further, That the absence of completed land use plans or court ordered environmental statements shall not be the sole basis for establishing a term shorter than ten years unless the Secretary determines on a case-by-case basis that the information to be contained in such land use plan or court ordered environmental impact statement is necessary to determine whether a shorter term should be established for any of the reasons set forth in items (1) through (3) of this subsection.* [P.L. 95-914, 1978]

(c) So long as (1) the lands for which the permit or lease is issued remain available for domestic livestock grazing in accordance with land use plans prepared pursuant to section 202 of this Act or section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 477; 16 U.S.C. 1601), (2) the permittee or lessee is in compliance with the rules and regulations issued and the terms and conditions in the permit or lease specified by the Secretary concerned, and (3) the permittee or lessee accepts the terms and conditions to be included by the Secretary concerned in the new permit or lease, the holder of the expiring permit or lease shall be given first priority for receipt of the new permit or lease.

(d) All permits and leases for domestic livestock grazing issued pursuant to this section may incorporate an allotment management plan developed by the Secretary concerned. However, nothing in this subsection shall be construed to supersede any requirement for completion of court ordered environmental impact statements prior to development and incorporation of allotment management plans. If the Secretary concerned elects to develop an allotment management plan for a given area, he shall do so in careful and considered consultation, cooperation and coordination with the lessees, permittees, and landowners involved, the district grazing advisory boards established pursuant to section 403 of the Federal Land Policy and Management Act (43 U.S.C. 1753), and any State or States having lands within the area to be

covered by such allotment management plan. Allotment management plans shall be tailored to the specific range condition of the area to be covered by such plan, and shall be reviewed on a periodic basis to determine whether they have been effective in improving the range condition of the lands involved or whether such lands can be better managed under the provisions of subsection (e) of this section. The Secretary concerned may revise or terminate such plans or develop new plans from time to time after such review and careful and considered consultation, cooperation and coordination with the parties involved. As used in this subsection, the terms "court ordered environmental impact statement" and "range condition" shall be defined as in the "Public Rangelands Improvement Act of 1978(43 U.S.C. 1901 et seq.)". [P.L. 95-514, 1978]

(e) *In* [P.L. 95-514, 1978] all cases where the Secretary concerned has not completed an allotment management plan or determines that an allotment management plan is not necessary for management of livestock operations and will not be prepared, the Secretary concerned shall incorporate in grazing permits and leases such terms and conditions as he deems appropriate for management of the permitted or leased lands pursuant to applicable law. The Secretary concerned shall also specify therein the numbers of animals to be grazed and the seasons of use and that he may reexamine the condition of the range at any time and, if he finds on reexamination that the conditions of the range requires adjustment in the amount or other aspect of grazing use, that the permittee or lessee shall adjust his use to the extent the Secretary concerned deems necessary. Such readjustment shall be put into full force and effect on the date specified by the Secretary concerned.

(f) Allotment management plans shall not refer to livestock operations or range improvements on non-Federal lands except where the non-Federal lands are intermingled with, or, with the consent of the permittee or lessee involved, associated with, the Federal lands subject to the plan. The Secretary concerned under appropriate regulations shall grant to lessees and permittees the right of appeal from decisions which specify the terms and conditions of allotment management plans. The preceding sentence of this subsection shall not be construed as limiting any other right of appeal from decisions of such officials.

(g) Whenever a permit or lease for grazing domestic livestock is canceled in whole or in part, in order to devote the lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States a reasonable compensation for the adjusted value, to be determined by the Secretary concerned, of his interest in authorized permanent improvements placed or constructed by the permittee or lessee on lands covered by such permit or lease, but not to exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein. Except in cases of emergency, no permit or lease shall be canceled under this subsection without two years' prior notification.

(h) Nothing in this Act shall be construed as modifying in any way law existing on the date of approval of this Act with respect to the creation of right, title, interest or estate in or to public lands or lands in National Forests by issuance of grazing permits and leases.

GRAZING ADVISORY BOARDS

Sec. 403. [43 U.S.C. 1753] (a) For each Bureau district office and National Forest headquarters office in the *sixteen* [P.L. 95-514, 1978] contiguous Western States having jurisdiction over more than five hundred thousand acres of lands subject to commercial livestock grazing (hereinafter in this section referred to as "office"), the Secretary and the Secretary of Agriculture, upon the petition of a simple majority of the livestock lessees and permittees under the jurisdiction of such office, shall establish and maintain at least one grazing advisory board of not more than fifteen advisers.

(b) The function of grazing advisory boards established pursuant to this section shall be to offer advice and make recommendations to the head of the office involved concerning the development of allotment management plans and the utilization of range-betterment funds.

(c) The number of advisers on each board and the number of years an adviser may serve shall be

determined by the Secretary concerned in his discretion. Each board shall consist of livestock representatives who shall be lessees or permittees in the area administered by the office concerned and shall be chosen by the lessees and permittees in the area through an election prescribed by the Secretary concerned.

(d) Each grazing advisory board shall meet at least once annually.

(e) Except as may be otherwise provided by this section, the provisions of the Federal Advisory Committee Act (86 Stat. 770; 5 U.S. C. App. 1) shall apply to grazing advisory boards.

(f) The provisions of this section shall expire December 31, 1985.

MANAGEMENT OF CERTAIN HORSES AND BURROS

Sec. 404. Sections 9 and 10 of the Act of December 15, 1971 (85 Stat. 649, 651; 16 U.S.C. 1331, 1339–1340) are renumbered as sections 10 and 11, respectively, and the following new section is inserted after section 8:

"Sec. 9. [16 U.S.C. 1338a] In administering this Act, the Secretary may use or contract for the use of helicopters or, for the purpose of transporting captured animals, motor vehicles. Such use shall be undertaken only after a public hearing and under the direct supervision of the Secretary or of a duly authorized official or employee of the Department. The provisions of subsection (a) of the Act of September 8, 1959 (73 Stat. 470; 18 U.S.C. 47(a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary."

[16 U.S.C. 1338a Note: Subsequent amendments were made to this section in 1996 concerning management of the National Park System.]

TITLE V

RIGHTS-OF-WAY

AUTHORIZATION TO GRANT RIGHTS-OF-WAY

Sec. 501. [43 U.S.C. 1761] (a) The Secretary, with respect to the public lands *(including public lands, as defined in section 103(e) of this Act, which are reserved from entry pursuant to section 24 of the Federal Power Act (16 U.S.C. 818))* [P.L. 102-486, 1992] and, the Secretary of Agriculture, with respect to lands within the National Forest System (except in each case land designated as wilderness), are authorized to grant, issue, or renew rights-or-way over, upon, under, or through such lands for–

(1) reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) pipelines and other systems for the transportation or distribution of liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, and for storage and terminal facilities in connection therewith;

(3) pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) systems for generation, transmission, and distribution of electric energy, except that the applicant shall also comply with all applicable requirements of the *Federal Energy Regulatory Commission under the Federal Power Act, including part I thereof* (41 Stat. 1063, 16 U.S.C. 791a-825r) [P.L. 102-486, 1992];

(5) systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication;

(6) roads, trails, highways, railroads, canals, tunnels, tramways, airways, livestock driveways, or other means of transportation except where such facilities are constructed and maintained in connection with commercial recreation facilities on lands in the National Forest System; or

(7) such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, under, or through such lands.

(b) (1) The Secretary concerned shall require, prior to granting, issuing, or renewing a right-of-way, that the applicant submit and disclose those plans, contracts, agreements, or other information reasonably related to the use, or intended use, of the right-of-way, including its effect on competition, which he deems necessary to a determination, in accordance with the provisions of this Act, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way.

(2) If the applicant is a partnership, corporation, association, or other business entity, the Secretary concerned, prior to granting a right-to-way pursuant to this title, shall require the applicant to disclose the identity of the participants in the entity, when he deems it necessary to a determination, in accordance with the provisions of this title, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way. Such disclosures shall include, where applicable: (A) the name and address of each partner; (B) the name and address of each share-holder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote; and (C) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting

stock of that entity owned, directly or indirectly, by the affiliate.

(3) The Secretary of Agriculture shall have the authority to administer all rights-of-way granted or issued under authority of previous Acts with respect to lands under the jurisdiction of the Secretary of Agriculture, including rights-of-way granted or issued pursuant to authority given to the Secretary of the Interior by such previous Acts. *[P.L. 99-545, 1986]*

(c) (1) Upon receipt of a written application pursuant to paragraph (2) of this subsection from an applicant meeting the requirements of this subsection, the Secretary of Agriculture shall issue a permanent easement, without a requirement for reimbursement, for a water system as described in subsection (a)(1) of this section, traversing Federal lands within the National Forest System ('National Forest Lands'), constructed and in operation or placed into operation prior to October 21, 1976, if –

(A) the traversed National Forest lands are in a State where the appropriation doctrine governs the ownership of water rights;

(B) at the time of submission of the application the water system is used solely for agricultural irrigation or livestock watering purposes;

(C) the use served by the water system is not located solely on Federal lands;

(D) the originally constructed facilities comprising such system have been in substantially continuous operation without abandonment;

(E) the applicant has a valid existing right, established under applicable State law, for water to be conveyed by the water system;

(F) a recordable survey and other information concerning the location and characteristics of the system as necessary for proper management of National Forest lands is provided to the Secretary of Agriculture by the applicant for the easement; and

(G) the applicant submits such application on or before December 31, 1996.

(2) (A) Nothing in this subsection shall be construed as affecting any grants made by any previous Act. To the extent any such previous grant of right-of-way is a valid existing right, it shall remain in full force and effect unless an owner thereof notifies the Secretary of Agriculture that such owner elects to have a water system on such right-of-way governed by the provision of this subsection and submits a written application for issuance of an easement pursuant to this subsection, in which case upon the issuance of an easement pursuant to this subsection such previous grant shall be deemed to have been relinquished and shall terminate.

(B) Easements issued under the authority of this subsection shall be fully transferable with all existing conditions and without the imposition of fees or new conditions or stipulations at the time of transfer. The holder shall notify the Secretary of Agriculture within sixty days of any address change of the holder or change in ownership of the facilities.

(C) Easements issued under the authority of this subsection shall include all changes or modifications to the original facilities in existence as of October 21, 1976, the date of enactment of this Act.

(D) Any future extension or enlargement of facilities after October 21, 1976, shall require the issuance of a separate authorization, not authorized under this subsection.

(3) (A) Except as otherwise provided in this subsection, the Secretary of Agriculture may terminate or suspend an easement issued pursuant to this subsection in accordance with the procedural and other provisions of section 506 [43 U.S.C. 1766] *of this Act. An easement issued pursuant to this subsection shall terminate if the water system for which such easement was issued is used for any purpose other than agricultural irrigation or livestock watering use. For purposes of subparagraph (D) of paragraph (1) of this subsection, non-use of a water system for agricultural irrigation or livestock watering purposes for any continuous five-year period shall constitute a rebuttable presumption of abandonment of the facilities comprising such system.*

(B) Nothing in this subsection shall be deemed to be an assertion by the United States of any right

or claim with regard to the reservation, acquisition, or use of water. Nothing in this subsection shall be deemed to confer on the Secretary of Agriculture any power or authority to regulate or control in any manner the appropriation, diversion, or use of water for any purpose (nor to diminish any such power to authority of such Secretary under applicable law) or to require the conveyance or transfer to the United States of any right or claim to the appropriation, diversion, or use of water.

(C) Except as otherwise provided in this subsection, all rights-of-way issued pursuant to this subsection are subject to all conditions and requirements of this Act.

(D) In the event a right-of-way issued pursuant to this subsection is allowed to deteriorate to the point of threatening persons or property and the holder of the right-of-way, after consultation with the Secretary of Agriculture, refuses to perform the repair and maintenance necessary to remove the threat to persons or property, the Secretary shall have the right to undertake such repair and maintenance on the right-of-way and to assess the holder for the costs of such repair and maintenance, regardless of whether the Secretary had required the holder to furnish a bond or other security pursuant to subsection (i) of this section. [P.L. 99-545, 1986]

(d) With respect to any project or portion thereof that was licensed pursuant to, or granted an exemption from, part I of the Federal Power Act [16 U.S.C. 791a et seq.] which is located on lands subject to a reservation under section 24 of the Federal Power Act [16 U.S.C. 818] and which did not receive a permit, right-of-way or other approval under this section prior to enactment of this subsection, no such permit, right-of-way, or other approval shall be required for continued operation, including continued operation pursuant to section 15 of the Federal Power Act [16 U.S.C. 808*], of such project unless the Commission determines that such project involves the use of any additional public lands or National Forest lands not subject to such reservation.* [P.L. 102-486, 1992]

COST-SHARE ROAD AUTHORIZATION

Sec. 502. [43 U.S.C. 1762] (a) The Secretary, with respect to the public lands, is authorized to provide for the acquisition, construction, and maintenance of roads within and near the public lands in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management of such lands for utilization of the other resources thereof. Financing of such roads may be accomplished (1) by the Secretary utilizing appropriated funds, (2) by requirements on purchasers of timber and other products from the public lands, including provisions for amortization of road costs in contracts, (3) by cooperative financing with other public agencies and with private agencies or persons, or (4) by a combination of these methods: *Provided*, That, where roads of a higher standard than that needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed, the purchaser of timber and other products from public lands shall not, except when the provisions of the second proviso of this subsection apply, be required to bear that part of the costs necessary to meet such higher standard, and the Secretary is authorized to make such arrangements to this end as may be appropriate: *Provided further*, That when timber is offered with the condition that the purchaser thereof will build a road or roads in accordance with standards specified in the offer, the purchaser of the timber will be responsible for paying the full costs of construction of such roads.

(b) Copies of all instruments affecting permanent interests in land executed pursuant to this section shall be recorded in each county where the lands are located.

(c) The Secretary may require the user or users of a road, trail, land, or other facility administered by him through the Bureau, including purchasers of Government timber and other products, to maintain such facilities in a satisfactory condition commensurate with the particular use requirements

of each. Such maintenance to be borne by each user shall be proportionate to total use. The Secretary may also require the user or users of such a facility to reconstruct the same when such reconstruction is determined to be necessary to accommodate such use. If such maintenance or reconstruction cannot be so provided or if the Secretary determines that maintenance or reconstruction by a user would not be practical, then the Secretary may require that sufficient funds be deposited by the user to provide his portion of such total maintenance or reconstruction. Deposits made to cover the maintenance or reconstruction of roads are hereby made available until expended to cover the cost to the United States of accomplishing the purposes for which deposited: *Provided*, That deposits received for work on adjacent and overlapping areas may be combined when it is the most practicable and efficient manner of performing the work, and cost thereof may be determined by estimates: *And provided further,* That unexpended balances upon accomplishment of the purpose for which deposited shall be transferred to miscellaneous receipts or refunded.

(d) Whenever the agreement under which the United States has obtained for the use of, or in connection with, the public lands a right-of-way or easement for a road or an existing road or the right to use an existing road provides for delayed payments to the Government's grantor, any fees or other collections received by the Secretary for the use of the road may be placed in a fund to be available for making payments to the grantor.

RIGHT-OF-WAY CORRIDORS

Sec. 503. [43 U.S.C. 1763] In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way, the utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary concerned the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way granted pursuant to this Act. In designating right-of-way corridors and in determining whether to require that rights-of-way be confined to them, the Secretary concerned shall take into consideration national and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. The Secretary concerned shall issue regulations containing the criteria and procedures he will use in designating such corridors. Any existing transportation and utility corridors may be designated as transportation and utility corridors pursuant to this subsection without further review.

GENERAL PROVISIONS

Sec. 504. [43 U.S.C. 1764] (a) The Secretary concerned shall specify the boundaries of each right-of-way as precisely as is practical. Each right-of-way shall be limited to the ground which the Secretary concerned determines (1) will be occupied by facilities which constitute the project for which the right-of-way is granted, issued, or renewed, (2) to be necessary for the operation or maintenance of the project, (3) to be necessary to protect the public safety, and (4) will do no unnecessary damage to the environment. The Secretary concerned may authorize the temporary use of such additional lands as he determines to be reasonably necessary for the construction, operation, maintenance, or termination of the project or a portion thereof, or for access thereto.

(b) Each right-of-way or permit granted, issued, or renewed pursuant to this section shall be limited to a reasonable term in light of all circumstances concerning the project. In determining the duration of a right-of-way the Secretary concerned shall, among other things, take into consideration the cost of the facility, its useful life, and any public purpose it serves. The right-of-way shall specify whether it is or is not renewable and the terms and conditions applicable to the renewal.

(c) Rights-of-way shall be granted, issued, or renewed pursuant to this title under such regulations or stipulations, consistent with the provisions of this title or any other applicable law, and shall also be subject to such terms and conditions as the Secretary concerned may prescribe regarding extent, duration, survey, location, construction, maintenance, transfer or assignment, and termination.

(d) The Secretary concerned prior to granting or issuing a right-of-way pursuant to this title for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way which shall comply with stipulations or with regulations issued by that Secretary, including the terms and conditions required under section 505 of this Act.

(e) The Secretary concerned shall issue regulations with respect to the terms and conditions that will be included in rights-of-way pursuant to section 505 of this title. Such regulations shall be regularly revised as needed. Such regulations shall be applicable to every right-of-way granted or issued pursuant to this title and to any subsequent renewal thereof, and may be applicable to rights-of-way not granted or issued, but renewed pursuant to this title.

(f) Mineral and vegetative materials, including timber, within or without a right-of-way, may be used or disposed of in connection with construction or other purposes only if authorization to remove or use such materials has been obtained pursuant to applicable laws or *for emergency repair work necessary for those rights-of-way authorized under section 501(c) of this Act.* [P.L. 99-545, 1986]

(g) *The holder of a right-of-way shall pay in advance the fair market value thereof, as determined by the Secretary granting, issuing, or renewing such right-of-way. The Secretary concerned may require either annual payment or a payment covering more than one year at a time except that private individuals may make at their option either annual payments or payments covering more than one year if the annual fee is greater than one hundred dollars. The Secretary concerned may waive rentals where a right-of-way is granted, issued or renewed in consideration of a right-of-way conveyed to the United States in connection with a cooperative cost share program between the United States and the holder.* [P.L. 99-545, 1986] The Secretary concerned may, by regulation or prior to promulgation of such regulations, as a condition of a right-of-way, require an applicant for or holder of a right-of-way to reimburse the United States for all reasonable administrative and other costs incurred in processing an application for such right-of-way and in inspection and monitoring of construction, operation, and termination of the facility pursuant to such right-of-way: *Provided, however,* That the Secretary concerned need not secure reimbursement in any situation where there is in existence a cooperative cost share right-of-way program between the United States and the holder of a right-of-way. Rights-of-way may be granted, issued, or renewed to a Federal, State, or local government or any agency or instrumentality thereof, to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profit making corporations or business enterprises, or to a holder where he provides without or at reduced charges a valuable benefit to the public or to the programs of the Secretary concerned, or to a holder in connection with the authorized use or occupancy of Federal land for which the United States is already receiving compensation for such lesser charge, including free use as the Secretary concerned finds equitable and in the public interest. Such rights-of-way issued at less than fair market value are not assignable except with the approval of the Secretary issuing the right-of-way. The moneys received for reimbursement of reasonable costs shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended. *Rights-of-way shall be granted, issued, or renewed, without rental fees, for electric or telephone facilities, eligible for financing pursuant to the Rural Electrification Act of 1936, as amended [7 U.S.C. 901 et seq.], determined without regard to any application requirement under that Act,* [P.L. 104-333, 1996] *or any extensions from such facilities: Provided, That nothing in this sentence shall be construed to affect the authority of the Secretary granting, issuing, or renewing the right-of-way to require reimbursement of reasonable administrative and other costs pursuant to the second sentence of this subsection.* [P.L. 98-300, 1984]

[43 U.S.C. 1764 Note: effective date shall apply with respect to rights-of-way leases held on or after the date of enactment of this Act. [P.L. 104-333, 1996]]

(h) (1) The Secretary concerned shall promulgate regulations specifying the extent to which holders of rights-of-way under this title shall be liable to the United States for damage or injury incurred by the United States caused by the use and occupancy of the rights-of-way. The regulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liabilities, damages, or claims caused by their use and occupancy of the rights-of-way.

(2) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage or injury in excess of this amount shall be determined by ordinary rules of negligence.

(i) Where he deems it appropriate, the Secretary concerned may require a holder of a right-of-way to furnish a bond, or other security, satisfactory to him to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or by any rule or regulation of the Secretary concerned.

(j) The Secretary concerned shall grant, issue, or renew a right-of-way under this title only when he is satisfied that the applicant has the technical and financial capability to construct the project for which the right-of-way is requested, and in accord with the requirements of this title.

TERMS AND CONDITIONS

SEC. 505. [43 U.S.C. 1765] Each right-of-way shall contain–

(a) terms and conditions which will (i) carry out the purposes of this Act and rules and regulations issued thereunder; (ii) minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment; (iii) require compliance with applicable air and water quality standards established by or pursuant to applicable Federal or State law; and (iv) require compliance with State standards for public health and safety, environmental protection, and siting, construction, operation, and maintenance of or for rights-of-way for similar purposes if those standards are more stringent than applicable Federal standards; and

(b) such terms and conditions as the Secretary concerned deems necessary to (i) protect Federal property and economic interests; (ii) manage efficiently the lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the lands adjacent to or traversed by such right-of-way; (iii) protect lives and property; (iv) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and other biotic resources of the area for subsistence purposes; (v) require location of the right-of-way along a route that will cause least damage to the environment, taking into consideration feasibility and other relevant factors; and (vi) otherwise protect the public interest in the lands traversed by the right-of-way or adjacent thereto.

SUSPENSION OR TERMINATION OF RIGHTS-OF-WAY

Sec. 506. [43 U.S.C. 1766] Abandonment of a right-of-way or noncompliance with any provision of this title, condition of the right-of-way, or applicable rule or regulation of the Secretary concerned may be grounds for suspension or termination of the right-of-way if, after due notice to the holder of the right-of-way, and with respect to easements, an appropriate administrative proceeding pursuant to section 554 of title 5 of the United States Code, the Secretary concerned determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed-upon condition, event, or time. If the Secretary concerned determines that an immediate temporary suspension of activities within a right-of-way for violation of its terms and conditions is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding. Prior to commencing any proceeding to suspend or terminate a right-of-way the Secretary concerned shall give written notice to the holder of the grounds for

such action and shall give the holder a reasonable time to resume use of the right-of-way or to comply with this title, condition, rule, or regulation as the case may be. Failure of the holder of the right-of-way to use the right-of-way for the purpose for which it was granted, issued, or renewed, for any continuous five-year period, shall constitute a rebuttable presumption of abandonment of the right-of-way, except that where the failure of the holder to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period is due to circumstances not within the holder's control, the Secretary concerned is not required to commence proceedings to suspend or terminate the right-of-way.

RIGHTS-OF-WAY FOR FEDERAL AGENCIES

Sec. 507. [43 U.S.C. 1767] (a) The Secretary concerned may provide under applicable provisions of this title for the use of any department or agency of the United States a right-of-way over, upon, under or through the land administered by him, subject to such terms and conditions as he may impose.

(b) Where a right-of-way has been reserved for the use of any department or agency of the United States, the Secretary shall take no action to terminate, or otherwise limit, that use without the consent of the head of such department or agency.

CONVEYANCE OF LANDS

Sec. 508. [43 U.S.C. 1768] If under applicable law the Secretary concerned decides to transfer out of Federal ownership any lands covered in whole or in part by a right-of-way, including a right-of-way granted under the Act of November 16, 1973 (87 Stat. 576; 30 U.S.C. 185), the lands may be conveyed subject to the right-of-way; however, if the Secretary concerned determines that retention of Federal control over the right-of-way is necessary to assure that the purposes of this title will be carried out, the terms and conditions of the right-of-way complied with, or the lands protected, he shall (a) reserve to the United States that portion of the lands which lies within the boundaries of the right-of-way, or (b) convey the lands, including that portion within the boundaries of the right-of-way, subject to the right-of-way and reserving to the United States the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew it or extend it upon its termination and to collect rents.

EXISTING RIGHTS-OF-WAY

Sec. 509. [43 U.S.C. 1769] (a) Nothing in this title shall have the effect of terminating any right-of-way or right-of-use heretofore issued, granted, or permitted. However, with the consent of the holder thereof, the Secretary concerned may cancel such a right-of-way or right-of-use and in its stead issue a right-of-way pursuant to the provisions of this title.

(b) When the Secretary concerned issues a right-of-way under this title for a railroad and appurtenant communication facilities in connection with a realinement of a railroad on lands under his jurisdiction by virtue of a right-of-way granted by the United States, he may, when he considers it to be in the public interest and the lands involved are not within an incorporated community and are of approximately equal value, notwithstanding the provisions of this title, provide in the new right-of-way the same terms and conditions as applied to the portion of the existing right-of-way relinquished to the United States with respect to the payment of annual rental, duration of the right-of-way, and the nature of the interest in lands granted. The Secretary concerned or his delegate shall take final action upon all applications for the grant, issue, or renewal of rights-of-way under subsection (b) of this section no later than six months after receipt from the applicant of all information required from the applicant by this title.

EFFECT ON OTHER LAWS

Sec. 510. [43 U.S.C. 1770] (a) Effective on and after the date of approval of this Act, no right-of-way for the purposes listed in this title shall be granted, issued, or renewed over, upon, under, or through such lands except under and subject to the provisions, limitations, and conditions of this title:

Provided, That nothing in this title shall be construed as affecting or modifying the provisions of the Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 532–538) and in the event of conflict with, or inconsistency between, this title and the Act of October 13, 1964, the latter shall prevail: *Provided further,* That nothing in this Act should be construed as making it mandatory that, with respect to forest roads, the Secretary of Agriculture limit rights-of-way grants or their term of years or require disclosure pursuant to Section 501 (b) or impose any other condition contemplated by this Act that is contrary to present practices of that Secretary under the Act of October 13, 1964. Any pending application for a right-of-way under any other law on the effective date of this section shall be considered as an application under this title. The Secretary concerned may require the applicant to submit any additional information he deems necessary to comply with the requirements of this title.

(b) Nothing in this title shall be construed to preclude the use of lands covered by this title for highway purposes pursuant to sections 107 and 317 of title 23 of the United States Code.

(c) (1) Nothing in this title shall be construed as exempting any holder of a right-of-way issued under this title from any provision of the antitrust laws of the United States.

(2) For the purposes of this subsection, the term "antitrust laws" includes the Act of July 2, 1890 (26 Stat. 15 U.S.C. 1 et seq.); the Act of October 15, 1914 (38 Stat. 730, 15 U.S.C. 12 et seq.); the Federal Trade Commission Act (38 Stat. 717; 15 U.S.C. 41 et seq.); and sections 73 and 74 of the Act of August 27, 1894. [15 U.S.C. 8, 9]

COORDINATION OF APPLICATIONS

Sec. 511. [43 U.S.C. 1771] Applicants before Federal departments and agencies other than the Department of the Interior or Agriculture seeking a license, certificate, or other authority for a project which involve a right-of-way over, upon, under, or through public land or National Forest System lands must simultaneously apply to the Secretary concerned for the appropriate authority to use public lands or National Forest System lands and submit to the Secretary concerned all information furnished to the other Federal department or agency.

TITLE VI

DESIGNATED MANAGEMENT AREAS

CALIFORNIA DESERT CONSERVATION AREA

Sec. 601. [43 U.S.C. 1781] (a) The Congress finds that–

(1) the California desert contains historical, scenic, archeological, environmental, biological, cultural, scientific, educational, recreational, and economic resources that are uniquely located adjacent to an area of large population;

(2) the California desert environment is a total ecosystem that is extremely fragile, easily scarred, and slowly healed;

(3) the California desert environment and its resources, including certain rare and endangered species of wildlife, plants, and fishes, and numerous archeological and historic sites, are seriously threatened by air pollution, inadequate Federal management authority, and pressures of increased use, particularly recreational use, which are certain to intensify because of the rapidly growing population of southern California;

(4) the use of all California desert resources can and should be provided for in a multiple use and sustained yield management plan to conserve these resources for future generations, and to provide present and future use and enjoyment, particularly outdoor recreation uses, including the use, where appropriate, of off-road recreational vehicles;

(5) the Secretary has initiated a comprehensive planning process and established an interim management program for the public lands in the California desert; and

(6) to insure further study of the relationship of man and the California desert environment, preserve the unique and irreplaceable resources, including archeological values, and conserve the use of the economic resources of the California desert, the public must be provided more opportunity to participate in such planning and management, and additional management authority must be provided to the Secretary to facilitate effective implementation of such planning and management.

(b) It is the purpose of this section to provide for the immediate and future protection and administration of the public lands in the California desert within the framework of a program of multiple use and sustained yield, and the maintenance of environmental quality.

(c) (1) For the purpose of this section, the term "California desert" means the area generally depicted on a map entitled "California Desert Conservation Area—Proposed" dated April 1974, and described as provided in subsection (c) (2).

(2) As soon as practicable after the date of approval of this Act, the Secretary shall file a revised map and a legal description of the California Desert Conservation Area with the Committees on Interior and Insular Affairs of the United States Senate and the House of Representatives, and such map and description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in such legal description and a map may be made by the Secretary. To the extent practicable, the Secretary shall make such legal description and map available to the public promptly upon request.

(d) The Secretary, in accordance with section 202 of this Act, shall prepare and implement a comprehensive, long-range plan for the management, use, development, and protection of the public lands within the California Desert Conservation Area. Such plan shall take into account the principles of multiple use and sustained yield in providing for resource use and development, including, but not limited to, maintenance of environmental quality, rights-of-way, and mineral development. Such plan shall be completed and implementation thereof initiated on or before September 30, 1980.

(e) During the period beginning on the date of approval of this Act and ending on the effective

date of implementation of the comprehensive, long-range plan, the Secretary shall execute an interim program to manage, use, and protect the public lands, and their resources now in danger of destruction, in the California Desert Conservation Area, to provide for the public use of such lands in an orderly and reasonable manner such as through the development of campgrounds and visitor centers, and to provide for a uniformed desert ranger force.

(f) Subject to valid existing rights, nothing in this Act shall affect the applicability of the United States mining laws on the public lands within the California Desert Conservation Area, except that all mining claims located on public lands within the California Desert Conservation Area shall be subject to such reasonable regulations as the Secretary may prescribe to effectuate the purposes of this section. Any patent issued on any such mining claim shall recite this limitation and continue to be subject to such regulations. Such regulations shall provide for such measures as may be reasonable to protect the scenic, scientific, and environmental values of the public lands of the California Desert Conservation Area against undue impairment, and to assure against pollution of the streams and waters within the California Desert Conservation Area.

(g) (1) The Secretary, within sixty days after the date of approval of this Act, shall establish a California Desert Conservation Area Advisory Committee (hereinafter referred to as "advisory committee") in accordance with the provisions of section 309 of this Act.

(2) It shall be the function of the advisory committee to advise the Secretary with respect to the preparation and implementation of the comprehensive, long-range plan required under subsection (d) of this section.

(h) The Secretary of Agriculture and the Secretary of Defense shall manage lands within their respective jurisdictions located in or adjacent to the California Desert Conservation Area, in accordance with the laws relating to such lands and wherever practicable, in a manner consonant with the purpose of this section. The Secretary, the Secretary of Agriculture, and the Secretary of Defense are authorized and directed to consult among themselves and take cooperative actions to carry out the provisions of this subsection, including a program of law enforcement in accordance with applicable authorities to protect the archeological and other values of the California Desert Conservation Area and adjacent lands.

(i) The Secretary shall report to the Congress no later than two years after the date of approval of this Act, and annually thereafter, on the progress in, and any problems concerning, the implementation of this section, together with any recommendations, which he may deem necessary, to remedy such problems.

(j) There are authorized to be appropriated for fiscal years 1977 through 1981 not to exceed $40,000,000 for the purpose of this section, such amount to remain available until expended.

KING RANGE

Sec. 602.Section 9 of the Act of October 21, 1970 (84 Stat. 1067), [16 U.S.C. 460y-8] is amended by adding a new subsection (c), as follows:

"(c) In addition to the lands described in subsection (a) of this section, the land identified as the Punta Gorda Addition and the Southern Additions on the map entitled 'King Range National Conservation Area Boundary Map No. 2,' dated July 29, 1975, is included in the survey and investigation area referred to in the first section of this Act."

BUREAU OF LAND MANAGEMENT WILDERNESS STUDY

Sec. 603. [43 U.S.C. 1782] (a) Within fifteen years after the date of approval of this Act, the Secretary shall review those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964 (78 Stat. 890; 16 U.S.C. 1131 et seq.) and shall from time to time report to the President his recommendation as to the suitability

or nonsuitability of each such area or island for preservation as wilderness: *Provided*, That prior to any recommendations for the designation of an area as wilderness the Secretary shall cause mineral surveys to be conducted by the *United States* Geological Survey [P.L. 102-154, 1991] and the *United States* Bureau of Mines [P.L. 102-285, 1992] to determine the mineral values, if any, that may be present in such areas: *Provided further*, That the Secretary shall report to the President by July 1, 1980, his recommendations on those areas which the Secretary has prior to November 1, 1975, formally identified as natural or primitive areas. The review required by this subsection shall be conducted in accordance with the procedure specified in section 3(d) of the Wilderness Act.

(b) The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to designation as wilderness of each such area, together with a map thereof and a definition of its boundaries. Such advice by the President shall be given within two years of the receipt of each report from the Secretary. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress.

(c) During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness, subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on October 21, 1976: *Provided*, That, in managing the public lands the Secretary shall by regulation or otherwise take any action required to prevent unnecessary or undue degradation of the lands and their resources or to afford environmental protection. Unless previously withdrawn from appropriation under the mining laws, such lands shall continue to be subject to such appropriation during the period of review unless withdrawn by the Secretary under the procedures of section 204 of this Act for reasons other than preservation of their wilderness character. Once an area has been designated for preservation as wilderness, the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.] which apply to national forest wilderness areas shall apply with respect to the administration and use of such designated area, including mineral surveys required by section 4(d)(2) of the Wilderness Act, [16 U.S.C. 1133(d)(2)] and mineral development, access, exchange of lands, and ingress and egress for mining claimants and occupants.

43 U.S.C. 1783. **Yaquina Head Outstanding Natural Area** [P.L. 96-199, §119, 1980]

(a) In order to protect the unique scenic, scientific, educational, and recreational values of certain lands in and around Yaquina Head, in Lincoln County, Oregon, there is hereby established, subject to valid existing rights, the Yaquina Head Outstanding Natural Area (hereinafter referred to as the "area"). The boundaries of the area are those shown on the map entitled "Yaquina Head Area", dated July 1979, which shall be on file and available for public inspection in the Office of the Director, Bureau of Land Management, United States Department of the Interior, and the State Office of the Bureau of Land Management in the State of Oregon.

(b)(1) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall administer the Yaquina Head Outstanding Natural Area in accordance with the laws and regulations applicable to the public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1702) [43 U.S.C. 1702(e)], in such a manner as will best provide for–

(A) the conservation and development of the scenic, natural, and historic values of the area;

(B) the continued use of the area for purposes of education, scientific study, and public recreation which do not substantially impair the purposes for which the area is established; and

(C) protection of the wildlife habitat of the area.

(2) The Secretary shall develop a management plan for the area which accomplishes the purposes and is consistent with the provisions of this section. This plan shall be developed in accordance

with the provisions of section 202 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1712).

(3) Notwithstanding any other provision of this section, the Secretary is authorized to issue permits or to contract for the quarrying of materials from the area in accordance with the management plan for the area on condition that the lands be reclaimed and restored to the satisfaction of the Secretary. Such authorization to quarry shall require payment of fair market value for the materials to be quarried, as established by the Secretary, and shall also include any terms and conditions which the Secretary determines necessary to protect the values of such quarry lands for purposes of this section.

(c) The reservation of lands for lighthouse purposes made by Executive order of June 8, 1866, of certain lands totaling approximately 18.1 acres, as depicted on the map referred to in subsection (a) of this section, is hereby revoked. The lands referred to in subsection (a) of this section are hereby restored to the status of public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1702) [43 U.S.C. 1702(e)], and shall be administered in accordance with the management plan for the area developed pursuant to subsection (b) of this section, except that such lands are hereby withdrawn from settlement, sale, location, or entry, under the public land laws, including the mining laws (30 U.S.C., ch. 2), leasing under the mineral leasing laws (30 U.S.C. 181 et seq.), and disposals under the Materials Act of July 31, 1947, as amended (30 U.S.C. 601, 602).

(d) The Secretary shall, as soon as possible but in no event later than twenty-four months following the date of enactment of this section [March 5, 1980], acquire by purchase, exchange, donation, or condemnation all or any part of the lands and waters and interests in lands and waters within the area referred to in subsection (a) of this section which are not in Federal ownership except that State land shall not be acquired by purchase or condemnation. Any lands or interests acquired by the Secretary pursuant to this section shall become public lands as defined in the Federal Land Policy and Management Act of 1976, as amended [43 U.S.C. 1701 et seq.]. Upon acquisition by the United States, such lands are automatically withdrawn under the provisions of subsection (c) of this section except that lands affected by quarrying operations in the area shall be subject to disposals under the Materials Act of July 31, 1947, as amended (30 U.S.C. 601, 602). Any lands acquired pursuant to this subsection shall be administered in accordance with the management plan for the area developed pursuant to subsection (b) of this section.

(e) The Secretary is authorized to conduct a study relating to the use of lands in the area for purposes of wind energy research. If the Secretary determines after such study that the conduct of wind energy research activity will not substantially impair the values of the lands in the area for purposes of this section, the Secretary is further authorized to issue permits for the use of such lands as a site for installation and field testing of an experimental wind turbine generating system. Any permit issued pursuant to this subsection shall contain such terms and conditions as the Secretary determines necessary to protect the values of such lands for purposes of this section.

(f) The Secretary shall develop and administer, in addition to any requirements imposed pursuant to subsection (b) (3) of this section, a program for the reclamation and restoration of all lands affected by quarrying operations in the area acquired pursuant to subsection (d) of this section. All revenues received by the United States in connection with quarrying operations authorized by subsection (b) (3) of this section shall be deposited in a separate fund account which shall be established by the Secretary of the Treasury. Such revenues are hereby authorized to be appropriated to the Secretary as needed for reclamation and restoration of any lands acquired pursuant to subsection (d) of this section. After completion of such reclamation and restoration to the satisfaction of the Secretary, any unexpended revenues in such fund shall be returned to the general fund of the United States Treasury.

(g) There are hereby authorized to be appropriated in addition to that authorized by subsection (f) of this section, such sums as may be necessary to carry out the provisions of this section.

43 U.S.C. 1784. **Lands in Alaska; Bureau of Land Management Land Reviews.** [P.L. 96-487, title XIII, §1320, 1980]

Notwithstanding any other provision of law, section 1782 of the Federal Land Policy and Management Act of 1976 shall not apply to any lands in Alaska. However, in carrying out his duties under sections 1711 and 1712 of this title and other applicable laws, the Secretary may identify areas in Alaska which he determines are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the National Wilderness Preservation System, pursuant to the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.]. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with the applicable land use plans and applicable provisions of law.

43 U.S.C. 1785. **Fossil Forest Research Natural Area**. [P.L. 98-603, title I, §103, 1984; P.L. 104-333, div. I, title X, §1022, 1996]

(a) Establishment. – To conserve and protect natural values and to provide scientific knowledge, education, and interpretation for the benefit of future generations, there is established the Fossil Forest Research Natural Area (referred to in this section as the "Area"), consisting of the approximately 2,770 acres in the Farmington District of the Bureau of Land Management, New Mexico, as generally depicted on a map entitled "Fossil Forest", dated June 1983.

(b) Map and Legal Description. –

(1) In General. – As soon as practicable after the date of enactment of this paragraph [November 12, 1996], the Secretary of the Interior shall file a map and legal description of the Area with the Committee on Energy and Natural Resources of the Senate and the Committee on [P.L. 106-176, 2000] Resources of the House of Representatives.

(2) Force and Effect. – The map and legal description described in paragraph (1) shall have the same force and effect as if included in this Act.

(3) Technical Corrections. – The Secretary of the Interior may correct clerical, typographical, and cartographical errors in the map and legal description subsequent to filing the map pursuant to paragraph (1).

(4) Public Inspection. – The map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior.

(c) Management. –

(1) In General. – The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall manage the Area–

(A) to protect the resources within the Area; and

(B) in accordance with this Act, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable provisions of law.

(2) Mining. –

(A) Withdrawal. – Subject to valid existing rights, the lands within the Area are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, geothermal leasing, and mineral material sales.

(B) Coal Preference Rights. – The Secretary of the Interior is authorized to issue coal leases in New Mexico in exchange for any preference right coal lease application within the Area. Such exchanges shall be made in accordance with applicable existing laws and regulations relating to coal leases after a determination has been made by the Secretary that the applicant is entitled to a preference right lease and that the exchange is in the public interest.

(C) Oil and Gas Leases. – Operations on oil and gas leases issued prior to the date of enactment of this paragraph [November 12, 1996], shall be subject to the applicable provisions of Group 3100 of title 43, Code of Federal Regulations (including section 3162.5-1), and such other terms, stipulations, and conditions as the Secretary of the Interior considers necessary to avoid significant disturbance of the land surface or impairment of

the natural, educational, and scientific research values of the Area in existence on the date of enactment of this paragraph [November 12, 1996].

(3) Grazing. – Livestock grazing on lands within the Area may not be permitted.

(d) Inventory. – Not later than 3 full fiscal years after the date of enactment of this subsection [November 12, 1996], the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall develop a baseline inventory of all categories of fossil resources within the Area. After the inventory is developed, the Secretary shall conduct monitoring surveys at intervals specified in the management plan developed for the Area in accordance with subsection (e).

(e) Management Plan. –

(1) In General. – Not later than 5 years after the date of enactment of this act [November 12, 1996], the Secretary of the Interior shall develop and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on [P.L. 106-176, 2000] Resources of the House of Representatives a management plan that describes the appropriate use of the Area consistent with this subsection [P.L. 106-176, 2000].

(2) Contents. – The management plan shall include–

(A) a plan for the implementation of a continuing cooperative program with other agencies and groups for–

(i) laboratory and field interpretation; and

(ii) public education about the resources and values of the Area (including vertebrate fossils);

(B) provisions for vehicle management that are consistent with the purpose of the Area and that provide for the use of vehicles to the minimum extent necessary to accomplish an individual scientific project;

(C) procedures for the excavation and collection of fossil remains, including botanical fossils, and the use of motorized and mechanical equipment to the minimum extent necessary to accomplish an individual scientific project; and

(D) mitigation and reclamation standards for activities that disturb the surface to the detriment of scenic and environmental values.

TITLE VII

EFFECT ON EXISTING RIGHTS; REPEAL OF EXISTING LAWS; SEVERABILITY

EFFECT ON EXISTING RIGHTS

Sec. 701. [43 U.S.C. 1701 note] (a) Nothing in this Act, or in any amendment made by this Act, shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act.

(b) Notwithstanding any provision of this Act, in the event of conflict with or inconsistency between this Act and the Acts of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a-1181j), and May 24, 1939 (53 Stat. 753), insofar as they relate to management of timber resources, and disposition of revenues from lands and resources, the latter Acts shall prevail.

(c) All withdrawals, reservations, classifications, and designations in effect as of the date of approval of this Act shall remain in full force and effect until modified under the provisions of this Act or other applicable law.

(d) Nothing in this Act, or in any amendments made by this Act, shall be construed as permitting any person to place, or allow to be placed, spent oil shale, overburden, or byproducts from the recovery of other minerals found with oil shale, on any Federal land other than Federal land which has been leased for the recovery of shale oil under the Act of February 25, 1920 (41 Stat. 437, as amended; 30 U.S.C. 181 et seq.).

(e) Nothing in this Act shall be construed as modifying, revoking, or changing any provision of the Alaska Native Claims Settlement Act (85 Stat. 688, as amended; 43 U.S.C. 1601 et seq.).

(f) Nothing in this Act shall be deemed to repeal any existing law by implication.

(g) Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or–

(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on public lands;

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two or more States and the Federal Government;

(4) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources or to exercise licensing or regulatory functions in relation thereto;

(5) as modifying the terms of any interstate compact; or

(6) as a limitation upon any State criminal statute or upon the police power of the respective States, or as derogating the authority of a local police officer in the performance of his duties, or as depriving any State or political subdivision thereof of any right it may have to exercise civil and criminal jurisdiction on the national resource lands; or as amending, limiting, or infringing the existing laws providing grants of lands to the States.

(h) All actions by the Secretary concerned under this Act shall be subject to valid existing rights.

(i) The adequacy of reports required by this Act to be submitted to the Congress or its committees shall not be subject to judicial review.

(j) Nothing in this Act shall be construed as affecting the distribution of livestock grazing revenues to local governments under the Granger-Thye Act (64 Stat. 85, 16 U.S.C. 580h), under the

Act of May 23, 1908 (35 Stat. 260, as amended; 16 U.S.C. 500), under the Act of March 4, 1913 (37 Stat. 843, as amended; 16 U.S.C. 501), and under the Act of June 20, 1910 (36 Stat. 557).

REPEAL OF LAWS RELATING TO HOMESTEADING AND SMALL TRACTS

Sec. 702. Effective on and after the date of approval of this Act, the following statutes or parts of statutes are repealed except the effective date shall be on and after the tenth anniversary of the date of approval of this Act insofar as the listed homestead laws apply to public lands in Alaska:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1. Homesteads:				
Revised Statute 2289				161, 171.
Mar. 3, 1891	561	5	26:1097	161, 162.
Revised Statute 2290				162.
Revised Statute 2295				163.
Revised Statute 2291				164.
June 6, 1912	153		37:123	164, 169, 218
May 14, 1880	89		21:141	166, 185, 202, 223.
June 6, 1900	821		31:683	166, 223.
Aug. 9, 1912	280		37:267	
Apr. 6, 1914	51		38:312	167.
Mar. 1, 1921	90		41:1193	
Oct. 17, 1914	325		38:740	168.
Revised Statute				169.
Mar. 31, 1881	153		21:511	
Oct. 22, 1914	335		38:766	170.
Revised Statute 2292				171.
June 8, 1880	136		21:166	172.
Revised Statute				173.
Mar. 3, 1891	561	6	26:1098	
June 3, 1896	312	2	29:197	
Revised Statute 2288				174.
Mar. 3, 1891	561	3	26:1097	
Mar. 3, 1905	1424		36:991	
Revised Statute 2296				175.
Apr. 28, 1922	155		42:502	
May 17, 1900	479	1	31:179	179.
Jan. 26, 1901	180		31:740	180.
Sept. 5, 1914	294		38:712	182.
Revised Statute 2300				183.
Aug. 31, 1918	166	8	40:957	
Sept. 13, 1918	173		40:960	
Revised Statute 2302				184, 201.
July 26,1892	251		27:270	185.
Feb. 14, 1920	76		41:434	186.
Jan. 21, 1922	32		42:358	
Dec. 28, 1922	19		42:1067	
June 12, 1930	471		46:580	
Feb. 25, 1925	326		43:081	187.
June 21, 1934	690		48:1185	187a.
May 22, 1902	821	2	32:203	187b.
June 5, 1900	716		31:27	188, 217.
Mar. 3, 1875	131	15	18:420	189.
July 4, 1884	180	Only last paragraph of sec. 1.	23: 96	190.
Mar. 1, 1933	160	1	47:1418	190a.

The following words only: "Provided, That no further allotments of lands to Indians on the public domain shall be made in San Juan County, Utah, nor shall further Indian homesteads be made in said county under the Act of July 4, 1884 (23 Stat. 96; U.S.C. title 48, sec. 190)."

Revised Statutes 2310, 2311				191.
June 13, 1902	1080		32:384	203.
Mar. 3, 1879	191		20:472	204.
July 1, 1879	60		21:46	205.
May 6, 1886	88		24:22	206.
Aug. 21, 1916	361		39:518	207.
June 3, 1924	240		43:357	208.
Revised Statute 2298				211.
Aug. 30, 1890	837		26:391	212.

The following words only: "No person who shall after the passage of this act, enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but his limitation shall not operate to curtail

the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry or settlement, is validated by this act:"

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 3, 1891	561	17	26: 1101	

The following words only: "and that the provision of 'An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes,' which reads as follows, viz: ' No person who shall after the passage of this act enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate under all said laws,' shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands and not to include lands entered or sought to be entered under mineral land laws."

Apr. 28, 1904	1776		33:527	213.
Aug. 3, 1950	521		64:398	
Mar. 2, 1889	381	6	25:854	214.
Feb. 20, 1917	98		39:925	215.
Mar. 4, 1921	162	1	41:1433	216.
Feb. 19, 1909	160		35:639	218.
June 13, 1912	166		37:132	
Mar. 3, 1915	84		38:953	
Mar. 3, 1915	91		38:957	
Mar. 4, 1915	150	2	38:1163	
July 3, 1916	220		39:344	
Feb. 11, 1913	39		37:666	218, 219.
June 17, 1910	298		36:531	219.
Mar. 3, 1915	91		38:957	
Sept. 5, 1916	440		39:724	
Aug. 10, 1917	52	10	40:275	
Mar. 4, 1915	150	1	38:1162	220.
Mar. 4, 1923	245	1	42:1445	222.
Apr. 28, 1904	1801		33:547	224.
Mar. 2, 1907	2527		34:1224	
May 29, 1908	220	7	35:466	
Aug. 24, 1912	371		37:499	
Aug. 22, 1914	270		38:704	231.
Feb. 25, 1919	21		40:1153	
July 3, 1916	214		39:341	232.
Sept. 29, 1919	64		41:288	233.
Apr. 6, 1922	122		42:491	233, 272, 273.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 2, 1889	381	3	25:854	234.
Dec. 29, 1894	14		28:599	
July 1, 1879	63	1	21:48	235.
Dec. 20, 1917	6		40:430	236.
Jult 24, 1919	126	Next to last paragraph only.	41:271	237.
Mar. 2, 1932	69		47:59	237a.
May 21, 1934	320		48:787	237b.
May 25, 1935	135		49:286	237c.
Aug. 19, 1935	560		49:659	237d.
Mar. 31, 1938	57		52:149	
Apr. 20, 1936	239		49:1235	237e
July 30, 1956	778	1, 2, 4	70:715	237f,g,h.
Mar. 1, 1921	102		41:1202	238.
Apr. 7, 1922	125		42:492	
Revised Statute				239.
June 16, 1898	458		30:473	240.
Aug. 29, 1916	420		39:671	
Apr. 7, 1930	108		46:144	243.
Mar. 3, 1933	198		47:1424	243a.
Mar. 3, 1879	192		20:472	251.
Mar. 2, 1889	381	7	25:855	252.
June 3, 1878	152		20:91	253.
Revised Statute 2294				254.
May 26, 1890	355		26:121	
Mar. 11, 1902	182		32:63	
Mar. 4, 1904	394		33:59	
Feb. 23, 1923	105		42:1281	
Revised Statute 2293				255.
Oct. 6, 1917	86		40:391	
Mar. 4, 1913	149	Only last paragraph of section headed "Public Land Service."	37:925	256.
May 13, 1932	178		47:153	256a.
June 16, 1933	99		48:274	
June 26, 1935	419		49:504	
June 16, 1937	361		50:303	
Aug. 27, 1935	770		49:909	256b.
Sept. 30, 1890	J. Res. 59		26:684	261.
June 16, 1880	244		21:287	263.
Apr. 18, 1904	25		33:589	
Revised Statute 2304				271.
Mar. 1, 1901	674		31:847	271, 272.
Revised Statute 2305				272.
Feb. 25, 1919	37		40:1161	272a.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Dec. 28, 1922	19		42:1067	
Revised Statute 2306				274.
Mar. 3, 1893	208		27:593	275.

The following words only: "And provided further: That where soldier's additional homestead entries have been made or initiated upon certificate of the Commissioner of the General Land Office of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land: but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate."

Aug. 18, 1894	301	Only last paragraph of section headed "Surveying the Public Lands."	28:397	276.
Revised Statute 2309				277.
Revised Statute 2307				278.
Sept. 21, 1922	357		42:990	
Sept. 27, 1944	421		58:747	279-283.
June 25, 1946	474		60:308	279.
May 31, 1947	88		61:123	279, 280, 282.
June 18, 1954	306		68:253	279, 282.
June 3, 1948	399		62:305	283, 284.
Dec. 29, 1916	9	1 - 8	39:862	291-298.
Feb. 28, 1931	328		46:1454	291.
June 9, 1933	53		48:119	291.
June 6, 1924	274		46:469	292.
Oct. 25, 1918	195		40:1016	293.
Sept. 29, 1919	63		41:287	294, 295.
Mar. 4, 1923	245	2	42:1445	302.
Aug. 21, 1916	361		39:518	1075.
Aug. 28, 1937	876	3	50:875	1181c.
2. Small tracts:				
June 1, 1938	317		52:609	682a-e.
June 8, 1954	270		68:239	
July 14, 1945	298		59: 467	

REPEAL OF LAWS RELATED TO DISPOSAL

Sec. 703. (a) Effective on and after the tenth anniversary of the date of approval of this Act, the statutes and parts of statutes listed below as "Alaska Settlement Laws," and effective on and after the date of approval of this Act, the remainder of the following statutes and parts of statutes are hereby repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1. Sale and Disposal laws:				
Mar. 3, 1891	561	9	26: 1099	671.
Revised Statute 2354				673.
Revised Statute 2355				674.
May 18, 1898	344	2	30:418	675.
Revised Statute 2365				676.
Revised Statute 2357				678.
June 15, 1880	227	3, 4	21:238	679-680.
Mar. 2, 1889	381	4	25:854	681.
Mar. 1, 1907	2286		34:1052	682.
Revised Statute 2361				688.
Revised Statute 2362				689.
Revised Statute 2363				690.
Revised Statute 2368				691.
Revised Statute 2366				692.
Revised Statute 2369				693.
Revised Statute 2370				694.
Revised Statute 2371				695.
Revised Statute 2374				696.
Revised Statute 2372				697.
Feb. 24, 1909	181		35:645	
May 21, 1926	353	The 2 provisos only.	44:591	

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Revised Statute 2375				698.
Revised Statute 2376				699.
Mar. 2, 1889	381	1	25:854	700.
2. Townsite Reservation and Sale:				
Revised Statute 2380				711.
Revised Statute 2381				712.
Revised Statute 2382				713.
Aug. 24, 1954	904		68:792	
Revised Statute 2383				714.
Revised Statute 2384				715.
Revised Statute 2386				717.
Revised Statute 2387				718.
Revised Statute 2388				719.
Revised Statute 2389				720.
Revised Statute 2391				721.
Revised Statute 2392				722.
Revised Statute 2393				723.
Revised Statute 2394				724.
Mar. 3, 1877	113	1, 3, 4	19:392	725-727.
Mar. 3, 1891	561	16	26:1101	728.
July 9, 1914	138		38:454	730.
Feb. 9, 1903	531		32:820	731.
3. Drainage Under State Laws:				
May 20, 1908	181	1-7	35:171	1021-1027.
Mar. 3, 1919	113		40:1321	1028.
May 1, 1958	P.L. 85-387		72:99	1029-1034.
Jan. 17, 1920	47		41:392	1041-1048.
4. Abandoned Military Reservation:				
July 5, 1884	214	5	23:104	1074.
Aug. 21, 1916	361		39:518	1075.
Mar. 3, 1893	208		27:593	1076.

The following words only: “Provided, That the President is hereby authorized by proclamation to withhold from sale and grant for public use to the municipal corporation in which the same is situated all or any portion of any abandoned military reservation not exceeding twenty acres in one place.”

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Aug. 23, 1894	314		23:491	1077, 1078.
Feb. 11, 1903	543		32:822	1079.
Feb. 15, 1895	92		28:664	1080, 1077.
Apr. 23, 1904	1496		33:306	1081.
5. Public Lands; Oklahoma:				
May 2, 1890	182	Last paragraph of sec. 18 and secs. 20, 21, 22, 24, 27.	26:90	1091-1094, 1096, 1097.
Mar. 3, 1891	543	16	26:1026	1098.
Aug. 7, 1946	772	1,2	60:872	1100-1101.
Aug. 3, 1955	498	1-8	69:445	1102-1102g.
May 14, 1890	207		26:109	1111-1117.
Sept. 1, 1893	J. Res. 4		28:11	1118.
May 11, 1896	168	1,2	29:116	1119.
Jan. 18, 1897	62	1-3, 5, 7	29:490	1131-1134.
June 23, 1897	8		30:105	
Mar. 1, 1899	328		30:966	
6. Sales of Isolated Tracts:				
Revised Statute 2455				1171.
Feb. 26, 1895	133		28:687	
June 27, 1906	3554		34:517	
Mar. 28, 1912	67		37:77	
Mar. 9, 1928	164		45:253	
June 28, 1934	865	14	48:1274	
July 30, 1947	383		61:630	
Apr. 24, 1928	428		45:457	1171a.
May 23, 1930	313		46:377	1171b.
Feb. 4, 1919	13		40:1055	1172.
May 10, 1920	178		41:595	1173.
Aug. 11, 1921	62		42:159	1175.
May 19, 1926	337		44:566	1176.
Feb. 14, 1931	170		46:1105	1177.
7. Alaska Special Laws:				
Mar. 3, 1891	561	11	26:1099	732.
May 25, 1926	379		44:629	733-736.
May 29, 1963	P.L. 88-34		77:52	
July 24, 1947	305		61:414	738.
Aug. 17, 1961	P.L.87-147		75:384	270-13.
Oct. 3, 1962	P.L. 87-742		76:740	
July 19, 1963	P.L. 86-66		77:80	687b-5.
May 14, 1898	299	1	30:409	270.
Mar. 3, 1903	1002		32:1028	
Apr. 29, 1950	137	1	64:94	
Aug. 3, 1955	496		69:444	270, 687a-2
Apr. 29, 1950	137	2-5	64:95	270-5, 260-6, 270-7, 687a-1.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
July 11, 1956	571	2	70:529	270-7.
July 8, 1916	228		39:352	270-8, 270-9.
June 28, 1918	110		40:632	270-10, 270-14.
July 11, 1956	571	1	70:528	
8. Alaska Settlement Laws:				
Mar. 8, 1922	96	1	42:415	270-11.
Aug. 23, 1958	P.L. 85-725	1,4	72:730	
Apr. 13, 1926	121		44:243	270-15.
Apr. 29, 1950	134	3	64:93	270-16, 270-17.
May 14, 1898	299	10	30:413	270-4, 687a to 687a-5.
Mar. 3, 1927	323		44:1364	
May 26, 1934	357		48:809	
Aug. 23, 1958	P.L. 85-725	3	72:730	
Mar. 3, 1891	561	13	26:1100	687a-6.
Aug. 30, 1949	521		63:679	687b to 687b-4.
9. Pittman Underground Water Act:				
Sept. 22, 1922	400		42:1012	356.

(c) [43 U.S.C. 270–12, 270–12 note] Effective on and after the tenth anniversary of the date of approval of this Act, section 2 of the Act of March 8, 1922 (42 Stat. 415, 416), as amended by section 2 of the Act of August 23, 1958 (72 Stat. 730), is further amended to read:

"The coal, oil, or gas deposits reserved to the United States in accordance with the Act of March 8, 1922 (42 Stat. 415; 43 U.S.C. 270–11 et seq.), as added to by the Act of August 17, 1961 (75 Stat. 384; 43 U.S.C. 270–13), and amended by the Act of October 3, 1962 (76 Stat. 740; 43 U.S.C. 270–13), shall be subject to disposal by the United States in accordance with the provisions of the laws applicable to coal, oil, or gas deposits or coal, oil, or gas lands in Alaska in force at the time of such disposal. Any person qualified to acquire coal, oil, or gas deposits, or the right to mine or remove the coal or to drill for and remove the oil or gas under the laws of the United States shall have the right at all times to enter upon the lands patented under the Act of March 8, 1922, as amended, and in accordance with the provisions hereof, for the purpose of prospecting for coal, oil, or gas therein, upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal, oil, or gas deposits in any such land, or the right to mine, drill for, or remove the same, may reenter and occupy so much of the surface thereof incident to the mining and removal of the coal, oil, or gas therefrom, and mine and remove the coal or drill for and remove oil and gas upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: *Provided*, That the owner under such limited patent shall have the right to mine the coal for use on the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits: *Provided further,* That nothing in this Act shall be construed as authorizing the exploration upon or entry of any coal deposits withdrawn from such exploration and purchase."

(d) Section 3 of the Act of August 30, 1949 (63 Stat. 679; 43 U.S.C. 687b et seq.), [43 U.S.C. 687b-2] is amended to read:

"Notwithstanding the provisions of any Act of Congress to the contrary, any person who prospects for, mines, or removes any minerals from any land disposed of under the Act of August 30, 1949 (63 Stat. 679), shall be liable for any damage that may be caused to the value of the land and tangible improvements thereon by such prospecting for, mining, or removal of minerals. Nothing in this section shall be construed to impair any vested right in existence on August 30, 1949."

REPEAL OF WITHDRAWAL LAWS

Sec. 704. (a) Effective on and after the date of approval of this Act, the implied authority of the President to make withdrawals and reservations resulting from acquiescence of the Congress (U.S. v. Midwest Oil Co., 236 U.S. 459) and the following statutes and parts of statutes are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Oct. 2, 1888	1069		25: 527	662.

Only the following portion under the section headed U.S. Geological Survey: The last sentence of

the paragraph relating to investigation of irrigable lands in the arid region, including the proviso at the end thereof.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 3,1891	561	24	26: 1103	16 U.S.C. 471.
Mar. 1, 1893	183	21	27: 510	33 U.S.C. 681.
Aug. 18, 1894	301	4	28: 422	641.

Only that portion of the first sentence of the second paragraph beginning with "and the Secretary of the Interior" and ending with "shall not be approved."

May 14, 1898	299	10	30: 413	687a-4.

Only the fifth proviso of the first paragraph.

June 17, 1902	1093	3	32: 388	416.

Only that portion of section three preceding the first proviso.

Apr. 16, 1906	1631	1	34: 116	561.

Only the words "withdraw from public entry any lands needed for townsite purposes", and also after the word "case", the word "and."

June 27, 1906	3559	4	34: 520	561.

Only the words "withdraw and."

Mar. 15, 1910	96		36: 237	643.
June 25, 1910	421	1, 2	36: 847	141,142,16 U.S.C. 471(a).

All except the second and third provisos.

June 25, 1914	431	13	36: 858	148.
Mar. 12, 1914	37	1	38: 305	975b.

Only that portion which authorizes the President to withdraw, locate, and dispose of lands for townsites.

Oct. 5, 1914	316	1	38: 727	569(a).
June 9, 1916	137	2	39: 219	

Under "Class One," only the words "withdrawal and."

Dec. 29, 1916	9	10	39:865	300.
June 7, 1924	348	9	43:655	16 U.S.C. 471.
Aug. 19, 1935	561	"Sec. 4"	49:661	22 U.S.C. 277c.

In "Sec. 4," only paragraph "c" except the proviso thereof.

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 3, 1927	299	4	44: 1347	25 U.S.C. 389d.

Only the proviso thereof.

May 24, 1928	729	4	45: 729	49 U.S.C. 214.
Dec. 21, 1928	42	9	45: 1063	617h.
Mar. 6, 1946	58		69: 36	617h.

First sentence only.

June 16, 1934	557	"Sec. 40(a)"	48: 977	30 U.S.C. 229a.

The proviso only.

May 1, 1936	254	2	49: 1250	
May 31, 1938	304		52: 593	25 U.S.C. 497.
July 20, 1939	334		53: 1071	16 U.S.C. 471b.
May 28, 1940	220	1	54: 224	16 U.S.C. 552a.

All except the second proviso.

Apr. 11, 1956	203	8	70: 110	620g.

Only the words "and to withdraw public lands from entry or other disposition under the public land laws."

Aug. 10, 1956	Chapter 949	9772	70A: 588	10 U.S.C. 4472, 9772.
Aug. 16, 1952	P.L. 87-590	4	76:389	616c.

Only the words "and to withdraw public lands from entry or other disposition under the public land laws."

(b) The second sentence of the Act of March 6, 1946 (60 Stat. 36; 43 U.S.C. 617(h)), [43 U.S.C. 617h] is amended by deleting "Thereafter, at the direction of the Secretary of the Interior, such lands" and by substituting therefor the following: "Lands found to be practicable of irrigation and reclamation by irrigation works and withdrawn under the Act of March 6, 1946 (43 U.S.C. 617(h))."

REPEAL OF LAW RELATING TO ADMINISTRATION OF PUBLIC LANDS

Sec. 705. (a) Effective on and after the date of approval of this Act, the following statutes or parts of statutes are repealed:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
1.Mar. 2,1895	174		28:744	176.
2. June 28,1934	865	8	48:1272	315g.
June 26, 1936	842	3	49:1976, title I	
June 19, 1948	548	1	62:533	
July 9, 1962	P.L.87-524		76:140	315g-1.
3.Aug. 24, 1937	744		50:748	315p.
4.Mar. 3, 1909	271	2d proviso only.	35:845	772.
June 25, 1910	J.Res. 40		36:884	
5. June 21, 1934	689		48:1185	871a.
6. Revised Statute 2447				1151.
Revised Statute 2448				1152.
7.June 6, 1874	223		18:62	1153; 1154.
8.Jan. 28, 1879	30		20:274	1155.
9. May 30, 1894	87		28:84	1156.
10. Revised Statute 2471				1191.
Revised Statute 2472				1192.
Revised Statute 2473				1193.
11. July 14, 1960	P.L. 86-649	101-202(a) ,203-204(a), 301-303.	74:506	1361, 1362, 1363-1383.
12. Sept. 26, 1970	P.L. 91-429		84:885	1362a.
13. July 31, 1939	401	1,2	53:1144	
Revised Statute 2339				661.

The following words only: "and the right-of-way for the construction of ditches and canals for the purpose herein specified is acknowledged and confirmed: but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damages shall be liable to the party injured for such injury or damage."

Revised Statute 2340				661.

The following words only: ", or rights to ditches and reservoirs used in connection with such water rights,"

Feb. 26, 1897	335		29: 599	664.
Mar. 3, 1899	427	1	30: 1233	665, 958, (16 U.S.C. 525).

The following words only: "that in the form provided by existing law the Secretary of the Interior may file and approve surveys and plots of any right-of-way for a wagon road, railroad, or other highway over and across any forest reservation or reservoirs site when in his judgment the public interests will not be injuriously affected thereby."

Mar. 3, 1875	152		18:482	934-939.
May 14, 1898	299	2-9	30:409	942-1 to 942-9.
Feb. 27, 1901	614		31:815	943.
June 26, 1906	3548		34:481	944.
Mar. 3, 1891	561	18-21	26:1101	946-949.
Mar. 4, 1917	184	1	39:1197	
May 28, 1926	409		44:668	
Mar. 1, 1921	93		41:1194	950.
Jan. 13, 1897	11		20:484	952-955.
Mar. 3, 1923	219		42:1437	
Jan. 21, 1895	37		28:635	951, 956, 957.
May 14, 1896	179		29:120	
May 11, 1898	292		30:404	
Mar. 4, 1917	184	2	39:1197	
Feb. 15, 1901	372		31:790	959 (16 U.S.C. 79, 522).

REPEAL OF LAWS RELATING TO RIGHTS-OF-WAY

Sec. 706. (a) Effective on and after the date of approval of this Act, R.S. 2477 (43 U.S.C. 932) is repealed in its entirety and the following statutes or parts of statutes are repealed insofar as they apply to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System:

Act of	Chapter	Section	Statute at Large	43 U.S. Code
Mar. 4, 1911	238		36:1253	951 (16 U.S.C. 5, 420, 523).

Only the last two paragraphs under the subheading "Improvement of the National Forests" under the heading "Forest Service."

May 27, 1952	338		66: 95	
May 21, 1896	212		29: 127	962-965.
Apr. 12, 1910	155		36: 296	966–970.
June 4, 1897	2	1	30: 35	16 U.S.C. 551.

Only the eleventh paragraph under Surveying the public lands.

July 22, 1937	517	31, 32	50:525	7 U.S.C. 1010-1012.
Sept. 3, 1954	1255	1	68:1146	931c.
July 7, 1960	Public Law 86-608.		74:363	40 U.S.C. 345c
Oct. 23, 1962	Public Law 87-852.	1-3	76:1129	40 U.S.C 319-319c.
Feb. 1, 1905	288	4	33:628	16 U.S.C. 524.

(b) Nothing in section 706(a), [43 U.S.C. 1701 note] except as it pertains to rights-of-way, may be construed as affecting the authority of the Secretary of Agriculture under the Act of June 4, 1897 (30 Stat. 35, as amended, 16 U.S.C. 551); the Act of July 22, 1937 (50 Stat. 525, as amended, 7 U.S.C. 1010–1212); or the Act of September 3, 1954 (68 Stat. 1146, 43 U.S.C. 931c).

SEVERABILITY

Sec. 707. If any provision of this Act [43 U.S.C. 1701 note] or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby.

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94–1163 accompanying H.R. 13777 (Comm. on Interior and Insular Affairs) and No. 94–1724 (Comm. of Conference).

SENATE REPORT No. 94–583 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976): Feb. 23, 25, considered and passed Senate. July 22, considered and passed House, amended, in lieu of H.R. 13777. Sept. 30, House agreed to conference report. Oct. 1, Senate agreed to conference report.

PL 94-579, 1976 S 507

Remembering Eleanor Schwartz

(1912–2000)

Commemoration of the 25th anniversary of the passage of FLPMA would be incomplete without also celebrating the life and contributions of a woman who helped legislators craft the bill that would fundamentally change the way our public lands are managed. Eleanor Schwartz, who worked with the Bureau of Land Management (BLM) until her death in December 2000 at age 88, was head of the BLM's Office of Legislative and Regulatory Management for many years, including the period during which FLPMA was initially conceived, drafted, and eventually passed.

Schwartz, an attorney who joined the Department of the Interior in 1962, was instrumental in assisting legislators on the technical and legal aspects of the Act. Her work ethic and ability to assimilate into what was then a male-dominated agency paid off when she became the first woman GS-15 in BLM history.

Throughout her tenure at Interior, she remained active in the field of Equal Employment Opportunity, serving as the Federal Women's Coordinator for the BLM. She was honored twice with Interior's highest commendation, the Distinguished Service Award, which recognized, among other accomplishments, her work on the Federal Land Policy and Management Act.

In her passing, the BLM not only lost a devoted worker but also an institutional memory that can not be replaced.

BLM Photo

Eleanor Schwartz receives a Federal Women's Award from Boyd Rasmussen (BLM Director 1966–1971).

A Capsule Examination of the Legislative History of the Federal Land Policy and Management Act of 1976

*Eleanor R. Schwartz**

Eleanor Schwartz, A Capsule Examination of the Legislative History of the Federal Land Policy and Management Act (FLPMA) of 1976, 21 ARIZ. L. Rev. 285 (1979).

The "organic act" originally proposed by the Administration in 1971 for the Bureau of Land Management (BLM) was a relatively simple document.[1] The proposed legislation would have repealed several hundred outdated and duplicative laws, provided BLM with broad policy guidelines and management tools, and given BLM disposal and enforcement authority. However, by the time the Federal Land Policy and Management Act (FLPMA) was passed in 1976, it had become a lengthy, complex document, much more than an organic act.[2] In addition to broad management guidelines and authority, FLPMA provides legislative direction to numerous specific interests and areas of management.

Perhaps in recognition of the importance of the Act, particularly to the western states and because of its complex origins, the Senate Committee on Energy and Natural Resources in 1978 published a committee print, Legislative History of the Federal Land Policy and Management Act of 1976.[3] Prefacing the document is a memorandum in which Senator Henry M. Jackson, Chairman, summarizes for fellow committee members the background and need for the Act. He concludes with this statement:

> The Federal Land Policy and Management Act of 1976 represents a landmark achievement in the management of the public lands of the United States. For the first time in the long history of the public lands, one law provides comprehensive authority and guidelines for the administration and protection of the Federal lands and their resources under the jurisdiction of the Bureau of Land Management. This law enunciates a Federal policy of retention of these lands for multiple use management and repeals many obsolete public land laws which heretofore hindered effective land use planning for and management of public lands. The policies contained in the Federal Land Policy and Management Act will shape the future development and conservation of a valuable national asset, our public lands.[4]

Much has been written about the significance of the Federal Land Policy and Management Act, its meaning and impact, and its relationship to the report, *One Third of the Nation's Land*, issued in June 1970 by the Public Land Law Review Commission. This Article will discuss briefly the legislative history of the policies and provisions set forth in the Act.

Curiously, recreation was the subject of the first piece of public land legislation that might be considered a predecessor of FLPMA. In February 1970, Senators Jackson and Moss introduced into the 91st Congress a bill designed to improve outdoor recreation activities on the public lands administered by the Bureau of Land Management. The bill, S.3389, was passed by the Senate on

---

* Chief, Office of Legislation and Regulatory Management, Bureau of Land Management, Department of the Interior. B.A. 1931, Hunter College; J.D. 1937, New York University. Member of the New York Bar.

1. *See* S. 2401, 92d Cong., 1st Sess., 117 CONG. REC. 28956, 28957 (1971).

2. *See* 43 U.S. C. __ 1701-1782 (9176).

3. SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES, 95TH CONG., 2D SESS., LEGISLATIVE HISTORY OF THE FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976 (1978).

4. *Id*. at vi.

October 7, 1970,[5] about four months after the report by the Public Land Law Review Commission was released. The Senate committee's report on S.3389 acknowledged that the bill embodied some of the recommendations made by the Public Land Law Review Commission. The report identified needs of the public lands and shortcomings of management:

> Years of neglect have created many problems on the public lands administered by the Bureau of Land Management. Lack of regulations and enforcement authority have resulted in wanton vandalism and destruction of resources. Lack of sanitation facilities has created health hazards. Littering, overuse, and neglect have created unsightly blights on the landscape. Lack of public access has locked up millions of acres of public land for the private use of but a few, and many outstanding hunting, fishing, and other recreation opportunities are not available. As a result of the lack of enforcement authority and interpretive and restoration work, irreplaceable archeological values have been lost.[6]

S. 3389 recognized that the public lands administered by BLM are vital national assets that contain a wide variety of natural resource values, including outdoor recreation value, which should be developed and administered "for multiple use and sustained yield of the several products obtainable therefrom for the maximum benefit of the general public."[7] The bill contained a definition of multiple use,[8] which in substantial parts is the same as the definition in FLPMA,[9] and a definition of sustained yield[10] also similar to that in FLPMA.[11]

S. 3389 would have given the Secretary of the Interior the authority to acquire lands or interests necessary to provide access by the general public to public lands for outdoor recreational purposes. It also would have authorized allocation of Land and Water Conservation Fund money for this purpose.[12] Of more interest perhaps is the fact that S. 3389 would have provided comprehensive enforcement authority to the Bureau of Land Management. It made violations of public land laws and regulations of the Secretary relating to the protection of the public lands a violation punishable by a fine of not more than $500 or imprisonment for not more than six months or both.[13] It also provided that the Secretary could authorize BLM personnel to make arrests for violations of laws and regulations.[14]

No action was taken on S. 3389 by the House of Representatives.

In the 92d Congress, the Interior and Insular Affairs Committees of both the House and the Senate reported out bills relating to the management of the public lands. The Senate committee had before it two bills: Senators Jackson, Anderson, Cranston, Hart, Humphrey, Magnuson, Metcalf, and Nelson co-sponsored a bill, S. 921, "[t]o provide for the management, protection, and development of the national resource lands, and for other purposes."[15] At the same time, Senators Jackson and Allott co-sponsored at the Administration's request S. 2401 "[to provide for the management, protection and development of the national resource lands, and for other purposes."[16]

As its title indicated, S. 921 addressed not only the management of the public lands but also the disposal of federally owned minerals. Title II of

5. S. 3389, 91st Cong., 2d Sess., 116 CONG. REC. 35401 (1970).
6. S. REP. No. 91-1256, 91st Cong., 2d Sess. 2 (1970).
7. S. 3389, 91st Cong., 2d Sess. § 2, 116 CONG. REC. 35401 (1970).
8. *Id* § 3(b), 116 CONG. REC. at 35402.
9. 43 U.S. C. § 1702(c) (1976).
10. S. 3389, 91st Cong., 2d Sess § 3(c), 116 CONG. REC. 35401, 35402 (1970).
11. 43 U.S.C. § 1702(h) (1976).
12. S. 3389, 91st Cong., 2d Sess § 4(b), 116 CONG. REC. 35401, 35402 (1970).
13. *Id*. § 5, 116 CONG. REC. at 35402.
14. *Id*. § 6, 116 CONG. REC. at 35402.
15. S. 921, 92d Cong., 1st Sess., 117 CONG. REC. 3558-61 (1971).
16. S. 2401, 92d Cong., 1st Sess., 117 CONG. REC. 28956 (1971). S. 2401 referred to the lands administered by the Bureau of Land Management as "national resource lands." This term was being used at the time by the Bureau and the Department of the Interior in an effort to establish a more representative and mission-oriented identification for the lands than the less specific expression "public lands."

that bill would have been cited as the "Federal Land Mineral Leasing Act of 1971." It would have replaced and repealed both the Mining Law of 1872 and the Mineral Leasing Act of 1920, as well as several other mineral-related laws. Since S. 2401 was the Administration's proposal, it will be described in somewhat more detail than other forerunners of FLPMA. This fuller analysis will afford a basis for comparison between what the Administration sought as an organic act for the Bureau of Land Management and what Congress finally enacted.

S. 2401 had a short two-paragraph declaration of Congressional policy: (1) that the national interest would best be served by retaining the national resource lands in federal ownership except where the Secretary of the Interior determined that disposal of particular tracts was consistent with the purposes, terms, and conditions of the Act, and (2) that the lands be managed under principles of multiple use and sustained yield in a manner which would, "using all practicable means and measures," protect the environmental quality of those lands to assure their continued value for present and future generations.[17]

The bill prohibited the use, occupancy, or development of the national resource lands contrary to any regulation issued by the Secretary or to any order issued under a regulation.[18] S. 2401 also specified that an inventory of all national resource lands and their resources be maintained and that priority be given to areas of critical environmental concern.[19] Development and maintenance of land use plans would be required and management of the lands would be in accordance with these plans. Specific guidelines were provided. These included, among others, a requirement for land reclamation as a condition of use and revocation of permits upon violation of secretarial regulations or state and federal air or water quality standards and implementation plans. Also included was a requirement for prompt development of regulations for the protection of areas of critical environmental concern.[20]

Another provision of S. 2401 authorized the Secretary to sell public lands if he found that the sale would lead to significant improvement in the management of national resource lands or if he found that it would serve important public objectives which could not be achieved prudently and feasibly on land other than national resource lands. Sales were to be made at not less than fair market value.[21] Generally, conveyances of title were to reserve minerals to the United States, together with the right to develop them. However, the Secretary could grant full fee title if he found there were no minerals on the land or that reservation of mineral rights would interfere with or preclude development of the land and that such development was a more beneficial use of the land than mineral development. The Secretary would also have been required to insert in document of conveyance terms and conditions he considered necessary to ensure proper land use, environmental integrity, and protection of the public interest. In the event an area which the Secretary identified as an area of critical environmental concern was conveyed out of federal ownership, the Secretary would be required to provide for the continued protection of the area in the patent or other document of conveyance.[22] Liberal acquisition and exchange authority was provided by the bill.[23]

S. 2401, as introduced, would have made violations of regulations adopted to protect national resource lands, other public property and public health, safety and welfare a misdemeanor punishable by a fine of not more than $10,000 or imprisonment for not more than one year or both. It would have allowed the Secretary to designate employees as special officers authorized to make arrests or serve citations for violations committed on the public lands.[24] The bill also provided for

17. S. 2401, 92d Cong., 1st Sess., § 3 (1971).
18. *Id.* § 4.
19. *Id.* § 5.
20. *Id.* § 7.
21. *Id.* § 8.
22. *Id.* § 9.
23. *Id.* § 10.
24. *Id.* § 11.

public hearings, where appropriate, to give federal, state, and local governments and the public an opportunity to comment on "the formulation of standards and criteria in the preparation and execution of plans and programs and in the management of the national resource lands."[25] It specifically required that any proposed "significant change in land use plans and regulations pertaining to areas of critical environmental concern be the subject of a public hearing."[26] Finally, the bill authorized the appropriation of such sums "as are necessary to carry out the purposes of this Act"[27] and repealed a long list of prior laws.[28]

As reported out by the Senate Committee on Interior and Insular Affairs, S. 2401 contained a few significant changes and additions. Specific examples of areas of critical environmental concern were deleted, leaving only a short definition of the term. The statement of congressional policy was expanded, and the fine for violation of a regulation was reduced to $1,000. There was a requirement that the Director of the Bureau of Land Management be appointed by the President, with the advice and consent of the Senate. The Director would have to possess a broad background and experience in public land and natural resources management.[29] There was no provision for repeal of any public land laws.[30]

Eight members voted for and four against reporting S. 2401 out of the Senate Committee on Interior and Insular Affairs. The minority statement of Senators Hansen, Fannin, Hatfield, and Bellmon expressed agreement with the comment of President Nixon in his 1972 Environmental Message that this type of legislation was "something which we have been without for too long."[31] However, these Senators felt that the legislation had been the subject of too little discussion by the Committee. They noted that the bill granted broad authority to the Secretary of the Interior, but just how broad this authority was had never been discussed. Their view was that the legislation was too important to deal with in a hasty manner, and that the Committee should have the opportunity to study and analyze the legislation during the next session of Congress.[32] As a matter of fact, the Committee studied, discussed, and analyzed the legislation for two more Congresses before an organic act was enacted into law. The full Senate did not consider S. 2401 in the 92d Congress. As will be seen, many provisions of S. 2401 considered by the 92d Congress were enacted in the Federal Land Policy and Management Act of 1976, sometimes with only subtle changes or differences in emphasis.

The Interior and Insular Affairs Committee of the House of Representatives followed a different approach in the 92d Congress. That committee did not consider the Administration proposal but considered and reported out instead H.R. 7211,[33] a bill that had been introduced by Chairman Wayne Aspinall on behalf of himself and Congressmen Baring, Taylor, Udall, and Kyl. Although as introduced, H.R. 7211 would have been cited as the "Public Land Policy Act of 1971," when it was reported out its title was changed to "National Land Policy, Planning, and Management Act of 1972." The reported bill was a comprehensive piece of legislation designed to reflect as many as possible of the policies and recommendations of the Public Land Law Review Commission.[34] Included was an extensive statement of findings, goals, and objectives.[35]

The stated objective of H.R. 7211 was to provide for an overall land use planning effort on the part of all public land management agencies and to

25. *Id.*
26. *Id.* § 15.
27. *Id.* § 18.
28. *Id* § 19.
29. *Id*
30. S. REP. No. 92-1163, 92d Cong., 2d Sess. § 19, at 5 (1972).
31. *Id.* at 51.
32. *Id.*
33. H.R. 7211, 92d Cong., 2d Sess., 118 CONG. REC. 27179 (1972).
34. *See* PUBLIC LAND LAW REVIEW COMMISSION, ONE THIRD OF THE NATION'S LAND (1970).
35. H. R. 7211, 92d Cong., 2d Sess. § 101, 118 CONG. REC. 27179 (1972).

strengthen management by providing statutory guidelines applicable to all agencies having jurisdiction over the public lands. The goal was management practices that would be more uniform, more easily administered, and more easily understood by the public.[36] Title II of the bill, "National Land Use Planning," provided for federal grants to eligible states to be used in developing comprehensive land use planning. The bill contained detailed descriptions of the requirements to be met, specific provision as to how and for what the funds allotted could be expended, specifications for financial record keeping, and provisions for termination or suspension of the grants if the Secretary found that the state's comprehensive land use planning process no longer met the requirements of the bill or that the state was making no substantial progress toward the development of a comprehensive land use planning process.[37]

Title III of H.R. 7211 addressed "Coordination of Land Use Planning and Policy." It would have established within the Department of the Interior an Office of Land Use Policy and Planning to administer the grant-in-aid program under Title II and to coordinate between Title II programs with the planning responsibilities of the federal government spelled out in Title IV. The Committee report on H.R. 7211 stated: "To insure the absence of any mission-orientation in such administration and coordination, the Office is separate from any existing bureau or agency in the Department."[38] The bill as reported out of Committee also would have established a complex advisory system that included a National Land Use Policy and Planning Board,[39] land use policy coordinators appointed by the Board members,[40] Departmental Advisory Committees,[41] and local advisory councils.[42]

Title IV of H.R. 7211 was "Public Land Policy and Planning." The term "public lands" was defined as "any lands owned by the United States without regard to how the United States acquired ownership, and without regard to the agency having responsibility for management thereof."[43] Excluded were lands held in trust for the Indians, Aleuts, and Eskimos and certain lands acquired by the General Services Administration and other federal agencies.[44] Thus, the coverage of H.R. 7211 was far broader than had been proposed in any other of the public land bills before the Congress. Because many of the lands encompassed by its definition were covered by existing statutes, the bill declared specifically that the policies therein were supplemental to and not in derogation of the purposes for which units of the National Park System, National Forest System, and National Wildlife Refuge System were established and administered and for which public lands were administered by departments other than Agriculture and the Interior in the fulfillment of their statutory obligations.[45]

Title IV of H.R. 7211 contained sixteen declarations of policy that were based generally on recommendations of the Public Land Law Review Commission. The House Committee in its report recognized that each of the declarations would require additional legislative and administrative action.[46] An anticipated five to ten years would be required for the Congress to consider all the recommendations of the Commission and to develop the specific and detailed statutory language necessary to implement the recommendations that Congress agreed to. H.R. 7211 was designed to establish a "policy framework" within which the legislation to implement each policy could be

36. H.R. REP. No. 1306, 92d Cong., 2d Sess. 39 (1972).
37. H.R. 7211, 92d Cong., 2d Sess. tit. II, 118 CONG. REC. 27179 (1972).
38. H.R. REP. No. 92-1306, 92d Cong., 2d Sess. 30 (1972).
39. H.R. 7211, 92d Cong., 1st Sess. § 303, 118 CONG. REC. 27179 (1972).
40. *Id*. § 304, 118 CONG. REC. at 27179.
41. *Id*. § 306, 118 CONG. REC. at 27179.
42. *Id*. § 307, 118 CONG. REC. at 27179.
43. *Id*. § 503(n), 118 CONG. REC. at 27179.
44. *Id*. § 503(n)(3), 118 CONG. REC. at 27179.
45. *Id*. § 401, 118 CONG. REC. at 27179.
46. H.R. REP. No. 92-1306, 92d Cong., 2d Sess. 35 (1972).

contained, so that future congressional action could be on a coordinated basis.[47]

The sixteen statements of policy are interesting as a reflection of the recommendations of the Public Land Law Review Commission and in the light of the legislation finally enacted by Congress. Stated briefly, as they appear in the report of the House Committee, these recommended policies are:

(1) Public lands generally be retained in federal ownership;

(2) public land classifications be reviewed to determine the type of use that will provide maximum benefit for the general public in accordance with overall land use planning goals;

(3) Executive withdrawals be reviewed to ascertain if they are of sufficient extent, adequately protected from encroachment, and in accordance with the overall land use planning goals of the Act, with a view toward securing a permanent statutory base for units of the National Park, Forest, and Wildlife Refuge Systems;

(4) Congress exercise withdrawal authority generally and establish specific guidelines for limited Executive withdrawals;

(5) public land management agencies be required to establish and adhere to administrative procedures;

(6) statutory land use planning guidelines be established providing for management of the public lands generally on the basis of multiple use and sustained yield;

(7) public lands be managed for protection of quality of scientific, scenic, historical, ecological, and archeological values; for preservation and protection of certain lands in their natural conditions; to reconcile competing demands; to provide habitat for fish and wildlife; and to provide for outdoor recreation;

(8) fair market value generally be received for the use of the public lands and their resources;

(9) equitable compensation be provided to users if use is interrupted prior to the end of the period for which use is permitted;

(10) an equitable system be devised to compensate state and local governments for burdens borne by reason of the tax immunity of the federal land;

(11) when public lands are managed to accomplish objectives unrelated to protection or development of public lands, the purpose and authority therefore be provided expressly by statute;

(12) administration of public land programs by various agencies be similar;

(13) uniform procedures for disposal, acquisition, and exchange be established by statute;

(14) regulations for protection of areas of critical environmental concern be developed; and that authorizations for use of the public lands provide for revocation upon violation of applicable regulations;

(15) persons engaging in extractive or other activities "likely to entail significant disturbance" be required to have a land reclamation plan and a performance bond guaranteeing such reclamation; and

(16) the public lands be administered uniformly as to use and contractual liability conditions, except when otherwise provided by law.[48]

In addition to the extensive declaration of policy, Title IV of H.R. 7211 contained provisions relating to inventory, planning, public land use, management directives, and executive withdrawals. The bill also provided enforcement authority to land managing agencies and made violations of regulations issued by an agency head with reference to public lands administered by him punishable by fine or imprisonment or both. Title V of H.R. 7211 contained appropriation authorization, the repeal of many prior public land laws, and a series of definitions of terms used.

Time did not permit consideration of H.R. 7211 by the full House before the 92d Congress ended.

47. *See id*. at 36.
48. *Id*. at 36-39.

In the 93d Congress, the Senate had before it S. 424,[49] which Senator Jackson introduced on behalf of himself and Senators Bennett, Church, Gurney, Haskell, Humphrey, Inouye, Metcalf, Moss, Pastore, and Tunney. The Senate also had the Administration's proposal, S. 1041.[50] On July 8, 1974, S. 424 was passed by the Senate by a vote of 71 to 1, with 28 members not voting.[51] S. 424, with very few changes, was reintroduced in the 94th Congress as S. 507.[52] The new bill applied only to national resource lands—those lands administered by the Bureau of Land Management except the Outer Continental Shelf.

S. 507 contained these basic provisions relating to land management:

(1) management of the national resource lands under principles of multiple use and sustained yield;

(2) a return of fair market value to the federal government for the use or sale of lands;

(3) inventory;

(4) emphasis on planning;

(5) authority to issue regulations;

(6) public participation;

(7) advisory boards;

(8) annual reports;

(9) general management authority with specific guidelines;

(10) sales authority;

(11) expanded exchange authority;

(12) authority to convey reserved mineral interests;

(13) reenactment of the Public Land Administration Act of 1960 to put all land managing authorities into one statute;

(14) authority to issue recordable disclaimers of interest and to issue and correct patents;

(15) to afford an opportunity to zone or otherwise regulate the use of land, a requirement to notify states and local governmental units with zoning authority of any proposal to convey lands;

(16) authority to acquire land;

(17) creation of a working capital fund;

(18) enforcement authority;

(19) authority in the Secretary to cooperate with state and local governments in the enforcement of state and local laws on national resource lands;

(20) special provisions for cadastral survey operations and resource protection;

(21) special provisions for long-range planning for the "California Desert Area";

(22) provisions for oil shale revenues;

(23) a complete consolidation and revision of the authority to grant rights-of-way; and

(24) repeal of disposal, rights-of-way, and other statutes which this law was replacing.

S. 507, as passed by the Senate in the 94th Congress on February 25, 1976,[53] had these additional provisions that were not in S. 424 in the 93d Congress:

(1) provisions for disposal of "omitted" lands;

(2) amendments to the Mineral Leasing Act of 1920 to increase the percentage of revenues paid to states;

(3) provision for mineral impact relief loans; and

(4) provisions for recordation of mining claims and a conclusive presumption that any recorded claim for which the claimant did not make application for a patent within ten years after recordation is abandoned and therefor void.

There were two points of particular interest in the Senate floor debate on S. 507. The first point involved an amendment by Senator McClure that would have deleted from the provisions relating to

49. S. 424, 93d Cong., 1st Sess., 119 CONG. REC. 1339 (1973).
50. S. 1041, 93d Cong., 1st Sess., 119 CONG. REC. 5741 (1973).
51. 120 CONG. REC. 22296 (1974).
52. S. 507, 94th Cong., 1st Sess., 121 CONG. REC. 1821 (1975).
53. 122 CONG. REC. 4423 (1976).

mining claims the requirement that application for patents for mining claims be made within ten years.[54] The second point of particular interest involved grazing fees. Senator Hansen introduced an amendment that incorporated a formula for establishing a fee for grazing of domestic livestock on the public lands. The issue was vigorously debated on February 23 and again on the 25th. The grazing fee was opposed by Senators Jackson and Metcalf and by the National Wildlife Federation and the American Forestry Association, all of whose letters of opposition appear in the Congressional Record.[55] The amendment was also opposed by the Administration and eventually was rejected 36 to 53.[56] On February 25, after this amendment was rejected, S. 507 was passed by the Senate 78 to 11, with 11 members not voting.[57]

During the 93d and 94th Congresses, the Interior and Insular Affairs Committee of the House of Representatives was taking a different approach to public land legislation. Under the leadership of Representative John Melcher as Chairman, the Subcommittee on Public Lands held a series of meetings during which the members discussed and debated what they believed should be included in a bill. The Committee staff put proposed provisions into legislative language as the sessions went along. Committee prints were prepared and circulated for comment. By the end of the 93d Congress, eight prints had been prepared. Congressman John Dellenback had prepared a series of correcting amendments to the last print, but Congress adjourned before all the amendments could be incorporated into a bill. Two bills were actually introduced – H.R. 16676 and then H.R. 16800, a clean bill which corrected some errors discovered in the earlier bill.

During the 94th Congress, the Public Lands Subcommittee of the House Interior Committee conducted additional work sessions that culminated in the introduction of H.R. 13777.[58] This bill as reported out by the Committee not only granted management and enforcement authorities to the Bureau for public lands under its jurisdiction but also applied to public domain lands in the National Forest System. Some of the provisions relating to the Forest Service System were deleted when the bill was debated on the floor of the House. Passed by the House on July 22, 1976,[59] H.R. 13777 contained all the now familiar provisions of previous bills plus many new ones. The new provisions included:

(1) a grazing fee formula applicable to BLM-administered lands and lands in the National Forest System;

(2) provisions relating to duration of grazing leases applicable to BLM and National Forest System lands;

(3) requirements for grazing advisory boards, applicable to both BLM and Forest Service;

(4) provisions relating to wild horses and burros, also applicable to both BLM and Forest Service;

---

54. Senator Haskell and Senator McClure debated the issue briefly. On the calling of the question, Senator Haskell noted the absence of a quorum. This led Senator McClure to withdraw his amendment saying:

> Mr. President, I know that the Senate as a whole will probably follow the lead of the committee. If we have a roll call on this, I would anticipate that the majority of them walking through these doors would never have heard of this question before and would be very apt to follow the lead of the committee under those circumstances. Under those circumstances, I think it is likely that the result can be forecast.
>
> In the expectation that this matter might be considered somewhat differently in the other body and with the full confidence that we can move forward on a comprehensive bill, perhaps before this bill has been passed and becomes law, I am suggesting, therefore, it might be varied by subsequent legislation or conference between the Senate and the other body on the Organic Act, and I will withdraw the amendment at this time.

112 CONG. REC. 4053 (1976). As Senator McClure anticipated, the provision was not in S. 507 as it passed the House. The conferees did not adopt the provision, and it is not in the Act.

55. 122 CONG. REC. 4419 (1976).

56. *Id*. at 4422.

57. *Id*. at 4423.

58. H.R. 13777, 94th Cong., 2d Sess., 122 CONG. REC. 13815 (1976).

59. 122 CONG. REC. 23483 (1976).

(5) amendment of what is frequently called the Unintentional Trespass Act;[60]

(6) provisions relating to the "California Desert Conservation Areas;" and

(7) the "King Range National Conservation Areas."[61] After the House passed H.R. 13777, S. 507 was considered, amended to read as H.R. 13777 did, and passed.[62]

As expected, the Senate disagreed to the amendments of the House and requested a conference. On July 30, 1976, Senate conferees were appointed: Jackson, Church, Metcalf, Johnston, Haskell, Bumpers, Hansen, Hatfield, and Fannin. Senator Fannin was replaced later by Senator McClure. Conferees from the House were Representatives Melcher, Johnson (California), Seiberling, Udall, Phillip Burton, Santini, Weaver, Steiger (Arizona), Clausen and Young (Alaska). At an organizational meeting held on August 30, 1976, Congressman Melcher was elected chairman. The conferees determined that because of all the primaries scheduled for early September, the first working session of the conferees could not be held until September 15. Staff were instructed to study the Senate and House versions of S. 407, identify areas of virtual agreement, outline areas of disagreement, and recommend alternatives for resolving those areas of disagreement.

The first difference in text addressed by the conferees was the short title of the Act. The title of the House amendment was "Federal Land Policy and Management Act of 1976." The title of the Senate amendment was "National Resource Lands Management Act." The Senate staff deferred to the House staff on the title, and the conferees concurred. The second issue involved the term to be used in referring to lands administered by the Bureau of Land Management. The conferees adopted the term used by the House—public lands—although they recognized, as the staff pointed out, that in the past that had been a confusing term, referring sometimes to public domain lands and other times to acquired lands. And so it went. During four sessions, on September 15, 20, 21, and 22 and spanning more than twelve hours, the conferees had extensive discussions but relatively little problem agreeing to language to be incorporated into the Act—with four major exceptions. These exceptions almost killed the Act.

The House version of the Act contained a grazing fee formula and a provision for ten-year grazing permits.[63] It also provided for grazing district advisory boards, as distinct from the multiple use advisory councils.[64] The Senate conferees, particularly Senator Metcalf, objected to these provisions. The Senate version of the Act contained a provision that required mining claimants to make application for patent within ten years after the date of recordation of the claim. If the claimant failed to do so, the claim would be conclusively presumed to be abandoned and would be void.[65] The House conferees, particularly Congressman Santini, objected to this.

These issues of grazing and mining were debated extensively on September 22nd. Before the end of that five-hour session, Senator Metcalf offered a "package compromise."[66] The proposed compromise required:

(1) that the grazing fee provisions be deleted from the bill—in effect that the House would accede to the Senate on Section 401;

(2) that the Senate agree with the House on the already adopted Metcalf/Santini amendment that all grazing leases be for ten years;

(3) that the conferees accept the grazing advisory boards with their functions limited to expenditure of range improvement fees;[67] and

60. 43 U.S. C. __ 1431-1435 (1976).

61. These add-ons have sometimes been called the "Christmas-tree amendments."

62. 122 CONG. REC. 23508 (1976).

63. H.R. 13777, 94th Cong., 1st Sess. __ 210, 211, 122 CONG. REC. 23447-48 (1976).

64. *Id* § 212, 122 CONG. REC. at 23448.

65. S. 507, 94th Cong., 1st Sess., § 207, 122 CONG. REC. 23497 (1976).

66. The proposal actually was brought to the conferees by D. Michael Harvey, Staff Counsel, because Senator Metcalf was at a meeting of the Committee on Committees.

67. Mr. Harvey noted that this was as far as Senator Metcalf would go on an individual basis, but as part of the package he would add to the functions of the grazing advisory boards the development of the management allotment plans.

(4) with respect to the Senate language on mining claims, that the language be applicable only to mining claims filed after enactment of the Act, not pre-existing claims.

The conferees could not agree on the compromise that day but did agree to meet again on September 23rd just in advance of the Conference on the National Forest Management Act of 1976 that was due to start at 1:30 p.m. Several of the conferees on S. 507 were also on the Forest Act conference. The conferees convened at 1:10 p.m. on September 23rd. Congressman Santini offered a substitute compromise that would knock out advisory boards, have five-year leases in return for keeping grazing fees, and knock out the patent provisions. Senator Metcalf countered with a proposal to accept the first three amendments he had offered and knock out the Senate language on mining. This was rejected by the Senate conferees and at 1:20 p.m., the Conference was adjourned by Chairman Melcher who said he saw no point in prolonging the meeting. For the moment, hopes dimmed for passage of an Organic Act for the Bureau of Land Management. The 94th Congress was in its last-minute rush before adjournment. But as with many pieces of landmark legislation, a compromise was reached at the eleventh hour, reportedly as a result of behind-the-scenes lobbying by interested private parties.[68]

On September 28, Congressman Melcher made a last minute effort to reach a compromise and get a public land management act in the 94th Congress. He called a meeting of the Conference Committee to commence at 5:30 p.m. that evening. The meeting was held in a very small room in the Congress. Very few persons, other than conferees and staff, were permitted in the room. Dozens of interested persons filled the halls and corridors leading to the meeting room. Within a few minutes of coming together, the conferees took a thirty-minute break.

---

68. The struggle to achieve an acceptable middle ground was reported in the October 7, 1976, issue of *Public Land News: How the BLM Organic Act came back from the grave in five days*

The final, fateful meeting of the House-Senate conference committee that revived the BLM Organic Act pitted two unyielding antagonists—Sen. Lee Metcalf (D-Mont.) And Rep. James Santini (D-Nev.).

Simply put, Santini wanted a statutory grazing fee he co-authored to stay in the bill. Metcalf didn't.

So, on September 23, the conference deadlocked over the grazing fee when the House refused by a 5-5 vote to give up the provision. At the same time, the Senate conferees refused to allow the grazing fee to stay in. The bill was effectively dead for 1976 . . . or so the conferees said.

The deadlock began to give way the following day when the mining industry, principally the American Mining Congress, realized the Senate would give up its provision on requiring patent in 10 years. But only if the House dropped the grazing fee. The mining industry abhors the patent requirement.

So, the mining industry started pressuring the ranching industry to ask its Congressional allies to yield on the grazing fee, said sources in the cattle industry.

And Rep. John Melcher (D-Mont.)—chief sponsor of the House bill, candidate for the U.S. Senate—continued to push for a further compromise.

Pressure was applied primarily to Reps. Don Young (R-Alaska) and Don Clausen (R-Calif.), *PLNews* sources said.

Then on Tuesday morning (September 28) a meeting was held among the House supporters of the statutory grazing fee. They decided to yield on the grazing fee, reasoning that a freeze was better than no bill at all.

With that a meeting of the full conference was held in room S 224 of the Capitol at 5:30 p.m, just minutes after a compromise timber management bill had been hammered out in conference down the hall.

The last BLM conference, with only a half dozen attendees other than Congressmen and their staff, started badly. Metcalf and Santini, almost shouting at times, argued forcefully that each had already compromised too much. But Santini eventually offered a compromise on the grazing fee. It called for a statutory grazing fee for two years while a study was conducted. The Senate conferees refused to even consider it.

Then Clausen offered a compromise calling for freezing the present grazing fee, developed administratively by BLM and the Forest Service, for two years while a study was conducted. Again, the Senate refused to consider it.

Then the conferees, with no one in particular sponsoring it, agreed to consider a one-year freeze with study. Santini asked for and received a 30-minute break.

During the break, *PLNews* talked to representatives of the American National Cattlemen's Association and the Public Lands Council. They said, resignedly, the one-year freeze plus study was the most they could hope for, given the Senate conferees adamant opposition to anything else.

Finally, at 7 p.m. on September 28, the conferees reassembled and Melcher asked for a show of hands from the House members. He, Rep. James Johnson (R-Colo.), Rep. Harold T. Johnson (D- Calif.), Clausen, and Santini voted for the compromise. Melcher said Reps. Mo Udall (D-Ariz.), Jim Weaver (D-Ore.), and John Seiberling (D-Ohio) also would have agreed to the compromise if they had been present.

Word spread among the assembled crowd that the meeting was going badly. However, when the conferees reassembled at 7 p.m., those present voted almost immediately for the compromise that had been suggested earlier. The conferees and staff walked quickly out of the conference room. As they made their way down the corridor, they received the quiet congratulations of the very interested group of people who had waited to hear the final outcome of the session.

In keeping with its somewhat stormy and cliff-hanger history, the conference report was passed by the House on September thirtieth, and by the Senate on October first, just hours before the 94th session ended. The Act was signed by the President on October 21, 1976, and became Public Law 94-579, 90 Stat. 2743.

The Senate members present—Metcalf, Floyd Haskell (D-Colo.), and Frank Church (D-ID)—also agreed without a formal vote.

Production services provided by:

Information and Communications Staff
Terry D'Erchia, Chief (303-236-6547)

Peter Doran: layout and design

Lee Barkow, Director
National Science & Technology Center
P.O. Box 25047
Denver, Colorado 80225-0047

The Bureau of Land Management's National Science and Technology Center supports other BLM offices by providing a broad spectrum of services in areas such as physical, biological, and social science assesments; architecture and engineering support; library assistance; mapping science; photo imaging; geographic information systems applications; and publications support.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

COMPETITIVE OIL AND GAS OR GEOTHERMAL RESOURCES LEASE BID

30 U.S.C. 181 et seq.; 30 U.S.C. 351-359; 30 U.S.C.1001-1025; 42 U.S.C. 6508

FORM APPROVED
OMB NO. 1004-0074
Expires: July 31, 2003

State	Date of sale

PARCEL NUMBER	AMOUNT OF BID (*See Instructions below*)	
	TOTAL BID	PAYMENT SUBMITTED WITH BID
THE BID IS FOR (*Check one*): ☐ Oil and Gas Parcel Number _____		
☐ Geothermal Parcel Number _____ Name of Known Geothermal Resource Area (KGRA) _____		

The appropriate regulations applicable to this bid are: (1) for oil and gas leases--43 CFR 3120; (2) for National Petroleum Reserve-Alaska (NPR-A) leases--43 CFR 3132; and (3) for Geothermal resources leases--43 CFR 3220. (*See details concerning lease qualifications on reverse.*)

I CERTIFY THAT I have read and am in compliance with, and not in violation of, the lessee qualification requirements under the applicable regulations for this bid.

I CERTIFY THAT this bid is not in violation of 18 U.S.C. 1860 which prohibits unlawful combination or intimidation of bidders. I further certify that this bid was arrived at independently and is tendered without collusion with any other bidder for the purpose of restricting competition.

IMPORTANT NOTICE: Execution of this form, where the offer is the high bid, constitutes a binding lease offer, including all applicable terms and conditions. Failure to comply with the applicable laws and regulations under which this bid is made shall result in rejection of the bid and forfeiture of all monies submitted.

_____ Print or Type Name of Lessee

_____ Signature of Lessee or Bidder

_____ Address of Lessee

_____ City _____ State _____ Zip Code

INSTRUCTIONS

INSTRUCTIONS FOR OIL AND GAS BID *(Except NPR-A)*

1. Separate bid for each parcel is required. Identify parcel by the parcel number assigned in the *Notice of Competitive Lease Sale*.
2. Bid **must** be accompanied by the national minimum acceptable bid, the first year's rental and the administrative fee. The remittance **must** be in the form specified in 43 CFR 3103.1-1. The remainder of the bonus bid, if any, **must** be submitted to the proper BLM office within 10 working days after the last day of the oral auction. **Failure to submit the remainder of the bonus bid within 10 working days will result in rejection of the bid offer and forfeiture of all monies paid.**
3. If bidder is **not** the sole party in interest in the lease for which the bid is submitted, all other parties in interest may be required to furnish evidence of their qualifications upon written request by the authorized officer.
4. This bid may be executed (*signed*) before the oral auction. If signed before the oral auction, this form cannot be modified without being executed again.
5. In view of the above requirement (4), bidder may wish to leave, AMOUNT OF BID section blank so that final bid amount may be either completed by the bidder or the Bureau of Land Management at the oral auction.

INSTRUCTIONS FOR GEOTHERMAL OR NPR-A OIL AND GAS BID

1. Separate bid for each parcel is required. Identify parcel by the number assigned to a tract.
2. Bid **must** be accompanied by one-fifth of the total amount of bid. The remittance **must** be in the form specified in 43 CFR 3220.4 for a Geothermal Resources bid and 3132.2 for a NPR-A lease bid.
3. Mark envelope Bid for Geothermal Resources Lease in (*Name of KGRA*) or Bid for NPR-A Lease, as appropriate. Be sure correct parcel number of tract on which bid is submitted and date of bid opening are noted plainly on envelope. No bid may be modified or withdrawn unless such modification or withdrawal is received prior to time fixed for opening of bids.
4. Mail or deliver bid to the proper BLM office or place indicated in the *Notice of Competitive Lease Sale.*
5. If bidder is **not** the sole party in interest in the lease for which bid is submitted, all other parties in interest may be required to furnish evidence of their qualifications upon written request by the authorized officer.

Title 18 U.S.C. Section 1001 and Title 43 U.S.C. Section 1212 make it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

(*Continued on reverse*)

QUALIFICATIONS

For leases that may be issued as a result of this sale under the Mineral Leasing Act (The Act) of 1920; as amended, the oral bidder must: (1) Be a citizen of the United States; an association (*including partnerships and trusts*) of such citizens; a municipality; or a corporation organized under the laws of the United States or of any State or Territory thereof; (2) Be in compliance with acreage limitation requirements wherein the bidder's interests, direct and indirect, in oil and gas leases in the State identified do not exceed 246,080 acres each in public domain or acquired lands including acreage covered by this bid, of which not more than 200,000 acres are under options. If this bid is submitted for lands in Alaska, the bidder's holdings in each of the Alaska leasing districts do not exceed 300,000 acres, of which no more than 200,000 acres are under options in each district; (3) Be in compliance with Federal coal lease holdings as provided in sec. 2(a)(2)(A) of the Act; (4) Be in compliance with reclamation requirements for all Federal oil and gas holdings as required by sec. 17 of the Act; (5) Not be in violation of sec. 41 of the Act; and (6) Certify that all parties in interest in this bid are in compliance with 43 CFR Groups 3000 and 3100 and the leasing authorities cited herein.

For leases that may be issued as a result of this sale under the Geothermal Steam Act of 1970, as amended, the bidder must: (1) Be a Citizen of the United States; an association of such citizens; a municipality; or a corporation organized under the laws of the United States or of any State or Territory thereof; and (2) Be in compliance with acreage limitation requirements wherein the bidder's interests, direct and indirect, do not exceed 51,200 acres: and (3) Certify that all parties in interest in this bid are in compliance with 43 CFR Group 3200 and the leasing authority cited herein.

For leases that may be issued as a result of this sale under the Department of the Interior Appropriations Act of 1981, the bidder must: (1) Be a citizen or national of the United States; an alien lawfully admitted for permanent residence; a private, public or municipal corporation organized under the laws of the United States or of any State or Territory thereof; an association of such Citizens, nationals, resident aliens or private, public or municipal corporations, and (2) Certify that all parties in interest in this bid are in compliance with 43 CFR Part 3130 and the leasing authorities cited herein.

NOTICE

The Privacy Act of 1974 and the regulation in 43 CFR 2.48(d) provide that you be furnished the following information in connection with information required by this bid for a Competitive Oil and Gas or Geothermal Resources Lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 30 U.S.C. 351-359; 30 U.S.C. 1001-1025; 42 U.S.C. 6508

PRINCIPAL PURPOSE: The information is to be used to process your bid.

ROUTINE USES: (1) The adjudication of the bidder's right to the resources for which this bid is made. (2) Documentation for public information. (3) Transfer to appropriate Federal agencies when comment or concurrence is required prior to granting a right in public lands or resources. (4)(5) Information from the record and/or the record will be transferred to appropriate Federal, State, local or foreign agencies, when relevant to civil, criminal or regulatory investigations or prosecutions.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of the information is voluntary. If all the information is not provided, your bid may be rejected.

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected in accordance with 43 CFR 3120, 43 CFR 3130, or 43 CFR 3220.
This information will be used to determine the bidder submitting the highest bid.
Response to this request is required to obtain a benefit.

BLM would like you to know that you do not have to respond to this or any other Federal agency-sponsored information collection unless it displays a currently valid OMB control number.

BURDEN HOURS STATEMENT

Public reporting burden for this form is estimated to average 2 hours per response including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to U.S. Department of the Interior, Bureau of Land Management, (1004-0074), Bureau Clearance Officer (WO-630), 1620 L Street, Washington, D.C. 20036

Form 3000-4
(June 1988)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

OIL AND GAS OR GEOTHERMAL LEASE BOND

Act of February 25, 1920 (30 U.S.C. 181 et seq.)
Act of August 7, 1947 (30 U.S.C. 351-359)
Department of the Interior Appropriations Act, FY 1981 (42 U.S.C. 6508)
Act of December 24, 1970 (30 U.S.C. 1001-1025)
Other Oil and Gas and Geothermal Leasing Authorities as Applicable

Bond Number

Lease Serial Number (For Individual Bond Only)

CHECK ONE: ☐ OIL AND GAS ☐ GEOTHERMAL RESOURCES

CHECK ONE:

☐ SURETY BOND

KNOW ALL BY THESE PRESENTS, THAT _____
(name)

of _____
(address)

as principal, and _____
(name)

of _____ , as surety,
(address)

are held and firmly bound unto the United States of America in the sum of _____

_____ dollars ($ _____),

lawful money of the United States, which may be increased or decreased by a rider hereto executed in the same manner as this bond.

☐ PERSONAL BOND

KNOW ALL BY THESE PRESENTS, That _____
(name)

of _____ , as principal, is held and firmly
(address)

bound unto the United States of America in the sum of _____

_____ dollars ($ _____), lawful money of the United States which sum **may be**

increased or decreased by a rider hereto executed in the same manner as this bond.

The principal, in order to more fully secure the United States in the payment of the aforesaid sum, hereby pledges as security therefore United States negotiable securities of a par value equal to the amount specified. The principal, pursuant to the authority conferred by Section 1 of the Act of September 13, 1982 (31 U.S.C. 9303), does hereby constitute and appoint the Secretary of the Interior to act as his attorney. The interest accruing on the United States securities deposited, in the absence of any default in the performance of any of the conditions, or stipulations set forth in this bond and the instrument(s) granting rights and interests in Federal lands, must be paid to the principal. The principal hereby for himself/herself, any heirs, executors, administrators, successors, and assigns, joint and severally, ratifies and confirms whatever the Secretary shall do by virtue of these presents.

The principal/surety shall apply this bond or the Secretary shall transfer this deposit as security for the faithful performance of any and all of the conditions and stipulations as set forth in this bond and the instruments granting rights and interests in Federal lands. In the case of any default in the performance of the conditions and stipulations of such undertaking, it is agreed that: (1) for a Surety Bond, the surety/principal shall apply the bond or any portion thereof; (2) for a Personal Bond, the Secretary shall have full power to assign, appropriate, apply or transfer the deposit or any portion thereof, to the satisfaction of any damages, assessments, late payment charges, penalties, or deficiencies arising by reason of such default.

This bond is required for the use and benefit of (1) the United States; (2) the owner of any of the land subject to the coverage of this bond, who has a statutory right to compensation in connection with a reservation of the oil and gas and geothermal deposits to the United States; (3) any lessee, permittee, or contractor, under a lease, permit, or resource sale contract issued, or to be issued, by the United States covering the same land subject to this bond, covering the use of the surface or the prospecting for, or the development of other mineral deposits in any portion of such land, to be paid to the United States. For such payment, well and truly to be made, we bind ourselves and each of our heirs, executors, administrators, successors, and assigns, jointly and severally.

This bond shall cover all surface disturbing activities related to drilling operations on a Federal leasehold(s) in accordance with authorization(s) granted under the Acts cited above for:

CHECK ONE:

☐ NATIONWIDE BOND – Operations conducted by or on behalf of the principal(s) or on the leasehold(s) of the principal(s) in the United States including the National Petroleum Reserve in Alaska (NPR-A) when a rider sufficient to bring the amount in conformance with 43 CFR 3134 is provided, and provided a rider is obtained, also coverage of multiple exploration operations.

☐ STATEWIDE BOND – Operations conducted by or on behalf of the principal(s) or on the leasehold(s) of the principal(s), except the NPR-A, and, provided a rider is obtained, also coverage of multiple exploration operations within the single state of _____

☐ INDIVIDUAL BOND - Operations conducted by or on behalf of the principal or on the leasehold of the principal on the single lease identified by the serial number above.

NATIONAL PETROLEUM RESERVE IN ALASKA (NPR-A) BOND - This bond shall cover:

☐ NPR-A LEASE BOND - The terms and conditions of a single lease.

☐ NPR-A WIDE BOND - The terms and conditions of all leases, and provided a rider is obtained, coverage of multiple exploration operations.

(Continued on reverse)

BOND CONDITIONS

The conditions of the foregoing obligations are such that:

1. WHEREAS the principal has an interest in a lease(s) and/or responsibility for operations on a lease(s) issued under the Acts cited in this bond; and

2. WHEREAS the principal and surety agree(s) that with notice to the surety the coverage of this bond, in addition to the present holding(s) of and/or authorization(s) granted to the principal, shall extend to and include:

a. Any lease(s) hereafter issued to or acquired by the obligor/principal, except under individual lease bonds, the coverage is to be confined to the principal's holding(s) and/or authorization(s) granted under the Acts cited in this bond, and to become effective immediately upon such authorization, approval or issuance of a transfer in favor of the principal; and

b. Any transfer(s) of operating rights hereafter entered into or acquired by the principal affecting lease(s); and

c. Any activity subsequent hereto of the principal as operator under a lease(s) issued pursuant to the Acts cited in this bond; and

Provided, That the surety may elect to terminate the additional coverage authorized under this paragraph. Such termination will become effective 30 days after the BLM receives notice of the election to terminate. After the termination becomes effective, the additional interest(s) identified in this paragraph will not be covered by this bond; and

3. WHEREAS the principal and surety agree(s) that with notice to the surety that this bond shall remain in full force and effect notwithstanding: Any assignment(s) of an undivided interest in any part or all of the lands in the lease(s) in which event the assignee(s) shall be considered to be coprincipal(s) on an individual or NPR-A bond as fully and to the same extent as though his/her or their duly, authenticated signatures appeared thereon; and

4. WHEREAS the obligor/surety hereby waives any right to notice of, and agrees that this bond shall remain in full force and effect notwithstanding:

a. Any assignment(s) of 100% of some of the lands described in the lease(s), the bond to remain in full force and effect only as to the lands retained in the lease(s); and

b. Any transfer(s) either in whole or in part, of any or all of the operating rights and further agrees to remain bound under this bond as to the interests in the operating rights retained by the principal; and

c. Any modification of a lease or operating right, or obligation thereunder, whether made or effected by commitment of lease or operating right to unit, cooperative, communitization or storage agreements, or development contracts, suspensions of operations or production, waivers, suspensions or changes in rental, minimum royalty and royalties, compensatory royalty payments, or otherwise; and

d. Any extension of a lease(s) covered by this bond, such coverage to continue without any interruption due to the expiration of the term set forth in the lease(s); and

5. WHEREAS the principal and surety hereby agree(s) that notwithstanding the termination, expiration, cancellation or relinquishment of any lease(s), whether by operation of law or otherwise, the bond shall remain in full force and effect as to the terms and conditions of all remaining leases and obligations covered by the bond; and

6. WHEREAS the principal, as to any lease or part of a lease for land on which he/she is the operator, in consideration of being permitted to furnish this bond in lieu of the lessee(s) or operating rights owner(s), agrees and by these presents does hereby bind himself/herself to fulfill on behalf of each lessee or operating rights owner all obligations of such for the entire leasehold in the same manner and to the same extent as though he/she were lessee or operating rights owner; and

7. WHEREAS the obligor/principal and surety agree(s) that the neglect or forbearance of said lessor in enforcing, as against any responsible party, the payment of rentals or royalties or the performance of any other term or condition of the lease(s) shall not, in any way, release the principal and surety, or either of them from any liability under this bond; and

8. WHEREAS the principal and surety agree(s) that in the event of any default under the lease(s) the lessor may commence and prosecute any claim, suit, or other proceeding against the principal and surety or either of them, without the necessity of joining the lessee(s); and

9. WHEREAS if the principal fails to comply with any provisions of an oil and gas lease, and the noncompliance continues for thirty (30) days after written notice thereof, such lease shall be subject to cancellation and the principal shall also be subject to applicable provisions and penalties of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1701 et seq.) or the Federal Onshore Oil and Gas Leasing Reform Act. This provision shall not be construed to prevent the exercise by the United States of any other legal and equitable remedy, including waiver of the default.

10. NOW, THEREFORE If said principal, his/her heirs, executors, administrators, successors, or assigns shall in all respects faithfully comply with all of the provisions of the instrument(s) granted rights and interests in Federal lands referred to above, then the obligations are to be void; otherwise to remain in full force and effect.

Signed this _____ day of _____ , 20 _____ , in the presence of:

NAMES AND ADDRESSES OF WITNESSES

_____ _____ (L. S.)
(Principal)

_____ _____
(Business Address)

_____ _____ (L. S.)
(Surety)

_____ _____
(Business Address)

If this bond is executed by a corporation, it must bear the seal of that corporation.

Form 3100-11
(October 1992)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Serial No.

OFFER TO LEASE AND LEASE FOR OIL AND GAS

The undersigned *(reverse)* offers to lease all or any of the lands in Item 2 that are available for lease pursuant to the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359), the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41), or the

READ INSTRUCTIONS BEFORE COMPLETING

1 . Name

Street

City, State, Zip Code

2. This application/offer/lease is for: *(Check only One)* ☐ PUBLIC DOMAIN LANDS ☐ ACQUIRED LANDS (percent U.S. interest _____)

Surface managing agency if other than BLM: _____ Unit/project _____

Legal description of land requested: *Parcel No.:_____ * Sale Date (m/d/y): ____/____/_____

***SEE ITEM 2 IN INSTRUCTIONS BELOW PRIOR TO COMPLETING PARCEL NUMBER AND SALE DATE.**

T. R. Meridian State County

Total acres applied for _____

Amount remitted: Filing fee $ _____ Rental fee $ _____ Total $ _____

DO NOT WRITE BELOW THIS LINE

3. Land included in lease:

T. R. Meridian State County

Total acres in lease _____

Rental retained $ _____

This lease is issued granting the exclusive right to drill for, mine, extract, remove and dispose of all the oil and gas (except *helium)* in the lands described in Item 3 together with the right to build and maintain necessary improvements thereupon for the term indicated below, subject to renewal or extension in accordance with the appropriate leasing authority. Rights granted are subject to applicable laws, the terms, conditions, and attached stipulations of this lease, the Secretary of the Interior's regulations and formal orders in effect as of lease issuance, and to regulations and formal orders hereafter promulgated when not inconsistent with lease rights granted or specific provisions of this lease.

NOTE: This lease is issued to the high bidder pursuant to his/her duly executed bid or nomination form submitted under 43 CFR 3120 and is subject to the provisions of that bid or nomination and those specified on this form.

Type and primary term of lease:

☐ Noncompetitive lease (ten years)

☐ Competitive lease (ten years)

☐ Other _____

THE UNITED STATES OF AMERICA

by _____
(Signing Officer)

_____ _____
(Title) (Date)

EFFECTIVE DATE OF LEASE _____

(Continued on reverse)

4. (a) Undersigned certifies that (1) offeror is a citizen of the United States; an association of such citizens; a municipality; or a corporation organized under the laws of the United States or of any State or Territory thereof; (2) all parties holding an interest in the offer are in compliance with 43 CFR 3100 and the leasing authorities; (3) offeror's chargeable interests, direct and indirect, in each public domain and acquired lands separately in the same State, do not exceed 246,080 acres in oil and gas leases (of which up to 200,000 acres may be in oil and gas options), or 300,000 acres in leases in each leasing District in Alaska of which up to 200,000 acres may be in options, (4) offeror is not considered a minor under the laws of the State in which the lands covered by this offer are located; (5) offeror is in compliance with qualifications concerning Federal coal lease holdings provided in sec. 2(a)(2)(A) of the Mineral Leasing Act, (6) offeror is in compliance with reclamation requirements for all Federal oil and gas lease holdings as required by sec. 17(g) of the Mineral Leasing Act; and (7) offeror is not in violation of sec. 41 of the Act.

(b) Undersigned agrees that signature to this offer constitutes acceptance of this lease, including all terms, conditions, and stipulations of which offeror has been given notice, and any amendment or separate lease that may include any land described in this offer open to leasing at the time this offer was filed but omitted for any reason from this lease. The offeror further agrees that this offer cannot be withdrawn, either in whole or in part unless the withdrawal is received by the proper BLM State Office before this lease, an amendment to this lease, or a separate lease, whichever covers the land described in the withdrawal, has been signed on behalf of the United States.

This offer will be rejected and will afford offeror no priority if it is not properly completed and executed in accordance with the regulations, or if it is not accompanied by the required payments. 18 U.S.C. Sec. 1001 makes it a crime for any person knowingly and willfully to make to any Department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

Duly executed this _____ day of _____ 20 _____

_____

(Signature of Lessee or Attorney-in-fact)

LEASE TERMS

Sec. 1. Rentals - Rentals shall be paid to proper office of lessor in advance of each lease year. Annual rental rates per acre or fraction thereof are:

(a) Noncompetitive lease, $1.50 for the first 5 years; thereafter $2.00;
(b) Competitive lease, $1.50, for the first 5 years; thereafter $2.00;
(c) Other, see attachment, or

as specified in regulations at the time this lease is issued.

If this lease or a portion thereof is committed to an approved cooperative or unit plan which includes a well capable of producing leased resources, and the plan contains a provision for allocation of production, royalties shall be paid on the production allocated to this lease. However, annual rentals shall continue to be due at the rate specified in (a), (b), or (c) for those lands not within a participating area.

Failure to pay annual rental, if due, on or before the anniversary date of this lease (or next official working day if office is closed) shall automatically terminate this lease by operation of law. Rentals may be waived, reduced, or suspended by the Secretary upon a sufficient showing by lessee.

Sec. 2. Royalties - Royalties shall be paid to proper office of lessor. Royalties shall be computed in accordance with regulations on production removed or sold. Royalty rates are:

(a) Noncompetitive lease, 12 1/2 %;
(b) Competitive lease, 12 1/2 %;
(c) Other, see attachment; or

as specified in regulations at the time this lease is issued.

Lessor reserves the right to specify whether royalty is to be paid in value or in kind, and the right to establish reasonable minimum values on products after giving lessee notice and an opportunity to be heard. When paid in value, royalties shall be due and payable on the last day of the month following the month in which production occurred. When paid in kind, production shall be delivered, unless otherwise agreed to by lessor, in merchantable condition on the premises where produced without cost to lessor. Lessee shall not be required to hold such production in storage beyond the last day of the month following the month in which production occurred, nor shall lessee be held liable for loss or destruction of royalty oil or other products in storage from causes beyond the reasonable control of lessee.

Minimum royalty in lieu of rental of not less than the rental which otherwise would be required for that lease year shall be payable at the end of each lease year beginning on or after a discovery in paying quantities. This minimum royalty may be waived, suspended, or reduced, and the above royalty rates may be reduced, for all or portions of this lease if the Secretary determines that such action is necessary to encourage the greatest ultimate recovery of the leased resources, or is otherwise justified.

An interest charge shall be assessed on late royalty payments or underpayments in accordance with the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) (30 U.S.C. 1701). Lessee shall be liable for royalty payments on oil and gas lost or wasted from a lease site when such loss or waste is due to negligence on the part of the operator, or due to the failure to comply with any rule, regulation, order, or citation issued under FOGRMA or the leasing authority.

Sec. 3. Bonds - A bond shall be filed and maintained for lease operations as required under regulations.

Sec. 4. Diligence, rate of development, unitization, and drainage - Lessee shall exercise reasonable diligence in developing and producing, and shall prevent unnecessary damage to, loss of, or waste of leased resources. Lessor reserves right to specify rates of development and production in the public interest and to require lessee to subscribe to a cooperative or unit plan, within 30 days of notice, if deemed necessary for proper development and operation of area, field, or pool embracing these leased lands. Lessee shall drill and produce wells necessary to protect leased lands from drainage or pay compensatory royalty for drainage in amount determined by lessor.

Sec. 5. Documents, evidence, and inspection - Lessee shall file with proper office of lessor, not later than 30 days after effective date thereof, any contract or evidence of other arrangement for sale or disposal of production. At such times and in such form as lessor may prescribe, lessee shall furnish detailed statements showing amounts and quality of all products removed and sold, proceeds therefrom, and amount used for production purposes or unavoidably lost. Lessee may be required to provide plats and schematic diagrams showing development work and improvements and reports with respect to parties in interest, expenditures, and depreciation costs. In the form prescribed by lessor, lessee shall keep a daily drilling record, a log, information on well surveys and tests, and a record of subsurface investigations and furnish copies to lessor when required. Lessee shall keep open at all reasonable times for inspection by any authorized officer of lessor, the leased premises and all wells, improvements, machinery, and fixtures thereon, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or in the leased lands. Lessee shall maintain copies of all contracts, sales agreements, accounting records, and documentation such as billings, invoices, or similar documentation that supports costs claimed as manufacturing, preparation, and/or transportation costs. All such records shall be maintained in lessee's accounting offices for future audit by lessor. Lessee shall maintain required records for 6 years after they are generated or, if an audit or investigation is underway, until released of the obligation to maintain such records by lessor.

During existence of this lease, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. Conduct of operations - Lessee shall conduct operations in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, and other resources, and to other land uses or users. Lessee shall take reasonable measures deemed necessary by lessor to accomplish the intent of this section. To the extent consistent with lease rights granted, such measures may include, but are not limited to, modification to siting or design of facilities, timing of operations, and specification of interim and final reclamation measures. Lessor reserves the right to continue existing uses and to authorize future uses upon or in the leased lands, including the approval of easements or rights-of-way. Such uses shall be conditioned so as to prevent unnecessary or unreasonable interference with rights of lessee.

Prior to disturbing the surface of the leased lands, lessee shall contact lessor to be apprised of procedures to be followed and modifications or reclamation measures that may be necessary. Areas to be disturbed may require inventories or special studies to determine the extent of impacts to other resources. Lessee may be required to complete minor inventories or short term special studies under guidelines provided by lessor. If in the conduct of operations, threatened or endangered species, objects of historic or scientific interest, or substantial unanticipated environmental effects are observed, lessee shall immediately contact lessor. Lessee shall cease any operations that would result in the destruction of such species or objects.

Sec. 7. Mining operations - To the extent that impacts from mining operations would be substantially different or greater than those associated with normal drilling operations, lessor reserves the right to deny approval of such operations.

Sec. 8. Extraction of helium - Lessor reserves the option of extracting or having extracted helium from gas production in a manner specified and by means provided by lessor at no expense or loss to lessee or owner of the gas. Lessee shall include in any contract of sale of gas the provisions of this section.

Sec. 9. Damages to property - Lessee shall pay lessor for damage to lessor's improvements, and shall save and hold lessor harmless from all claims for damage or harm to persons or property as a result of lease operations.

Sec. 10. Protection of diverse interests and equal opportunity - Lessee shall: pay when due all taxes legally assessed and levied under laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; and take measures necessary to protect the health and safety of the public.

Lessor reserves the right to ensure that production is sold at reasonable prices; and to prevent monopoly. If lessee operates a pipeline, or owns controlling interest in a pipeline or a company operating a pipeline, which may be operated accessible to oil derived from these leased lands, lessee shall comply with section 28 of the Mineral Leasing Act of 1920.

Lessee shall comply with Executive Order No. 11246 of September 24, 1965, as amended, and regulations and relevant orders of the Secretary of Labor issued pursuant thereto. Neither lessee, nor lessee's subcontractors shall maintain segregated facilities.

Sec. 11. Transfer of lease interests and relinquishment of lease - As required by regulations, lessee shall file with lessor any assignment or other transfer of an interest in this lease. Lessee may relinquish this lease or any legal subdivision by filing in the proper office a written relinquishment, which shall be effective as of the date of filing, subject to the continued obligation of the lessee and surety to pay all accrued rentals and royalties.

See. 12. Delivery of premises - At such time as all or portions of this lease are returned to lessor, lessee shall place affected wells in condition for suspension or abandonment, reclaim the land as specified by lessor and, within a reasonable period of time, remove equipment and improvements not deemed necessary by lessor for preservation of producible wells.

Sec. 13. Proceedings in case of default - If lessee fails to comply with any provisions of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation unless or until the leasehold contains a well capable of production of oil or gas in paying quantities, or the lease is committed to an approved cooperative or unit plan or communitization agreement which contains a well capable of production of unitized substances in paying quantities. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time. Lessee shall be subject to applicable provisions and penalties of **FOGRMA** (30 U.S.C. 1701).

Sec. 14. Heirs and successors-in-interest - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to the heirs, executors, administrators, successors, beneficiaries, or assignees of the respective parties hereto.

INSTRUCTIONS

A. General:

1. The front of this form is to be completed only by parties filing for a noncompetitive lease. The BLM will complete front of form for all other types of leases.

2. Entries **must** be typed or printed plainly in ink. Offeror **must** sign Item 4 in ink.

3. An original and two copies of this offer **must** be prepared and filed in the proper BLM State Office. See regulations at 43 CFR 1821.2-1 for office locations.

4. If more space is needed, additional sheets **must** be attached to **each** copy of the form submitted.

B. Special:

Item 1- Enter offeror's name and billing address.

Item 2 - Identify the mineral status and, if acquired lands, percentage of Federal ownership of applied for minerals. Indicate the agency controlling the surface of the land and the name of the unit or project which the land is a part. The same offer may not include both Public Domain and Acquired lands. Offeror also may provide other information that will assist in establishing title for minerals. The description of land **must** conform to 43 CFR 3110. A single parcel number and Sale Date shall be the **only** acceptable description during the period from the first day following the end of a competitive process until the end of that same month, using the parcel number on the List of Lands Available for Competitive Nominations or the Notice of Competitive Lease Sale, whichever is appropriate.

Payments: The amount remitted **must** include the filing fee and the first year's rental at the rate of $1.50 per acre or fraction thereof. The full rental based on the total acreage applied for **must** accompany an offer even if the mineral interest of the United States is less than 100 percent. The filing fee will be retained as a service charge even if the offer is completely rejected or withdrawn. To protect priority, it is important that the rental submitted be sufficient to cover all the land requested. If the land requested includes lots or irregular quarter-quarter sections, the exact area of which is not known to the offeror, rental should be submitted on the basis of each such lot or quarter-quarter section containing 40 acres. If the offer is withdrawn or rejected in whole or in part before a lease issues, the rental remitted for the parts withdrawn or rejected will be returned.

Item 3 - This space will be completed by the United States.

PAPERWORK REDUCTION ACT STATEMENT

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

1. This information is being collected pursuant to the law.

2. This information will be used to create and maintain a record of oil and gas lease activity.

3. Response to this request is required to obtain a benefit.

NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provide that you be furnished the following information in connection with information required by this oil and gas lease offer.

AUTHORITY: 30 U.S.C. 181 et seq.; 30 U.S.C. 351-359

PRINCIPAL PURPOSE: The information is to be used to process oil and gas offers and leases.

ROUTINE USES:

(1) The adjudication of the lessee's rights to the land or resources.

(2) Documentation for public information in support of notations made on status records for the management, disposal, and use of public lands and resources.

(3) Transfer to appropriate Federal agencies when consent or concurrence is required prior to granting a right in public lands or resources.

(4)(5) Information from the record and/or the record will be transferred to appropriate Federal, State, local or foreign agencies, when relevant to civil, criminal or regulatory investigations or prosecutions.

EFFECT OF NOT PROVIDING INFORMATION - If all the information is not provided, the offer may be rejected. See regulations at 43 CFR 3100.

Form 3000-3
(February 2002)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

ASSIGNMENT OF RECORD TITLE INTEREST IN A LEASE FOR OIL AND GAS OR GEOTHERMAL RESOURCES

Mineral Leasing Act of 1920 (30 U.S.C. 181 et seq.)
Act for Acquired Lands of 1947 (30 U.S.C 351-359)
Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025)
Department of the Interior Appropriations Act, Fiscal Year 1981 (42 U.S.C. 6508)

FORM APPROVED
OMB NO. 1004-0034
Expires: October 31, 2004

Lease Serial No.

Lease Effective Date
(Anniversary Date)

New Serial No.

Type or print plainly in ink and sign in ink.

PART A: ASSIGNMENT

Assignee*
Street
City, State, ZIP Code

*If more than one assignee, check here ☐ and list the name(s) and address(es) of all additional assignees on the reverse of this form or on a separate attached sheet of paper.

This record title assignment is for: *(Check one)* ☐ Oil and Gas Lease, or ☐ Geothermal Lease

Interest conveyed: *(Check one or both, as appropriate)* ☐ Record Title, ☐ Overriding Royalty, payment out of production or other similar interests or payments

2. This assignment conveys the following interest:

Land Description	Percent of Interest			Percent of Overriding Royalty Similar Interests	
Additional space on reverse, if needed. Do not submit documents or agreements other than this form; such documents or agreements shall only be referenced herein.	Owned	Conveyed	Retained	Reserved	Previously reserved or conveyed
a	b	c	d	e	f

FOR BLM USE ONLY - DO NOT WRITE BELOW THIS LINE

UNITED STATES OF AMERICA

This assignment is approved solely for administrative purposes. Approval does not warrant that either party to this assignment holds legal or equitable title to this lease.

☐ Assignment approved for above described lands;

☐ Assignment approved for attached land description

Assignment approved effective _____

☐ Assignment approved for land description indicated on reverse of this form.

By _____ _____
(Authorized Officer) (Title) (Date)

(Continued on reverse)

Part A (Continued): ADDITIONAL SPACE for Names and addresses of additional assignees in Item No. 1, if needed, or for Land Description in Item No. 2, if needed.

PART B - CERTIFICATION AND REQUEST FOR APPROVAL

1. The Assignor certifies as owner if an interest in the above designated lease that he/she hereby assigns to the above assignee(s) the rights specified above.

2. Assignee certifies as follows: (a) Assignee is a citizen of the United States; an association of such citizens; a municipality; or a corporation organized under the laws of the United States or of any State or territory thereof. For the assignment of NPR-A leases, assignee is a citizen, national, or resident alien of the United States or association of such citizens, nationals, resident aliens or private, public or municipal corporations, (b) Assignee is not considered a minor under the laws of the State in which the lands covered by this assignment are located; (c) Assignee's chargeable interests, direct and indirect, in each public domain and acquired lands separately in the same State, do not exceed 246,080 acres in oil and gas leases (of which up to 200,000 acres may be in oil and gas options), or 300,000 acres in leases in each leasing District in Alaska of which up to 200,000 acres may be in options, if this is an oil and gas lease issued in accordance with the Mineral Leasing Act of 1920, or 51,200 acres in any one State if this is a geothermal lease; (d) All parties holding an interest in the assignment are otherwise in compliance with the regulations (43 CFR Group 3100 or 3200) and the authorizing Acts; (e) Assignee is in compliance with reclamation requirements for all Federal oil and gas lease holdings as required by sec. 17(g) of the Mineral Leasing Act; and (f) Assignee is not in violation of sec. 41 of the Mineral Leasing Act.

3. Assignee's signature to this assignment constitutes acceptance of all applicable terms, conditions, stipulations and restrictions pertaining to the lease described herein.

For geothermal assignments, an overriding royalty may not be less than one-fourth (1/4) of one percent of the value of output, nor greater than 50 percent of the rate of royalty due to the United States when this assignment is added to all previously created overriding royalties (43 CFR 3241).

I certify that the statements made herein by me are true, complete, and correct to the best of my knowledge and belief and are made in good faith.

Executed this _____ day of _____ 20 _____

Name of Assignor as shown on current lease _____
(Please type or print)

Assignor _____
(Signature)
or
Attorney-in-fact _____
(Signature)

_____
(Assignor's Address)

_____ _____ _____
(City) (State) (Zip Code)

Executed this _____ day of _____ 20_____

Assignee _____
(Signature)
or
Attorney-in-fact _____
(Signature)

Public reporting burden for this form is estimated to average 30 minutes per response including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to U.S. Department of the Interior, Bureau of Land Management (1004-0034), Bureau Clearance Officer, (WO-630), Mail Stop 401 LS, 1849 C Street, N.W., Washington, D.C. 20240.

Title 18 U.S.C. Sec. 1001 makes it a crime for any person knowingly and willfully to make to any Department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

PART C- GENERAL INSTRUCTIONS

1. Assignor/Assignee(s) **must** complete Parts Al and A2 and Part B. All parties to assignment **must** sign as follows: The assignor(s) must manually sign 3 original copies and the assignee(s) **must** manually sign at least 1 of the 3 original copies. File three (3) completed copies of this form in the proper BLM office for each assignment of record title. For a transfer of overriding royalty interest, payment out of production or other similar interest or payment, file one (1) manually signed copy of this form. The required filing fee (nonrefundable) **must** accompany the assignment. File assignment within ninety (90) days after date of execution of assignor.
2. Separate form **must** be used for each lease being affected by this assignment and for each type of interest conveyed.
3. In Item No. 2 of Part A, describe lands affected (See 43 CFR 3106, 3135, or 3241). For column b, c, d, and e, enter the interest expressed as a percentage of total interest in the lease; e.g., if assignor assigns one quarter of a 20% interest, enter 20% in column b, 5% in column c, and 15% in column d.
4. If assignment is to more than one assignee, enter each assignee's name across
5. If any payment out of production or similar interests, arrangements or payments have previously been created out of the interest being assigned, or if any such payments or interests are reserved under this assignment, include a statement giving full details as to amount, method of payment, and other pertinent terms as provided under 43 CFR 3106, 3135, or 3241.
6. The lease account **must** be in good standing before this assignment can be approved as provided under 43 CFR 3106 and 3241.
7. Assignment, if approved, takes effect on the first day of the month following the date of filing in the proper BLM office. If a bond is necessary, it **must** be furnished prior to approval of the assignment.
8. Approval of assignment of record title to 100% of a portion of the leased lands creates separate leases of the retained and the assigned portions, but does not change the terms and conditions of the lease anniversary date for purposes of payment of annual rental.
9. Overriding royalty, payment out of production or other similar types of transfers **must** be filed with BLM, but will be accepted for record purposes only. No official approval will be given.

PAPERWORK REDUCTION ACT STATEMENT

1. This information is being collected pursuant to the law.
2. This information will be used to create and maintain a record of oil and gas/geothermal lease activity.
3. Response to this request is required to obtain benefit.

BLM would like you to know that you do not have to respond to this or any other Federal agency sponsored information collection unless it displays a currently valid OMB control number.

NOTICE

The Privacy Act of 1974 and the regulation in 43 CFR 2.48(d) provide that you be furnished the following information in connection with information required by this oil and gas/geothermal lease record title assignment application.

AUTHORITY: 30 U.S.C. 181 et seq.; 30 U.S.C. 1001-1025; 42 U.S.C. 6508

PRINCIPAL PURPOSE: The information is to be used to process record title assignments for oil and gas/geothermal resources leases.

ROUTINE USES:

(1) The adjudication of the assignee's rights to the land or resources.

(2) Documentation for public information in support of notations made on land status, records for the management, disposal, and use of public lands and resources.

(3) Transfer to appropriate Federal agencies when concurrence is required prior to granting a right in public lands or resources.

(4)(5) Information from the record and/or the record will be transferred to appropriate Federal, State, local or foreign agencies, when relevant to civil, criminal or regulatory investigations or prosecutions.

EFFECT OF NOT PROVIDING INFORMATION - If all requested information is not provided, the assignment may not be approved. See regulations at 43 CFR Groups 3100 and 3200.

Reset

Form 3000-4a
(June 1988)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Bond Number

OIL AND GAS OR GEOTHERMAL EXPLORATION BOND

Act of February 25, 1920 (30 U.S.C. 181 et seq.)
Act of August 7, 1947 (30 U,S.C. 351-359)
Department of the Interior Appropriations Act, FY 1981 (42 U.S.C. 6508)
Act of December 24, 1970 (30 U.S.C. 1001-1025)
Other Oil and Gas and Geothermal Leasing Authorities as Applicable

CHECK ONE: ☐ OIL AND GAS EXPLORATION ☐ GEOTHERMAL RESOURCES EXPLORATION

CHECK ONE:

☐ SURETY BOND

KNOW ALL BY THESE PRESENTS, THAT _____
(name)

of _____
(address)

as principal, and _____
(name)

of _____, as surety,
(address)

are held and firmly bound unto the United States of America in the sum of _____

_____ dollars ($ _____),
lawful money of the United States, which may be increased or decreased by a rider hereto executed in the same manner as this bond.

☐ PERSONAL BOND

KNOW ALL BY THESE PRESENTS, That _____
(name)

of _____, as principal, is held and firmly
(address)

bound unto the United States of America in the sum of _____

_____ dollars ($ _____), lawful money of the United States which sum may be increased or decreased by a rider hereto executed in the same manner as this bond.

The principal, in order to more fully secure the United States in the payment of the aforesaid sum, hereby pledges as security therefore United States negotiable securities of a par value equal to the amount specified. The principal, pursuant to the authority conferred by Section 1 of the Act of September 13, 1982 (31 U.S.C. 9303), does hereby constitute and appoint the Secretary of the Interior to act as his attorney. The interest accruing on the United States securities deposited, in the absence of any default in the performance of any of the conditions, or stipulations set forth in this bond and the instrument(s) authorizing exploration activities on Federal lands, must be paid to the principal. The principal hereby for himself/herself, any heirs, executors, administrators, successors, and assigns, joint and severally, ratifies and confirms whatever the Secretary shall do by virtue of these presents.

The principal/surety shall apply this bond or the Secretary shall transfer this deposit as security for the faithful performance of any and all of the conditions as set forth in this bond and the instruments authorizing exploration activities on Federal lands. In the case of any default in the performance of the conditions and stipulations of such undertaking, it is agreed that: (1) for a Surety Bond, the surety/principal shall apply the bond or any portion thereof; (2) for a Personal Bond. the Secretary shall have full power to assign, appropriate, apply or transfer the deposit or any portion thereof, to the satisfaction of any damages, assessments, late payment charges, penalties, or deficiencies arising by reason of such default.

This bond is required for the use and benefit of (1) the United States; (2) the owner of any of the land subject to the coverage of this bond, upon which exploration operations will be conducted, who has a statutory right to compensation in connection with a reservation, of the oil and gas and geothermal deposits in the United States; and (3) any lessee, permittee, or contractor, under a lease, permit, or resource sale contract issued, or to be issued, by the United States covering the same land subject to this bond, on which geophysical exploration operations will he conducted, to be paid to the United States. For such payment, well and truly to be made, we bind ourselves and each of our heirs, executors, administrators, successors, and assigns, jointly and severally.

CHECK ONE:

☐ This bond shall cover all exploration operations conducted in the United States by or on behalf of the principal on Federal surface administered by the Bureau of Land Management (BLM) and on all Federal leases regardless of surface ownership (except those within the National Forest System), including the National Petroleum Reserve in Alaska (NPR-A) provided a rider is obtained.

☐ This bond shall cover all exploration operations conducted by or on behalf of the principal on Federal surface administered by BLM and on all Federal leases regardless of surface ownership (except those within the National Forest System) within the single State of _____

☐ This bond shall cover a single exploration operation conducted by or on behalf of the principal on Federal surface administered by BLM and on all Federal leases regardless of surface ownership (except those within the National Forest System) as set forth on reverse.

(*Continued on reverse*)

LEGAL DESCRIPTION:

BOND CONDITIONS

The conditions of the foregoing obligations are such that:

WHEREAS the principal has a responsibility for an exploration operation(s) to be conducted on Federal surface or on a Federal lease(s), and administered by BLM; and

WHEREAS the principal has filed a Notice of Intent to Conduct Exploration Operations or a geophysical exploration permit with the authorized officer wherein the operations are to be conducted; and

WHEREAS the principal is obligated to comply with the terms and conditions set forth in such Notice of Intent or geophysical exploration permit; and

WHEREAS the principal and surety hereby agree(s) that notwithstanding the termination of any exploration operation(s) covered by this bond, the bond shall remain in full force and effect as to the terms and conditions of all remaining exploration operations conducted on Federal surface or on a Federal lease(s), and administered bv BLM.

NOW, THEREFORE If said principal shall in all respects faithfully comply with all of the terms and conditions of the Notice of Intent or geophysical exploration permit and such other corrective measures to reclaim the land as may be required by the Authorized Officer, the surety shall incur no liability but, if the principal should fail to do so, the surety shall be liable to the extent provided in this bond.

Signed this _____ day of _____ , 20 _____ , in the presence of:

NAMES AND ADDRESSES OF WITNESSES

_____ _____
(Principal)

_____ _____
(Business Address)

_____ _____
(Surety)

_____ _____
(Business Address)

If this bond is executed by a corporation, it must bear the seal of that corporation.

Form 3000-3a
(February 2002)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
OMB NO. 1004-0034
Expires: October 31, 2004

Lease Serial No.

TRANSFER OF OPERATING RIGHTS (SUBLEASE) IN A LEASE FOR OIL AND GAS OR GEOTHERMAL RESOURCES

Mineral Leasing Act of 1920 (30 U.S.C. 181 et seq.)
Act for Acquired Lands of 1947 (30 U.S.C 351-359)
Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025)
Department of the Interior Appropriations Act, Fiscal Year 1981 (42 U.S.C. 6508)

Type or print plainly in ink and sign in ink.

PART A: TRANSFER

Transferee (Sublessee)*
Street
City, State, ZIP Code

*If more than one transferee, check here ☐ and list the name(s) and address(es) of all additional transferees on the reverse of this form or on a separate attached sheet of paper.

This transfer is for: *(Check one)* ☐ Oil and Gas Lease, or ☐ Geothermal Lease

Interest conveyed: *(Check one or both, as appropriate)* ☐ Operating Rights (sublease) ☐ Overriding Royalty, payment out of production or other similar interests or payments

2. This transfer (sublease) conveys the following interest:

Land Description	Percent of Interest			Percent of Overriding Royalty Similar Interests	
Additional space on reverse, if needed. Do not submit documents or agreements other than this form; such documents or agreements shall only be referenced herein.	Owned	Conveyed	Retained	Reserved	Previously reserved or conveyed
a	b	c	d	e	f

FOR BLM USE ONLY - DO NOT WRITE BELOW THIS LINE

UNITED STATES OF AMERICA

This transfer is approved solely for administrative purposes. Approval does not warrant that either party to this transfer holds legal or equitable title to this lease.

☐ Transfer approved effective _____

By _____ _____
(Authorized Officer) (Title) (Date)

(Continued on reverse)

Part A (Continued): ADDITIONAL SPACE for Names and addresses of additional transferees in Item No. 1, if needed, or for Land Description in Item No. 2, if needed.

PART B - CERTIFICATION AND REQUEST FOR APPROVAL

1. The transferor certifies as owner if an interest in the above designated lease that he/she hereby transfers to the above assignee(s) the rights specified above.

2. Transferee certifies as follows: (a) Transferee is a citizen of the United States; an association of such citizens; a municipality; or a corporation organized under the laws of the United States or of any State or territory thereof. For the transfer of NPR-A leases, transferee is a citizen, national, or resident alien of the United States or associations of such citizens, nationals, resident aliens or private, public or municipal corporations, (b) Transferee is not considered a minor under the laws of the State in which the lands covered by this transfer are located; (c) Transferee's chargeable interests, direct and indirect, in each public domain and acquired lands separately in the same State, do not exceed 246,080 acres in oil and gas leases (of which up to 200,000 acres may be in oil and gas options), or 300,000 acres in leases in each leasing District in Alaska of which up to 200,000 acres may be in options, if this is an oil and gas lease issued in accordance with the Mineral Leasing Act of 1920, or 51,200 acres in any one State if this is a geothermal lease; (d) All parties holding an interest in the transfer are otherwise in compliance with the regulations (43 CFR Group 3100 or 3200) and the authorizing Acts; (e) Transferee is in compliance with reclamation requirements for all Federal oil and gas lease holdings as required by sec. 17(g) of the Mineral Leasing Act; and (f) Transferee is not in violation of sec. 41 of the Mineral Leasing Act.

3. Transferee's signature to this assignment constitutes acceptance of all applicable terms, conditions, stipulations and restrictions pertaining to the lease described herein. Applicable terms and conditions include, but are not limited to, an obligation to conduct all operations on the leasehold in accordance with the terms and conditions of the lease, to condition all wells for proper abandonment, to restore the leased lands upon completion of any operations as described in the lease, and to furnish and maintain such bond as may be required by the lessor pursuant to regulations 43 CFR 3104, 3134, or 3206.

For geothermal transfers, an overriding royalty may not be less than one-fourth (1/4) of one percent of the value of output, nor greater than 50 percent of the rate of royalty due to the United States when this assignment is added to all previously created overriding royalties (43 CFR 3241).

I certify that the statements made herein by me are true, complete, and correct to the best of my knowledge and belief and are made in good faith.

Executed this _____ day of _____ 20 _____

Name of Transferor as shown on current lease _____
(Please type or print)

Transferor _____
(Signature)
or
Attorney-in-fact _____
(Signature)

_____
(Transferor's Address)

_____ _____ _____
(City) (State) (Zip Code)

Executed this _____ day of _____ 20_____

Transferee _____
(Signature)
or
Attorney-in-fact _____
(Signature)

Public reporting burden for this form is estimated to average 30 minutes per response including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to U.S. Department of the Interior, Bureau of Land Management (1004-0034), Bureau Clearance Officer, (WO-630), Mail Stop 401 LS, 1849 C Street, N.W., Washington, D.C. 20240.

Title 18 U.S.C. Sec. 1001 makes it a crime for any person knowingly and willfully to make to any Department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

PART C: GENERAL INSTRUCTIONS

1. Transferor/Transferee(s) **must** complete Parts Al and A2 and Part B. All parties to transfer **must** sign as follows: The transferor(s) must manually sign 3 original copies and the transferee(s) **must** manually sign at least 1 of the 3 original copies. File three (3) completed copies of this form in the proper BLM office for each transfer of operating rights (sublease). For a transfer of overriding royalty interest, payment out of production or other similar interest or payment, file one (1) manually signed copy of this form. The required filing fee (nonrefundable) **must** accompany the transfer, payment out of production or other similar interests or payments. File assignment within ninety (90) days after date of execution of assignor.
2. Separate form **must** be used for each lease being affected by this transfer and for each type of interest conveyed.
3. In Item No. 2 of Part A, describe lands affected (See 43 CFR 3106, 3135, or 3241). For columns b, c, d, and e, enter the interest expressed as a percentage of total interest in the lease; e.g., if transferor transfers one quarter of a 20% interest, enter 20% in column b, 5% in column c, and 15% in column d.
4. If any payments out of production or similar interests, arrangements or payments have previously been created out of the interest being transferred, or if any such payments or interests are reserved under this transfer include a statement giving full details as to amount, method of payment, and other pertinent terms as provided under 43 CFR 3106, 3135, or 3241.
5. The lease account **must** be in good standing before this transfer can be approved as provided under 43 CFR 3106 and 3241.
6. Transfer, if approved, takes effect on the first day of the month following date of filing in the proper BLM office. If a bond is necessary, it **must** be furnished prior to approval of the transfer.
7. Overriding royalty and payment out of production or other similar types of transfers **must** be filed with BLM, but will be accepted for record purposes only. No official approval will be given.
8. Upon approval of a transfer of operating rights (sublease), the sublessee is responsible for all lease obligations under the lease rights transferred to the sublessee.

PAPERWORK REDUCTION ACT STATEMENT

1. This information is being collected pursuant to the law.
2. This information will be used to create and maintain a record of oil and gas/geothermal lease activity.
3. Response to this request is required to obtain benefit.

BLM would like you to know that you do not have to respond to this or any other Federal agency sponsored information collection unless it displays a currently valid OMB control number.

NOTICE

The Privacy Act of 1974 and the regulation in 43 CFR 2.48(d) provide that you be furnished the following information in connection with information required by this oil and gas/geothermal lease transfer application.

AUTHORITY: 30 U.S.C. 181 et seq.; 30 U.S.C. 1001-1025; 42 U.S.C. 6508

PRINCIPAL PURPOSE: The information is to be used to process transfers of operating rights (subleases) for oil and gas/geothermal resources leases.

ROUTINE USES:

(1) The approval of transferee's rights to the land or resources.

(2) Documentation for public information in support of notations made on land status, records for the management, disposal, and use of public lands and resources.

(3) Transfer to appropriate Federal agencies when concurrence is required prior to granting a right in public lands or resources.

(4)(5) Information from the record and/or the record will be transferred to appropriate Federal, State, local or foreign agencies, when relevant to civil, criminal or regulatory investigations or prosecutions.

EFFECT OF NOT PROVIDING INFORMATION - If all requested information is not provided, the transfer may not be approved. See regulations at 43 CFR Groups 3100 and 3200.

Form 3160-3
(September 2001)

FORM APPROVED
OMB No. 1004-0136
Expires January 31, 2004

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

APPLICATION FOR PERMIT TO DRILL OR REENTER

5. Lease Serial No.

6. If Indian, Allottee or Tribe Name

1a. Type of Work: ❑ DRILL ❑ REENTER

7. If Unit or CA Agreement, Name and No.

1b. Type of Well: ❑ Oil Well ❑ Gas Well ❑ Other ❑ Single Zone ❑ Multiple Zone

8. Lease Name and Well No.

2. Name of Operator

9. API Well No.

3a. Address

3b. Phone No. *(include area code)*

10. Field and Pool, or Exploratory

4. Location of Well *(Report location clearly and in accordance with any State requirements.*)*

At surface

At proposed prod. zone

11. Sec., T., R., M., or Blk. and Survey or Area

14. Distance in miles and direction from nearest town or post office*

12. County or Parish

13. State

15. Distance from proposed* location to nearest property or lease line, ft. (Also to nearest drig. unit line, if any)	16. No. of Acres in lease	17. Spacing Unit dedicated to this well
18. Distance from proposed location* to nearest well, drilling, completed, applied for, on this lease, ft.	19. Proposed Depth	20. BLM/BIA Bond No. on file
21. Elevations (Show whether DF, KDB, RT, GL, etc.)	22. Approximate date work will start*	23. Estimated duration

24. Attachments

The following, completed in accordance with the requirements of Onshore Oil and Gas Order No.1, shall be attached to this form:

1. Well plat certified by a registered surveyor.
2. A Drilling Plan.
3. A Surface Use Plan (if the location is on National Forest System Lands, the SUPO shall be filed with the appropriate Forest Service Office).
4. Bond to cover the operations unless covered by an existing bond on file (see Item 20 above).
5. Operator certification.
6. Such other site specific information and/or plans as may be required by the authorized officer.

25. Signature	Name *(Printed/Typed)*	Date
Title		
Approved by *(Signature)*	Name *(Printed/Typed)*	Date
Title	Office	

Application approval does not warrant or certify the the applicant holds legal or equitable title to those rights in the subject lease which would entitle the applicant to conduct operations thereon.
Conditions of approval, if any, are attached.

Title 18 U.S.C. Section 1001 and Title 43 U.S.C. Section 1212, make it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

**(Instructions on reverse)*

INSTRUCTIONS

GENERAL: This form is designed for submitting proposals to perform certain well operations, as indicated on Federal and Indian lands and leases for action by appropriate Federal agencies, pursuant to applicable Federal laws and regulations. Any necessary special instructions concerning the use of this form and the number of copies to be submitted, particularly with regard to local, area, or regional procedures and practices, either are shown below or will be issued by, or may be obtained from local Federal offices.

ITEM 1: If the proposal is to redrill to the same reservoir at a different subsurface location or to a new reservoir, use this form with appropriate notations. Consult applicable Federal regulations concerning subsequent work proposals or reports on the well.

ITEM 4: Locations on Federal or Indian land should be described in accordance with Federal requirements. Consult local Federal offices for specific instructions.

ITEM 14: Needed only when location of well cannot readily be found by road from the land or lease description. A plat, or plats, separate or on this reverse side, showing the roads to, and the surveyed location of, the well, and any other required information, should be furnished when required by Federal agency offices.

ITEMS 15 AND 18: If well is to be, or has been directionally drilled, give distances for subsurface location of hole in any present or objective production zone.

ITEM 22: Consult applicable Federal regulations, or appropriate officials, concerning approval of the proposal before operations are started.

BLM would like you to know that you do not have to respond to this or any other Federal agency-sponsored information collection unless it displays a currently valid OMB control number.

NOTICE

The Privacy Act of 1974 and regulation in 43 CFR 2.48(d) provide that you be furnished the following information in connection with information required by this application.

AUTHORITY: 30 U.S.C. 181 et seq., 25 U.S.C. 396; 43 CFR 3160

PRINCIPAL PURPOSES: The information will be used to: (1) process and evaluate your application for a permit to drill a new oil, gas, or service well or to reenter a plugged and abandoned well; and (2) document, for administrative use, information for the management, disposal and use of National Resource Lands and resources including (a) analyzing your proposal to discover and extract the Federal or Indian resources encountered; (b) reviewing procedures and equipment and the projected impact on the land involved; and (c) evaluating the effects of the proposed operation on the surface and subsurface water and other environmental impacts.

ROUTINE USE: Information from the record and/or the record will be transferred to appropriate Federal, State, and local or foreign agencies, when relevant to civil, criminal or regulatory investigations or prosecution, in connection with congressional inquiries and for regulatory responsibilities.

EFFECT OF NOT PROVIDING INFORMATION: Filing of this application and disclosure of the information is mandatory only if you elect to initiate a drilling or reentry operation on an oil and gas lease.

BURDEN HOURS STATEMENT

Public reporting burden for this form is estimated to average 30 minutes per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to U.S. Department of the Interior, Bureau of Land Management (1004-0136), Bureau Clearance Officer, (WO-630) MS 401 LS, 1849 C Street, N.W., Washington, D.C. 20240.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected to allow evaluation of the technical, safety, and environmental factors involved with drilling for oil and/or gas on Federal and Indian oil and gas leases.

This information will be used to analyze and approve applications.

Response to this request is mandatory only if the operator elects to initiate drilling or reentry operations on an oil and gas lease.

Form 3150-4
(October 2002)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

NOTICE OF INTENT TO CONDUCT OIL AND GAS GEOPHYSICAL EXPLORATION OPERATIONS

FORM APPROVED
OMB NO. 1004-0162
Expires: October 31, 2002

BLM Case No.

State Case No.

Company Name		Project Name	
Address		Type of Bond	Amount
City	State	Bond Number/Where Filed	
Zip Code	Phone No. *(Include area code)*	Crew Number	

LOCAL INFORMATION

Contractor/Client		Crew Chief	
Address		Address	
City	State	City	State
Zip Code	Phone No. *(Include area code)*	Zip Code	Phone No. *(Include area code)*

I hereby file this Notice of Intent to Conduct Oil and Gas Geophysical Exploration Operations across and upon Public Lands (give description of lands by Township(s), Ranges(s), and Section(s)): A map shall be furnished showing the approximate location of the lines to be used on Public Lands. The map shall be of a minimum scale of one-half inch to the mile for the general location, and should be at least two and one-half inches to the mile for specific project location to accompany the Notice of Completion.

Approximate Date of Commencement of Operations:

The type of operation to be conducted is:

TECHNIQUE

- ❑ Shothole
- ❑ Vibroseis
- ❑ Other *(explain)*

METHOD

- ❑ Surface shot
- ❑ Truck Mounted
- ❑ Portable
- ❑ Buggy

Type and amount of Explosive:

Shotpoint pattern:

Shothole Depth:

No. Source Points/Mile:

Provide diagram if multi-hole pattern:

The undersigned agrees that the oil and gas exploration operations shall be conducted in compliance with all Federal, State and local laws, ordinances or regulations which are applicable. Federal regulations are contained in 43 CFR 3150. The Crew Chief, Party Manager, or other responsible representative shall attend a pre-work conference prior to entering onto the public land to sign the general terms and conditions relative to this project, and any site specific special conditions developed by the local Authorized Officer.

(Signature of Appropriate Geophysical Representative)

(Signature of Bureau of Land Management Authorized Officer)

(Title)

(Title)

(Date)

(Date)

Title 18 U.S.C. Section 1001 and Title 43 U.S.C. Section 1212, make it a crime for any person knowingly and willfully to make to any Department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

(Continued on reverse)

NOTICE

The Privacy Act of 1974 and the regulation in 43 CFR 2.48(d) provide that you be furnished the following information in connection with information required by this Notice of Intent to Conduct Geophysical Exploration Operations.

AUTHORITY: 30 U.S.C. 181 et seq.

PRINCIPAL PURPOSE: The information will be used to process your Notice.

ROUTINE USES: (1) The processing of the operator's Notice of Intent to Conduct Geophysical Exploration Operations. (2) To determine that mitigating measures are made to protect the environment. (3) Transfer to appropriate Federal agencies when concurrence is required prior to granting a right in public lands or resources. (4)(5) Information from the record and/or the record will be transferred to appropriate Federal, State, local or foreign agencies, when relevant to civil, criminal or regulatory investigations or prosecutions.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of the information is voluntary. If all the information is not provided, your right to conduct geophysical exploration activities may be revoked.

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected in accordance with 43 CFR 3151.
This information will be used to process geophysical exploration notices.
Response to this request is required to obtain a benefit.

BLM would like you to know that you do not have to respond to this or any other Federal agency-sponsored information collection unless it displays a currently valid OMB control number.

BURDEN HOURS STATEMENT

Public reporting burden for this form is estimated to average 1 hour per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing of the form. Direct comments regarding the burden estimate or any other aspect of this form to the U.S. Department of the Interior, Bureau of Land Management (1004-0162), Bureau Information Collection Clearance Officer, (WO-630), 1849 C Street, N.W., Washington, D.C. 20240.

Form 3160-5
(September 2001)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
OMB No. 1004-0135
Expires January 31, 2004

SUNDRY NOTICES AND REPORTS ON WELLS

Do not use this form for proposals to drill or to re-enter an abandoned well. Use Form 3160-3 (APD) for such proposals.

SUBMIT IN TRIPLICATE - Other instructions on reverse side

1. Type of Well
   ❑ Oil Well ❑ Gas Well ❑ Other
2. Name of Operator
3a. Address
3b. Phone No. *(include area code)*
4. Location of Well *(Footage, Sec., T., R., M., or Survey Description)*

5. Lease Serial No.
6. If Indian, Allottee or Tribe Name
7. If Unit or CA/Agreement, Name and/or No.
8. Well Name and No.
9. API Well No.
10. Field and Pool, or Exploratory Area
11. County or Parish, State

12. CHECK APPROPRIATE BOX(ES) TO INDICATE NATURE OF NOTICE, REPORT, OR OTHER DATA

TYPE OF SUBMISSION	TYPE OF ACTION			
❑ Notice of Intent	❑ Acidize	❑ Deepen	❑ Production (Start/Resume)	❑ Water Shut-Off
❑ Subsequent Report	❑ Alter Casing	❑ Fracture Treat	❑ Reclamation	❑ Well Integrity
❑ Final Abandonment Notice	❑ Casing Repair	❑ New Construction	❑ Recomplete	❑ Other _____
	❑ Change Plans	❑ Plug and Abandon	❑ Temporarily Abandon	_____
	❑ Convert to Injection	❑ Plug Back	❑ Water Disposal	_____

13. Describe Proposed or Completed Operation (clearly state all pertinent details, including estimated starting date of any proposed work and approximate duration thereof. If the proposal is to deepen directionally or recomplete horizontally, give subsurface locations and measured and true vertical depths of all pertinent markers and zones. Attach the Bond under which the work will be performed or provide the Bond No. on file with BLM/BIA. Required subsequent reports shall be filed within 30 days following completion of the involved operations. If the operation results in a multiple completion or recompletion in a new interval, a Form 3160-4 shall be filed once testing has been completed. Final Abandonment Notices shall be filed only after all requirements, including reclamation, have been completed, and the operator has determined that the site is ready for final inspection.)

14. I hereby certify that the foregoing is true and correct
Name *(Printed/Typed)*

Title

Signature

Date

THIS SPACE FOR FEDERAL OR STATE OFFICE USE

Approved by

Title

Date

Conditions of approval, if any, are attached. Approval of this notice does not warrant or certify that the applicant holds legal or equitable title to those rights in the subject lease which would entitle the applicant to conduct operations thereon.

Office

Title 18 U.S.C. Section 1001 and Title 43 U.S.C. Section 1212, make it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

(Instructions on reverse)

GENERAL INSTRUCTIONS

This form is designed for submitting proposals to perform certain well operations, and reports of such operations when completed, as indicated on Federal and Indian lands pursuant to applicable Federal law and regulations. Any necessary special instructions concerning the use of this form and the number of copies to be submitted, particularly with regard to local area, or regional procedures and practices, either are shown below or will be issued by, or may be obtained from the local Federal office.

SPECIFIC INSTRUCTIONS

Item 4 - Locations on Federal or Indian land should be described in accordance with Federal requirements. Consult the local Federal office for specific instructions.

Item 13 - Proposals to abandon a well and subsequent reports of abandonment should include such special information as is required by the local Federal office. In addition, such proposals and reports should include reasons for the abandonment; data on any former or present productive zones, or other zones with present significant fluid contents not sealed off by cement or otherwise; depths (top and bottom) and method of placement of cement plugs; mud or other material placed below, between and above plugs; amount, size, method of parting of any casing, liner or tubing pulled and the depth to top of any left in the hole; method of closing top of well and date well site conditioned for final inspection looking to approval of the abandonment.

NOTICE

The Privacy Act of 1974 and the regulation in 43 CFR 2.48(d) provide that you be furnished the following information in connection with information required by this application.

AUTHORITY: 30 U.S.C. 181 et seq., 351 et seq., 25 U.S.C. 396; 43 CFR 3160.

PRINCIPAL PURPOSE: The information is used to: (1) Evaluate, when appropriate, approve applications, and report completion of subsequent well operations, on a Federal or Indian lease; and (2) document for administrative use, information for the management, disposal and use of National Resource lands and resources, such as: (a) evaluating the equipment and procedures to be used during a proposed subsequent well operation and reviewing the completed well operations for compliance with the approved plan; (b) requesting and granting approval to perform those actions covered by 43 CFR 3162.3-2, 3162.3-3, and 3162.3-4; (c) reporting the beginning or resumption of production, as required by 43 CFR 3162.4-1(c); and (d) analyzing future applications to drill or modify operations in light of data obtained and methods used.

ROUTINE USES: Information from the record and/or the record will be transferred to appropriate Federal, State, local or foreign agencies, when relevant to civil, criminal or regulatory investigations or prosecutions in connection with congressional inquiries or to consumer reporting agencies to facilitate collection of debts owed the Government.

EFFECT OF NOT PROVIDING THE INFORMATION: Filing of this notice and report and disclosure of the information is mandatory for those subsequent well operations specified in 43 CFR 3162.3-2, 3162.3-3, 3162.3-4.

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected to evaluate proposed and/or completed subsequent well operations on Federal or Indian oil and gas leases.

Response to this request is mandatory.

BLM would like you to know that you do not have to respond to this or any other Federal agency-sponsored information collection unless it displays a currently valid OMB control number.

BURDEN HOURS STATEMENT

Public reporting burden for this form is estimated to average 25 minutes per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to U.S. Department of the Interior, Bureau of Land Management (1004-0135), Bureau Clearance Officer, (WO-630), Mail Stop 401 LS, 1849 C St., N.W., Washington D.C. 20240

Form 3160-4
(September 2001)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
OMB NO. 1004-0137
Expires: January 31, 2004

WELL COMPLETION OR RECOMPLETION REPORT AND LOG

5. Lease Serial No.

1a. Type of Well ❑ Oil Well ❑ Gas Well ❑ Dry Other
b. Type of Completion: ❑ New Well ❑ Work Over ❑ Deepen ❑ Plug Back ❑ Diff. Resvr,.
Other _____

6. If Indian, Allottee or Tribe Name

7. Unit or CA Agreement Name and No.

2. Name of Operator

8. Lease Name and Well No.

3. Address

3a. Phone No. *(include area code)*

9. API Well No.

4. Location of Well *(Report location clearly and in accordance with Federal requirements)**

At surface

At top prod. interval reported below

At total depth

10. Field and Pool, or Exploratory

11. Sec., T., R., M., on Block and Survey or Area

12. County or Parish

13. State

14. Date Spudded

15. Date T.D. Reached

16. Date Completed
❑ D & A ❑ Ready to Prod.

17. Elevations (DF, RKB, RT, GL)*

18. Total Depth: MD
TVD

19. Plug Back T.D.: MD
TVD

20. Depth Bridge Plug Set: MD
TVD

21. Type Electric & Other Mechanical Logs Run (Submit copy of each)

22. Was well cored? ❑ No ❑ Yes (Submit analysis)
Was DST run? ❑ No ❑ Yes (Submit report)
Directional Survey? ❑ No ❑ Yes (Submit copy)

23. Casing and Liner Record *(Report all strings set in well)*

Hole Size	Size/Grade	Wt. (#/ft.)	Top (MD)	Bottom (MD)	Stage Cementer Depth	No. of Sks. & Type of Cement	Slurry Vol. (BBL)	Cement Top*	Amount Pulled

24. Tubing Record

Size	Depth Set (MD)	Packer Depth (MD)	Size	Depth Set (MD)	Packer Depth (MD)	Size	Depth Set (MD)	Packer Depth (MD)

25. Producing Intervals

Formation	Top	Bottom
A)		
B)		
C)		
D)		

26. Perforation Record

Perforated Interval	Size	No. Holes	Perf. Status

27. Acid, Fracture, Treatment, Cement Squeeze, Etc.

Depth Interval	Amount and Type of Material

28. Production - Interval A

Date First Produced	Test Date	Hours Tested	Test Production →	Oil BBL	Gas MCF	Water BBL	Oil Gravity Corr. API	Gas Gravity	Production Method

Choke Size	Tbg. Press. Flwg. SI	Csg. Press.	24 Hr. Rate →	Oil BBL	Gas MCF	Water BBL	Gas : Oil Ratio	Well Status

28a. Production - Interval B

Date First Produced	Test Date	Hours Tested	Test Production →	Oil BBL	Gas MCF	Water BBL	Oil Gravity Corr. API	Gas Gravity	Production Method

Choke Size	Tbg. Press. Flwg.	Csg. Press.	24 Hr. Rate	Oil BBL	Gas MCF	Water BBL	Gas : Oil Ratio	Well Status

3b.Production - Interval C

ate First roduced	Test Date	Hours Tested	Test Production →	Oil BBL	Gas MCF	Water BBL	Oil Gravity Corr. API	Gas Gravity	Production Method
hoke ize	Tbg. Press. Flwg. SI	Csg. Press.	24 Hr. Rate →	Oil BBL	Gas MCF	Water BBL	Gas : Oil Ratio	Well Status	

3c. Production - Interval D

ate First roduced	Test Date	Hours Tested	Test Production →	Oil BBL	Gas MCF	Water BBL	Oil Gravity Corr. API	Gas Gravity	Production Method
hoke ize	Tbg. Press. Flwg. SI	Csg. Press.	24 Hr. Rate →	Oil BBL	Gas MCF	Water BBL	Gas : Oil Ratio	Well Status	

). Disposition of Gas *(Sold, used for fuel, vented, etc.)*

). Summary of Porous Zones (Include Aquifers):

Show all important zones of porosity and contents thereof: Cored intervals and all drill-stem tests, including depth interval tested, cushion used, time tool open, flowing and shut-in pressures and recoveries.

31. Formation (Log) Markers

Formation	Top	Bottom	Descriptions, Contents, etc.	Name	Top Meas. Depth

2. Additional remarks (include plugging procedure):

3. Circle enclosed attachments:

1. Electrical/Mechanical Logs (1 full set req'd.) 2. Geologic Report 3. DST Report 4. Directional Survey
5. Sundry Notice for plugging and cement verification 6. Core Analysis 7. Other:

4.I hereby certify that the foregoing and attached information is complete and correct as determined from all available records (see attached instructions)*

Name *(please print)* _____ Title _____

Signature _____ Date _____

tle 18 U.S.C. Section 1001 and Title 43 U.S.C. Section 1212, make it a crime for any person knowingly and willfully to make to any department or agency of the United ates any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

INSTRUCTIONS

GENERAL: This form is designed for submitting a complete and correct well completion/recompletion report and log on all types of wells on Federal and Indian leases to a Federal agency, pursuant to applicable Federal laws and regulations. Any necessary special instructions concerning the use of this form and the number of copies to be submitted, particularly with regard to local, area, or regional procedures and practices, either are shown below or will be issued by, or may be obtained from, the local Federal office.

If not filed prior to the time this summary record is submitted, copies of all currently available logs (drillers, geologists, sample and core analysis, and all types electric), formation and pressure tests, and directional surveys, should be attached hereto, to the extent required by applicable Federal laws and regulations. All attachments should be listed on this form, see item 33.

ITEM 4: Locations on Federal or Indian land should be described in accordance with Federal requirements. Consult local Federal office for specific instructions.

ITEM 17: Indicate which reported elevation is used as reference (where not otherwise shown) for depth measurements given in other spaces on this form and in any attachments.

ITEM 23: Show how reported top(s) of cement were determined, i.e., circulated (CIR), or calculated (CAL), or cement bond log (CBL), or temperature survey (TS).

PRIVACY ACT

The Privacy Act of 1974 and the regulation in 43 CFR 2.48 (d) provide that you be furnished the following information in connection with information required by this application.

AUTHORITY: 30 U.S.C. 181 et seq., 351 et seq., 25 U.S.C. et seq.; 43 CFR 3160.

PRINCIPAL PURPOSE: The information is to be used to evaluate the actual operations performed in the drilling, completing and testing of a well on a Federal or Indian lease.

ROUTINE USES: (1) Evaluate the equipment and procedures used during the drilling and completing/recompleting of a well. (2) The review of geologic zones and formation encountered during drilling. (3) Analyze future applications to drill in light of data obtained and methods used. (4)(5) Information from the record and/or the record will be transferred to appropriate Federal, State, local or foreign agencies, when relevant to civil, criminal or regulatory investigations or prosecutions.

EFFECT OF NOT PROVIDING INFORMATION: Filing of this report and disclosure of the information is mandatory once a well drilled on a Federal or Indian lease is completed/recompleted.

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected to allow evaluation of the technical, safety, and environmental factors involved with drilling and completing/recompleting wells on Federal and Indian oil and gas leases.

This information will be used to analyze operations and to compare equipment and procedures actually used with those proposed and approved.

Response to this request is mandatory only if the operator elects to initiate drilling and completing/recompleting operations on an oil and gas lease.

BLM would like you to know that you do not have to respond to this or any other Federal agency-sponsored information collection unless it displays a currently valid OMB control number.

BURDEN HOURS STATEMENT

Public reporting burden for this form is estimated to average 60 minutes per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to U.S. Department of the Interior, Bureau of Land Management (1004-0137), Bureau Clearance Officer, (WO-630), MS 401 LS, 1849 C Street, N.W., Washington, D.C. 20240.

Form 3150-4a
(July 1993)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
OMB NO. 1004-0162
Expires: April 30, 1996

BLM Case No.

State Case No.

TERMS AND CONDITIONS FOR NOTICE OF INTENT TO CONDUCT GEOPHYSICAL EXPLORATION

Company Name		Date NOI Filed	
Address		Company Project Name	
City	State	Client	
Zip Code	Phone No. *(Include area code)*	Crew Number	

GENERAL

1. A copy of the approved Notice of Intent to Conduct Oil and Gas Geophysical Exploration Operations and Terms and Conditions shall be kept in the field with each seismic crew.

2. The BLM shall be notified at least 3 days and no more than 14 days before entering onto public lands. If conditions have changed, additional terms and conditions may be necessary.

3. The operator is responsible for informing all persons in the area who are associated with this project that they will be subject to prosecution for knowingly disturbing historic or archaeological sites, or for collecting artifacts. If historic or archaeological materials are discovered, the operator is to immediately stop work that might further disturb such materials, and contact the Authorized Officer (AO). Within five working days the AO will inform the operator as to:

- Whether the materials appear eligible for the National Register of Historic Places;
- The mitigation measures the operator will likely have to undertake before the site can be used (assuming in situ preservation is not necessary); and,
- A timeframe for the AO to complete an expedited review under 36 CFR 800.11 to confirm, through the State Historic Preservation Officer, that the findings of the AO are correct and that mitigation is appropriate.

If the operator wishes, at any time, to relocate activities to avoid the expense of mitigation and/or delays associated with this process, the AO will assume responsibility for whatever recordation and stabilization of the exposed materials may be required. Otherwise, the operator will be responsible for mitigation costs. The AO will provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the AO that the required mitigation has been completed, the operator will then be allowed to resume operations.

4. Due care **must** be taken to safeguard all livestock, wildlife, and wild horses in the vicinity of the exploration operations. Measures to mitigate adverse effects on protected or threatened/endangered species will be determined by the AO after consultation with the operator.

5. Operations shall be suspended when in the judgment of the Authorized Officer they have the possibility of unduly harming the surface during periods of wet weather.

6. Range improvements (fences, reservoirs, etc.) or land treatment projects (contour furrowing, seeding, or range monitoring sites) shall not be disturbed or altered without prior written approval of the Authorized Officer.

7. Federally owned or controlled water shall not be used without written permission of the Authorized Officer.

8. All fires set or caused as a result of these exploration operations shall be extinguished without expense to the government. All fires shall be reported to the BLM as soon as possible.

9. The operator shall notify the Authorized Officer in writing of any changes in the original application and secure written approval for the changes before proceeding.

10. When it is determined that activities will come closer than one quarter (1/4) mile of developed recreation sites, historic trails. springs or flowing water wells the Authorized Officer will be consulted to determine if the action is permissible.

11. Advanced written permission shall be obtained before conducting surface disturbing activities. This includes, but is not limited to: towing with a tractor, blading, dozing, snow removal, and vegetation removal.

12. Powder magazines and explosives shall be stored and handled according to U.S. Bureau of Alcohol, Tobacco and Firearms (ATF) standards. As required by ATF, loaded shotholes shall not be left unsecured.

(Continued on reverse)

RECLAMATION/CLEANUP

1. Reclamation of disturbed areas shall be done concurrently with the geophysical operation, in-so-far as possible.

2. Shallow hole plugging shall be completed using the guidelines developed by the appropriate State/local regulatory agency or agencies and the Bureau of Land Management State Office. The requirements vary from State to State; therefore, those specific to the State the project is being conducted in will be followed.

3. Where appropriate, disturbed areas shall be reseeded, as directed by the Authorized Officer, until vegetative cover is established that is commensurate with pre-survey conditions. In areas where reseeding is not appropriate, the authorized officer shall determine what steps should be taken.

4. All trash, flagging, lath, etc. shall be removed and hauled to an authorized disposal site.

5. No oil or lubricants shall be drained onto the ground surface.

6. The operator shall notify the Authorized Officer of the date operations are completed.

COMPLETION OF PROCEDURES

1. A Notice of Completion (NOC) (Form 3150-5) shall be filed within 30 days of completion of operations including reclamation. A map (minimum scale of 1:24,000) **must** be attached to the NOC showing public lands crossed and the final location of source points.

I understand and agree to comply with these terms and conditions and any attached special conditions.

(Signature of Appropriate Representative)	*(Date)*

☐ Special Conditions Attached

☆U.S. GOVERNMENT PRINTING OFFICE: 1993—839-346

Form 3150-5
(July 1993)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
OMB No. 1004-0162
Expires: April 30, 1996

NOTICE OF COMPLETION OF OIL AND GAS EXPLORATION OPERATIONS

Company Name		BLM Case Number
Address		Crew Number
City	State	Crew Chief
Zip Code	Phone Number *(include area code)*	

1. List the public lands described in the Notice of Intent to Conduct Oil and Gas Geophysical Exploration Operations that were crossed by the geophysical activities. Give description of lands by Township(s), Range(s), and Section(s).

2. Number of miles of line completed on public land:

3. Attach shot point or field maps showing actual line locations and any access routes. The map(s) **must** be a minimum scale of 1:24,000 (7 1/2 minute USGS quadrangle or equivalent). If reproductions are used, they **must** be good quality and legible. Public lands that are crossed **must** be indicated.

4. Describe the hole plugging process used, if appropriate to the project.

5. If requested by the Authorized Officer, attach a copy of the "Hole Plugging Log" describing each hole for all shot-lines. Specify whether holes were wet or dry, identify static water level, flowing holes, breached or caved holes, lost hole locations, etc.

6. Describe surface disturbance other than source points and the reclamation performed.

I CERTIFY That the oil and gas exploration operations approved under the Notice of Intent, Case No. _____ and described above were completed on _____. All Terms and Conditions attached to the approved Notice were complied with.

_____ _____
(Signature of Appropriate Geophysical Representative) *(Date)*

_____
(Title)

Title 18 U.S.C. Sec. 1001 makes it a crime for any person knowingly and willfully to make to any Department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

(Continued on reverse)

NOTICE

The Privacy Act of 1974 and the regulation in 43 CFR 2.48(d) provide that you be furnished the following information in connection with information required by this Notice of Completion of Oil and Gas Exploration Operations.

AUTHORITY: 30 U.S.C. 181 et seq.

PRINCIPAL PURPOSE: The information will be used to process your Notice.

ROUTINE USES: (1) The processing of the operator's Notice of Completion of Oil and Gas Exploration Operations. (2) To determine that mitigating measures are made to protect the environment. (3) Transfer to appropriate Federal agencies when concurrence is required prior to granting a right in public lands or resources. (4)(5) Information from the record and/or the record will be transferred to appropriate Federal, State, local or foreign agencies, when relevant to civil, criminal or regulatory investigations or prosecutions.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of the information is voluntary. If all the information is not provided, your right to conduct geophysical exploration activities may be revoked.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected in accordance with 43 CFR 3151.
This information will be used to process geophysical exploration notices.
Response to this request is required to obtain a benefit.

BURDEN HOURS STATEMENT

Public reporting burden for this form is estimated to average 20 minutes per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing of the form. Direct comments regarding the burden estimate or any other aspect of this form to the U.S. Department of the Interior, Bureau of Land Management, (Alternate) Bureau Clearance Officer, (WO-771), 1849 C Street, N.W., Washington, D.C. 20240, and the Office of Management and Budget, Paperwork Reduction Project (1004-0162), Washington, D.C. 20503.

☆U.S. GOVERNMENT PRINTING OFFICE: 1993—839-347