

Title 43: Public Lands: Interior

PART 3130—OIL AND GAS LEASING: NATIONAL PETROLEUM RESERVE, ALASKA

Subpart 3135—Transfers, Extensions, Consolidations, and Suspensions

§ 3135.1 Transfers and extensions, general.

§ 3135.1-1 Transfers.

(a) Subject to approval of the authorized officer, a lessee may transfer his/her lease(s), or any undivided interest therein, or any legal subdivision, to anyone qualified under §§3130.1 and 3132.4 of this title to hold a lease.

(b) Any approved transfer shall be deemed to be effective on the first day of the lease month following its filing in the proper BLM office, unless, at the request of the parties, an earlier date is specified in the approval.

(c) The transferor shall continue to be responsible for all obligations under the lease accruing prior to the approval of the transfer.

(d) The transferee shall be responsible for all obligations under the lease subsequent to the effective date of a transfer, and shall comply with all regulations issued under the Act.

(e) When a transfer of operating rights (sublease) is approved, the sublessee is responsible for all obligations under the rights transferred to the sublessee.

(f) 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.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17359, May 16, 1988; 53 FR 31867, Aug. 22, 1988]

§ 3135.1-2 Requirements for filing of transfers.

(a)(1) All instruments of transfer of lease or of an interest therein, including operating rights, subleases and assignments of record-title shall be filed in triplicate for approval. Such instruments shall be filed within 90 days from the date of final execution. The instruments of transfer shall include a statement, over the transferee's own signature, with respect to citizenship and qualifications as required of a bidder under §3132.4 of this title and shall contain all of the terms and conditions agreed upon by the parties thereto. Carried working interests, overriding royalty interests or payments out of production or other interest may be created or transferred without approval.

(2) An application for approval of any instrument that the regulations require you to file must include the processing fee for assignments and transfers found in the fee schedule in §3000.12 of this chapter. Any document that the regulations in this part do not require you to file, but that you submit for record purposes, must also include the processing fee for assignments and transfers found in the fee schedule in §3000.12 of this chapter for each lease affected. Such documents may be rejected by the authorized officer.

(b) An attorney-in-fact, on behalf of the holder of a lease, operating rights or sublease, shall furnish evidence of authority to execute the transfer or application for approval and the statement required by §3132.5(g) of this title.

(c) Where a transfer of record title creates separate leases, a bond shall be furnished covering the transferred lands in the amount prescribed in §3134.1 of this title. Where a transfer does not create separate leases, the transferee, if the transfer so provides and the surety consents, may become co-principal on the bond with the transferor.

[46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17359, May 16, 1988; 70 FR 58875, Oct. 7, 2005]

§ 3135.1-3 Separate filing for transfers.

A separate instrument of transfer shall be filed for each lease on a form approved by the Director or an exact reproduction of the front and back of such form. Any earlier editions of the current form are deemed obsolete and are unacceptable for filing. When transfers to the same person, association or corporation, involving more than 1 lease are filed at the same time for approval, 1 request for approval and 1 showing as to the qualifications of the transferee shall be sufficient.

[53 FR 17359, May 16, 1988; 53 FR 31959, Aug. 22, 1988]

§ 3135.1-4 Effect of transfer of a tract.

(a) When a transfer is made of all the record title to a portion of the acreage in a lease, the transferred and retained portions are divided into separate and distinct leases. The BLM will not approve transfers of a tract of land:

- (1) Of less than 640 acres that is not compact; or
- (2) That would leave a retained tract of less than 640 acres.

(b) Each segregated lease shall continue in full force and effect for the primary term of the original lease and so long thereafter as the activities on the segregated lease support extension in accordance with §3135.1-5.

[73 FR 6442, Feb. 4, 2008]

§ 3135.1-5 Extension of lease.

(a) The term of a lease shall be extended beyond its primary term:

- (1) So long as oil or gas is produced from the lease in paying quantities;
- (2) If the BLM has determined in writing that oil or gas is capable of being produced in paying quantities from the lease; or
- (3) So long as drilling or reworking operations, actual or constructive, as approved by the BLM, are conducted thereon.

(b) Your lease will expire on the 30th anniversary of the original issuance date of the lease unless oil or gas is being produced in paying quantities. If your lease contains a well that is capable of production, but you fail to produce the oil or gas due to circumstances beyond your control, you may apply for a suspension under §3135.2. If the BLM approves the suspension, the lease will not expire on the 30th anniversary of the original issuance date of the lease.

(c) A lease may be maintained in force by the BLM-approved directional wells drilled under the leased area from surface locations on adjacent or adjoining lands not covered by the lease. In such circumstances, drilling shall be considered to have commenced on the lease area when drilling is commenced on the adjacent or adjoining lands for the purpose of directional drilling under the leased area through any directional well surfaced on adjacent or adjoining lands. Production, drilling or reworking of any such directional well shall be considered production or drilling or reworking operations on the lease area for all purposes of the lease.

[73 FR 6442, Feb. 4, 2008]

§ 3135.1-6 Lease renewal.

(a) *With a discovery* —(1) At any time after the fifth year of the primary term of a lease, the BLM may approve a 10-year lease renewal for a lease on which there has been a well drilled and a discovery of hydrocarbons even if the BLM has determined that the well is not capable of producing oil or gas in paying quantities. The BLM must receive the lessee's application for lease renewal no later than 60 days prior to the expiration of the primary term of the lease.

(2) The renewal application must provide evidence, and a certification by the lessee, that the lessee or its operator has drilled one or more wells and discovered producible hydrocarbons on the leased lands in such quantities that a prudent operator would hold the lease for potential future development.

(3) The BLM will approve the renewal application if it determines that a discovery was made and that a prudent operator would hold the lease for future development.

(4) The lease renewal will be effective on the day following the end of the primary term of the lease.

(5) The lease renewal may be approved on the condition that the lessee drills one or more additional wells or acquires and analyzes more well data, seismic data, or geochemical survey data prior to the end of the primary term.

(b) *Without a discovery* —(1) At any time after the fifth year of the primary term of a lease, the BLM may approve an application for a 10-year lease renewal for a lease on which there has not been a discovery of oil or gas. The BLM must receive the lessee's application no later than 60 days prior to the expiration of the primary term of the lease.

(2) The renewal application must:

(i) Provide sufficient evidence that the lessee has diligently pursued exploration that warrants continuation of the lease with the intent of continued exploration or future potential development of the leased land. The application must show the:

(A) Lessee or its operator has drilled one or more wells or has acquired and analyzed seismic data, or geochemical survey data on a significant portion of the leased land since the lease was issued;

(B) Data collected indicates a reasonable probability of future success; and

(C) Lessee's plans for future exploration; or

(ii) Show that all or part of the lease is part of a unit agreement covering a lease that qualifies for renewal without a discovery and that the lease has not been previously contracted out of the unit.

(3) The BLM will approve the renewal application if it determines that the application satisfies the requirements of paragraph (b)(2)(i) or (ii) of this section. If the BLM approves the application for lease renewal, the applicant must submit to the BLM a fee of \$100 per acre within 5 business days of receiving notification of approval.

(4) The lease renewal will be effective on the day following the end of the primary term of the lease.

(5) The lease renewal may be approved on the condition that the lessee drills one or more additional wells or acquires and analyzes more well data, seismic data or geochemical survey data prior to the end of the primary term.

(c) *Renewed lease*. The renewed lease will be subject to the terms and conditions applicable to new oil and gas leases issued under the Integrated Activity Plan in effect on the date that the BLM issues the decision to renew the lease.

[73 FR 6442, Feb. 4, 2008]

§ 3135.1-7 Consolidation of leases.

(a) Leases may be consolidated upon written request of the lessee filed with the State Director Alaska, Bureau of Land Management. The request shall identify each lease involved by serial number and shall explain the factors which justify the consolidation. Include with each request for a consolidation of leases the processing fee found in the fee schedule in §3000.12 of this chapter.

(b) All parties holding any undivided interest in any lease involved in the consolidation shall agree to enter into the same lease consolidation.

(c) Consolidation of leases not to exceed 60,000 acres may be approved by the State Director, Alaska if it is determined that the consolidation is justified.

(d) The effective date, the anniversary date, and the primary term of the consolidated lease will be those of the oldest original lease involved in the consolidation. The term of a consolidated lease may be extended, or renewed, as appropriate, beyond the primary lease term under §3135.1-5 or §3135.1-6.

(e) Royalty, rental, special lease stipulations and other terms and conditions of each original lease except the effective date, anniversary date and the primary term shall continue to apply to that lease or any portion thereof regardless of the lease becoming a part of a consolidated lease. The highest royalty and rental rates of the original leases shall apply to the consolidated lease.

[48 FR 413, Jan. 5, 1983, as amended at 70 FR 58875, Oct. 7, 2005. Redesignated and amended at 73 FR 6442, 6443, Feb. 4, 2008]

§ 3135.1-8 Termination of administration for conveyed lands and segregation.

(a) If all of the mineral estate is conveyed to a regional corporation, the regional corporation will assume the lessor's obligation to administer any oil and gas lease.

(b) If a conveyance of the mineral estate does not include all of the land covered by an oil and gas lease, the lease will be segregated into two leases, one of which will cover only the mineral estate conveyed. The regional corporation will assume administration of the lease covering the conveyed mineral estate.

(c) If the regional corporation assumes administration of a lease under paragraph (a) or (b) of this section, all lease terms, BLM regulations, and BLM orders in effect on the date of assumption continue to apply to the lessee under the lease. All such obligations will be enforceable by the regional corporation as the lessor until the lease terminates.

(d) In a case in which a conveyance of a mineral estate described in paragraph (b) of this section does not include all of the land covered by the oil and gas lease, the owner of the mineral estate in any particular portion of the land covered by the lease is entitled to all of the revenues reserved under the lease as to that portion including all of the royalty payable with respect to oil or gas produced from or allocated to that portion.

[73 FR 6443, Feb. 4, 2008]

§ 3135.2 Under what circumstances will BLM require a suspension of operations and production or approve my request for a suspension of operations and production for my lease?

(a) BLM will require a suspension of operations and production or approve your request for a suspension of operations and production for your lease(s) if BLM determines that—

- (1) It is in the interest of conservation of natural resources;
 - (2) It encourages the greatest ultimate recovery of oil and gas, such as by encouraging the planning and construction of a transportation system to a new area of discovery; or
 - (3) It mitigates reasonably foreseeable and significantly adverse effects on surface resources.
- (b) BLM will suspend operations and production for your lease if it determines that, despite the exercise of due care and diligence, you can't comply with your lease requirements for reasons beyond your control.
- (c) If BLM requires a suspension of operations and production or approves your request for a suspension of operations and production, the suspension—
- (1) Stops the running of your lease term and prevents it from expiring for as long as the suspension is in effect;
 - (2) Relieves you of your obligation to pay rent, royalty, or minimum royalty during the suspension; and
 - (3) Prohibits you from operating on, producing from, or having any other beneficial use of your lease during the suspension. However, you must continue to perform necessary maintenance and safety activities.

[67 FR 17886, Apr. 11, 2002]

§ 3135.3 How do I apply for a suspension of operations and production?

- (a) You must submit to BLM an application stating the circumstances that are beyond your reasonable control that prevent you from operating or producing your lease(s).
- (b) Your suspension application must be signed by—
- (1) All record title holders of the lease; or
 - (2) The operator on behalf of the record title holders of the leases committed to an approved agreement.
- (c) You must submit your application to BLM before your lease expires.
- (d) Your application must be for your entire lease.

[67 FR 17886, Apr. 11, 2002]

§ 3135.4 When is a suspension of operations and production effective?

A suspension of operations and production is effective—

- (a) The first day of the month in which you file the application for suspension or BLM requires the suspension; or
- (b) Any other date BLM specifies in the decision document.

[67 FR 17886, Apr. 11, 2002]

§ 3135.5 When should I stop paying rental or royalty after BLM requires or approves a suspension of operations and production ?

You should stop paying rental or royalty on the first day of the month that the suspension is effective. However, if there is any production sold or removed during that month, you must pay royalty on that production.

[67 FR 17886, Apr. 11, 2002]

§ 3135.6 When will my suspension terminate?

(a) Your suspension terminates—

(1) On the first day of the month in which you begin to operate or produce on your lease with BLM approval; or

(2) The date BLM specifies in a written notice to you.

(b) You must notify BLM at least 24 hours before you begin operations or production under paragraph (a)(1) of this section.

[67 FR 17886, Apr. 11, 2002]

§ 3135.7 What effect does a suspension of operations and production have on the term of my lease?

(a) *Primary term.* If BLM grants a suspension of operations and production for your lease, the suspension stops the running of the primary term of your lease for the period of the suspension.

(b) *Extended term.* If your lease is in its extended term, a suspension holds your lease in its extended term for the period of the suspension as if it were in production.

[67 FR 17886, Apr. 11, 2002]

§ 3135.8 If BLM requires a suspension or grants my request for a suspension of operations and production for my lease, when must I next pay advance annual rental, royalty, or minimum royalty?

(a) You are not required to submit your next rental or minimum royalty payment until the date the suspension terminates. Therefore, if your suspension begins in month 3 of lease year A and ends in month 2 of lease year B, you must submit your rental payment for lease year B when your suspension ends. BLM will send a written notice to the lessee and operator stating that the suspension is terminated and the date your rental payment for lease year B is due to MMS. BLM's notice also will state when you must pay any minimum royalty due for lease year A. Your minimum royalty for lease year B will be due at the end of that year.

(b) If you remove or sell any production from the lease during the term of the suspension, you must pay royalty on that production.

[67 FR 17886, Apr. 11, 2002]