

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

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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.
- (d) The Energy Policy Act of 2005 (42 U.S.C. 6506a(o)).

[46 FR 55497, Nov. 9, 1981, as amended at 73 FR 6442, Feb. 4, 2008]

§ 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.
- (g) *Production allocation methodology* means a way of attributing the production of oil and gas produced from a unit well or wells to individual tracts committed to the unit and forming a participating area.
- (h) *Reservoir heterogeneity* means spatial differences in the oil and gas reservoir properties. This can include, but is not limited to, the thickness of the reservoir, the amount of pore space in the reservoir rock

that contains oil, gas, or water, and the amount of water contained in the reservoir rock. This information may be used to allocate production.

(i) *Variation in reservoir producibility* means differences in the rates oil and gas wells produce from the reservoir. These differences can result from variations in the thickness of the reservoir, porosity, and the amount of connected pore space.

46 FR 55497, Nov. 9, 1981, as amended at 53 FR 17358, May 16, 1988; 73 FR 6442, Feb. 4, 2008]

§ 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) Make payments of bonuses, including deferred bonuses, first year's rental, other payments due upon lease issuance, and fees, to BLM's Alaska State Office. Before we issue a lease, the highest bidder must pay the processing fee for competitive lease applications found in the fee schedule in §3000.12 of this chapter in addition to other remaining bonus and rental payments. 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; 70 FR 58875, Oct. 7, 2005]

§ 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 or minimum royalty or reduce the royalty rate on 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) It is necessary to promote development or the BLM determines the lease cannot be successfully operated under the terms of the lease.

(b) The BLM will consult with the State of Alaska and the North Slope Borough within 10 days of receiving an application for waiver, suspension, or reduction of rental or minimum royalty, or reduction of the royalty rate and will not approve an application under §3133.4 of this subpart until at least 30 days after the consultation.

(c) If your lease includes land that was made available for acquisition by a regional corporation (as defined in 43 U.S.C. 1602) under the provision of Section 1431(o) of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3101 *et seq.*), the BLM will only approve a waiver, suspension, or reduction of rental or minimum royalty, or reduction of the royalty rate if the regional corporation concurs.

[67 FR 17885, Apr. 11, 2002, as amended at 73 FR 6442, Feb 4, 2008]

§ 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, including the amount of any overriding royalty and payments out of production or similar interests applicable to your lease;
 - (6) All facts that demonstrate the waiver, suspension, or reduction of the rental or minimum royalty, or the reduction of the royalty rate encourages the greatest ultimate recovery of oil or gas or it is in the interest of conservation; and
 - (7) All facts that demonstrate you cannot successfully operate the lease under the terms of the lease;
 - (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, as amended at 73 FR 6442, Feb. 4, 2008]

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 bonding in accordance with §3104.5(b) of this chapter.

(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; 73 FR 6442, Feb. 4, 2008]

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]

Subpart 3136—Relinquishments, Terminations and Cancellations of Leases

§ 3136.1 Relinquishment of leases or parts of leases.

A lease may be surrendered in whole or in part by the lessee by filing a written relinquishment, in triplicate, with the Alaska State Office of the Bureau. No filing fee is required. In the case of partial relinquishments, neither the relinquished lands nor the retained lands shall be less than a compact tract of not less than 640 acres. A relinquishment shall take effect on the date it is filed subject to the continued obligation of lessee and the surety to make all payments due, including any accrued rental, royalties and deferred bonuses and to abandon all wells, and condition or remove other facilities on the lands to be relinquished to the satisfaction of the authorized officer.

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

§ 3136.2 Terminations.

Any lease on which there is no well capable of producing oil or gas in paying quantities shall terminate if the lessee fails to pay the annual rental in full on or before the anniversary date of such lease and such failure continues for more than 30 days after the notice of delinquent rental has been delivered by registered or certified mail to the lease owner's record post office address.

§ 3136.3 Cancellation of leases.

(a) Any nonproducing lease may be canceled by the authorized officer whenever the lessee fails to comply with any provisions of the Acts cited in §3130.0–3 of this title, of the regulations issued thereunder or of the lease, if such failure to comply continues for 30-days after a notice thereof has been delivered by registered or certified mail to the lease owner's record post office address.

(b) Producing leases or leases known to contain valuable deposits of oil or gas may be canceled only by court order.

Subpart 3137—Unitization Agreements—National Petroleum Reserve-Alaska

Source: 67 FR 17886, Apr. 11, 2002, unless otherwise noted.

§ 3137.5 What terms do I need to know to understand this subpart?

As used in this subpart—

Actual drilling means operations you conduct that are similar to those that a person seriously looking for oil or gas could be expected to conduct in that particular area, given the existing knowledge of geologic and other pertinent facts about the area to be drilled. The term includes the testing, completing, or equipping of the drill hole (casing, tubing, packers, pumps, etc.) so that it is capable of producing oil or gas. Actual drilling operations do not include preparatory or preliminary work such as grading roads and well sites, or moving equipment onto the lease.

Actual production means oil or gas flowing from the wellbore into treatment or sales facilities.

Actual reworking operations means reasonably continuous well-bore operations such as fracturing, acidizing, and tubing repair.

Committed tract means—

(1) A Federal lease where all record title holders and all operating rights owners have agreed to the terms and conditions of a unit agreement, committed their interest to the unit; or

(2) A State lease or private parcel of land where all oil and gas lessees and all operating rights owners or the owners of unleased minerals have agreed to the terms and conditions of a unit agreement.

Constructive drilling means those activities that are necessary to prepare for actual drilling that occur after BLM approves an application to drill, but before you actually drill the well. These include, but are not limited to, activities such as road and well pad construction, and drilling rig and equipment set-up.

Constructive reworking operations means activities that are necessary to prepare for well-bore operations. These may include rig and equipment set-up and pit construction.

Continuing development obligations means a program of development or operations you conduct that, after you complete initial obligations defined in a unit agreement—

(1) Meets or exceeds the rate of non-unit operations in the vicinity of the unit; and

(2) Represents an investment proportionate to the size of the area covered by the unit agreement.

Drainage means the migration of hydrocarbons, inert gases (other than helium), or associated resources caused by production from other wells.

NPR-A lease means any oil and gas lease within the boundaries of the NPR-A, issued and administered by the United States under the Naval Petroleum Reserves Production Act of 1976, as amended (42 U.S.C. 6501–6508), that authorizes exploration for and removal of oil and gas.

Operating rights (working interest) means any interest you hold that allows you to explore for, develop, and produce oil and gas.

Participating area means those committed tracts or portions of those committed tracts within the unit area that are proven to be productive by a well meeting the productivity criteria specified in the unit agreement.

Primary target means the principal geologic formation that you intend to develop and produce.

Producible interval means any pool, deposit, zone, or portion thereof capable of producing oil or gas.

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

Tract means land that may be included in an NPR-A oil and gas unit agreement and that may or may not be in a Federal lease.

Unit agreement means a BLM-approved agreement to cooperate in exploring, developing, operating and sharing in production of all or part of an oil or gas pool, field or like area, including at least one NPR-A lease, without regard to lease boundaries and ownership.

Unit area means all tracts committed to a BLM-approved unit. Tracts not committed to the unit, even though they may be within the external unit boundary, are not part of the unit area.

Unit operations are all activities associated with exploration, development drilling, and production operations the unit operator(s) conducts on committed tracts.

[67 FR 17886, Apr. 11, 2002, as amended at 73 FR 6443, Feb. 4, 2008]

General

§ 3137.10 What benefits do I receive for entering into a unit agreement?

- (a) Each individual tract committed to the unit agreement meets its full performance obligation if one or more tracts in the unit meets the development or production requirements;
- (b) Production from a well that meets the productivity criteria (see §3137.82 of this subpart) under the unit agreement extends the term of all NPR-A leases committed to the unit agreement as provided in §3137.111 of this subpart;
- (c) You may drill within the unit without regard to certain lease restrictions, such as lease boundaries within the unit and spacing offsets; and
- (d) You may consolidate operations and permitting and reporting requirements.

§ 3137.11 What consultation must the BLM perform if lands in the unit area are owned by a regional corporation or the State of Alaska?

If the BLM administers a unit containing tracts where the mineral estate is owned by a regional corporation or the State of Alaska, or if a proposed unit contains tracts where the mineral estate is owned by a regional corporation or the State of Alaska, the BLM will consult with and provide opportunities for participation in negotiations with respect to the creation or expansion of the unit by—

- (a) The regional corporation, if the unit acreage contains the regional corporation's mineral estate; or
- (b) The State of Alaska, if the unit acreage contains the state's mineral estate.

[73 FR 6443, Feb. 4, 2008]

Application

§ 3137.15 If the Federal lands constitute less than 10 percent of the lands in the proposed unit area, is the unit agreement subject to Federal regulations or approval?

If the Federal lands constitute less than 10 percent of the lands in the proposed unit area—

- (a) You may use a unit agreement approved by the State and/or a native corporation;
- (b) BLM will authorize commitment of the Federal lands to the unit if it determines that the unit agreement protects the public interest; or
- (c) As unit operator you may ask BLM to approve and administer the unit. If BLM agrees to approve and administer the unit, you must follow, and BLM will administer, the regulations in this subpart and 43 CFR part 3160.

§ 3137.20 Is there a standard unit agreement form?

There is no standard unit agreement form. BLM will accept any unit agreement format if it protects the public interest and includes the mandatory terms required in §3137.21 of this subpart.

§ 3137.21 What must I include in an NPR-A unit agreement?

(a) Your NPR-A unit agreement must include—

- (1) A description of the unit area and any geologic and engineering factors upon which you are basing the area;
 - (2) Initial and continuing development obligations (see §§3137.40 and 3137.41 of this subpart);
 - (3) The anticipated participating area size and well locations (see §3137.80(b) of this subpart);
 - (4) A provision that acknowledges BLM's authority to set or modify the quantity, rate, and location of development and production; and
 - (5) A provision that acknowledges the BLM consulted with and provided opportunities for participation in the creation of the unit and a provision that acknowledges that the BLM will consult with and provide opportunities for participation in the expansion of the unit by —
 - (A) The regional corporation, if the unit acreage contains the regional corporation's mineral estate; or
 - (B) The State of Alaska, if the unit acreage contains the state's mineral estate.
 - (6) Any optional terms which are authorized in §3137.50 of this subpart that you choose to include in the unit agreement.
- (b) You must include in the unit agreement any additional terms and conditions that result from consultation with BLM. After your initial application, BLM may request additional supporting documentation.

[67 FR 17886, Apr. 11, 2002, as amended at 73 FR 6443, Feb. 4, 2008]

§ 3137.22 What are the size and shape requirements for a unit area?

(a) The unit area must—

(1) Consist of tracts, each of which must be contiguous to at least one other tract in the unit, that are located so that you can perform operations and production in an efficient and logical manner; and

(2) Include at least one NPR-A lease.

(b) BLM may limit the size and shape of the unit considering the type, amount and rate of the proposed development and production and the location of the oil or gas.

§ 3137.23 What must I include in my NPR-A unitization application?

Your unitization application to BLM must include—

(a) The proposed unit agreement;

(b) A map showing the proposed unit area;

(c) A list of committed tracts including, for each tract, the—

(1) Legal land description and acreage;

(2) Names of persons holding record title interest;

(3) Names of persons owning operating rights; and

(4) Name of the unit operator.

(d) A statement certifying—

(1) That you invited all owners of oil and gas rights (leased or unleased) and lease interests (record title and operating rights) within the external boundary of the unit area described in the application to join the unit;

(2) That there are sufficient tracts committed to the unit agreement to reasonably operate and develop the unit area;

(3) The commitment status of all tracts within the area proposed for unitization; and

(4) That you accept unit obligations under §3137.60 of this subpart.

(e) Evidence of acceptable bonding;

(f) A discussion of reasonably foreseeable and significantly adverse effects on the surface resources of NPR-A and how unit operations may reduce impacts compared to individual lease operations;

(g) A discussion of the proposed methodology for allocating production among the committed tracts. If the unit includes non-Federal oil and gas mineral estate, you must explain how the methodology takes into account reservoir heterogeneity and area variation in reservoir producibility; and

(h) Other documentation BLM may request. BLM may require additional copies of maps, plats, and other similar exhibits.

[67 FR 17886, Apr. 11, 2002, as amended at 73 FR 6444, Feb. 4, 2008]

§ 3137.24 Why would BLM reject a unit agreement application?

BLM will reject a unit agreement application—

(a) That does not address all mandatory terms, including those required under §3137.21(b) of this subpart;

(b) If the unit operator—

(1) Has an unsatisfactory record of complying with applicable laws, regulations, the terms of any lease or permit, or the requirements of any notice or order; or

(2) Is not qualified to operate within NPR-A under applicable laws and regulations;

(c) That does not conserve natural resources;

(d) That is not in the public interest;

(e) That does not comply with any special conditions in effect for any part of the NPR-A that the unit or any lease subject to the unit would affect; or

(f) That does not comply with the requirements of this subpart.

§ 3137.25 How will the parties to the unit know if BLM approves the unit agreement?

BLM will notify the unit operator in writing when it approves or disapproves the proposed unit agreement. The unit operator must notify, in writing, all parties to the unit agreement within 30 calendar days after receiving BLM's notice of approval or disapproval.

§ 3137.26 When is a unit agreement effective?

The unit agreement is effective on the date BLM approves it.

§ 3137.27 What effect do subsequent contracts or obligations have on the unit agreement?

No subsequent contract or obligation—

(a) Modifies the terms or conditions of the unit agreement; or

(b) Relieves the unit operator of any right or obligation under the unit agreement.

§ 3137.28 What oil and gas resources of committed tracts does the unit agreement include?

A unit agreement includes all oil and gas resources of committed tracts unless BLM approves unit agreement terms to the contrary pursuant to §3137.50 of this subpart.

Development

§ 3137.40 What initial development obligations must I define in a unit agreement?

Your unit agreement must define—

- (a) The number of wells you anticipate will be necessary to assess the reservoir adequately;
- (b) A primary target for each well;
- (c) A schedule for starting and completing drilling operations for each well; and
- (d) The time between starting operations on a well to the start of operations on the next well.

§ 3137.41 What continuing development obligations must I define in a unit

A unit agreement must provide for submission of supplemental or additional plans of development which obligate the operator to a program of exploration and development (see §3137.71 of this subpart) that, after completion of the initial obligations —

- (a) Meets or exceeds the rate of non-unit operations in the vicinity of the unit; and
- (b) Represents an investment proportionate to the size of the area covered by the unit agreement.

[67 FR 17886, Apr. 11, 2002, as amended at 73 FR 6444, Feb. 4, 2008]

Optional Terms

§ 3137.50 What optional terms may I include in a unit agreement?

BLM may approve the following optional terms for a unit agreement if they promote additional development or enhanced production potential—

- (a) Limiting the unit agreement to certain formations and their intervals;
- (b) Multiple unit operators (see §3137.51 of this subpart);
- (c) Allowing modification of the unit agreement terms if less than 100 percent of the parties to the unit agreement (see §3137.52 of this subpart) agree to the modification; or
- (d) Other terms that BLM determines will promote the greatest economic recovery of oil and gas consistent with applicable law.

§ 3137.51 Under what conditions does BLM permit multiple unit operators?

BLM permits multiple unit operators only if the unit agreement defines—

- (a) The conditions under which additional unit operators are acceptable;
- (b) The responsibilities of the different operators, including obtaining BLM approvals, reporting, paying Federal royalties and conducting operations;
- (c) Which unit operators are obligated to ensure bond coverage for each NPR-A lease in the unit;
- (d) The consequences if one or more unit operators defaults. For example, if an operator defaults, the unit agreement would list which unit operators would conduct that operator's operations and ensure bonding of those operations; and
- (e) Which unit operator is responsible for unit obligations not specifically assigned in the unit agreement.

§ 3137.52 How may I modify the unit agreement?

(a) You may modify a unit agreement if—

(1) All current parties to the unit agreement agree to the modification; or

(2) You meet the requirements of the modification provision in the unit agreement. The modification provision must identify which parties, and what percentage of those parties, must consent to each type of modification.

(b) You must submit to BLM an application for modification. The application must include the following—

(1) The operator must certify that the necessary parties have agreed to the modification; and

(2) If the unit agreement modification alters the current allocation schedule, you must submit to BLM both a —

(i) Description of the new allocation methodology; and

(ii) New allocation schedule.

(c) A modification is not effective unless BLM approves it. After BLM approves the modification, it is effective retroactively to the date you filed a complete application for modification. However, BLM may approve a different effective date if you request it and provide acceptable justification.

(d) BLM will reject modifications that do not comply with BLM regulations or applicable law.

Unit Agreement Operating Requirements

§ 3137.60 As the unit operator, what are my obligations?

As the unit operator—

(a) You must comply with the terms and conditions of the unit agreement, Federal laws and regulations, lease terms and stipulations, and BLM notices and orders;

(b) You must provide to BLM evidence of acceptable bonding. Acceptable bonding means a bond in an amount which is no less than the sum of the individual Federal bonding requirements for each of the NPR-A leases committed to the unit. You may also meet this requirement if you add the unit operator as a principal to lease bonds to reach the required amount; and

(c) The bond must be payable to the Secretary of the Interior.

§ 3137.61 How do I change unit operators?

(a) To change unit operators, the new unit operator must submit to BLM—

(1) Statements that—

(i) It accepts unit obligations; and

(ii) The percentage of required interest owners consented to a change of unit operator; and

(2) Evidence of acceptable bonding (see §3137.60(b) of this subpart).

(b) The effective date of the change in unit operator is the date BLM approves the new unit operator.

§ 3137.62 What are my liabilities as a former unit operator?

You are responsible for all duties and obligations of the unit agreement that accrued while you were unit operator up to the date BLM approves a new unit operator.

§ 3137.63 What are my liabilities after BLM approves me as the new unit operator?

(a) After BLM approves the change in unit operator, you, as the new unit operator, assume full liability, jointly and severally with the record title and operating rights owners, except as otherwise provided in paragraph (c) of this section and to the extent permitted by law, for—

(1) Compliance with the terms and conditions of the unit agreement, Federal laws and regulations, lease terms and stipulations, and BLM notices and orders;

(2) Plugging unplugged wells and reclaiming unreclaimed facilities that were installed or used before the effective date of the change in unit operator (this liability is joint and several with the former unit operator); and

(3) Those liabilities accruing during the time you are unit operator.

(b) Your liability includes, but is not limited to—

(1) Rental and royalty payments;

(2) Protecting the unit from loss due to drainage as provided in §3137.64 of this subpart;

(3) Well plugging and abandonment;

(4) Surface reclamation;

(5) All environmental remediation or restoration required by law, regulations, lease terms, or conditions of approval; and

(6) Other requirements related to unit operations.

(c) Your liability for royalty and other payments on the unit is limited by section 102(a) of the Federal Oil and Gas Royalty Management Act of 1982, as amended (30 U.S.C. 1712(a)).

§ 3137.64 As a unit operator, what must I do to prevent or compensate for drainage?

You must prevent uncompensated drainage of oil and gas from unit land by wells on land not subject to the unit agreement. Permissible means of satisfying the obligation include—

(a) Drilling a protective well if it is economically feasible. For this subpart, *economically feasible* means producing a sufficient quantity of oil or gas from a protective well in the unit for a reasonable profit above the cost of drilling, completing and operating the protective well;

- (b) Paying compensatory royalty;
- (c) Forming other agreements, or modifying existing agreements, that allow the tracts committed to the unit agreement to share in production after the effective date of the new or modified agreement; or
- (d) BLM may require additional measures to prevent uncompensated drainage.

Development Requirements

§ 3137.70 What must I do to meet initial development obligations?

(a) To meet initial development obligations by the time specified in your unit agreement you must—

- (1) Drill the required test well(s) to the primary target;
- (2) Drill at least one well that meets the productivity criteria (see §3137.82 of this subpart); or
- (3) Establish, to BLM's satisfaction, that further drilling to meet the productivity criteria is unwarranted or impracticable.

(b) You must certify to BLM that you met initial development obligations no later than 60 calendar days after meeting the obligations. BLM may require you to supply documentation that supports your certification.

§ 3137.71 What must I do to meet continuing development obligations?

(a) Once you meet initial development obligations, you must perform additional development. Work you did before meeting initial development obligations is not continuing development. Continuing development includes the following operations—

- (1) Drilling, testing, or completing additional wells to the primary target or other unit formations;
- (2) Drilling or completing additional wells that establish production of oil and gas;
- (3) Recompleting wells or other operations that establish new unit production; or
- (4) Drilling existing wells to a deeper target.

(b) No later than 90 calendar days after meeting initial development obligations, submit to BLM a plan that describes how you will meet continuing development obligations. You must submit to BLM updated continuing obligation plans as soon as you determine that, for whatever reason, the plan needs amending.

- (1) If you have drilled a well that meets the productivity criteria, your plan must describe the activities to fully develop the oil and gas field.
- (2) If you fulfilled your initial development obligations, but did not establish a well that meets the productivity criteria, your plan must describe the further actual or constructive drilling operations you will conduct.

§ 3137.72 What if reasons beyond my control prevent me from meeting the initial or a continuing development obligation by the time the unit agreement specifies?

(a) If reasons beyond your control prevent you from meeting the initial or a continuing development obligation by the time specified in the unit agreement, you may apply to BLM for an extension of time for

meeting those obligations. You must submit the request for an extension of time before the date the obligation is due to be met. In the application-

- (1) State the obligation for which you are requesting an extension;
 - (2) List the reasons beyond your control that prevent you from performing the obligation; and
 - (3) State when you expect the reasons beyond your control to terminate.
- (b) BLM will grant an extension of time to meet initial or continuing development obligations if we determine that-
- (1) The extension encourages the greatest ultimate recovery of oil or gas or it is in the interest of conservation; and
 - (2) The reasons beyond your control prevent you from performing the initial or a continuing development obligation.
 - (c) The extension of time for performing the initial or a continuing development obligation will continue for so long as the conditions giving rise to the extension continue to exist.

§ 3137.73 What will BLM do after I submit a plan to meet continuing development obligations?

Within 30 calendar days after receiving your proposed plan, BLM will notify you in writing that we—

- (a) Approved your plan;
- (b) Rejected your plan and explain why. This will include an explanation of how you should correct the plan to come into compliance; or
- (c) Have not acted on the plan, explaining the reasons and when you can expect a final response.

§ 3137.74 What must I do after BLM approves my continuing development obligations plan?

No later than 90 calendar days after BLM's approval of your plan submitted under 3137.71(b), you must certify to BLM that you started operations to fulfill your continuing development obligations. BLM may require you to—

- (a) Supply documentation to support your certification; and
- (b) Submit periodic reports that demonstrate continuing development.

§ 3137.75 May I perform additional development outside established participating areas to fulfill continuing development obligations?

You may perform additional development either within or outside a participating area, depending on the terms of the unit agreement.

§ 3137.76 What happens if I do not meet a continuing development obligation?

(a) After you establish a participating area, if you do not meet a continuing development obligation and BLM has not granted you an extension of time to meet the obligation, the unit contracts. This means that—

(1) All areas within the unit that do not have participating areas established are eliminated from the unit. Any eliminated areas are subject to their original lease terms; and

(2) Only established participating areas, whether they are actually producing or not, remain in the unit.

(b) Units contract effective the first day of the month after the date on which the unit agreement required the continuing development obligations to begin.

(c) If you do not meet a continuing development obligation before you establish a participating area, the unit terminates (see §3137.132 of this subpart).

Participating Areas

§ 3137.80 What are participating areas and how do they relate to the unit agreement?

(a) Participating areas are those committed tracts or portions of those committed tracts within the unit area that are proven to be productive by a well meeting the productivity criteria specified in the unit agreement.

(b) You must include a description of the anticipated participating area(s) size in the unit agreement for planning purposes to aid in the mitigation of reasonably foreseeable and significantly adverse effects on NPR—A surface resources. The unit agreement must define the proposed participating areas. Your proposed participating area may be limited to separate producible intervals or areas.

(c) At the time you meet the productivity criteria discussed in §3137.82 of this subpart, you must delineate those participating areas.

[67 FR 17886, Apr. 11, 2002, as amended at 73 FR 6444, Feb. 4, 2008]

§ 3137.81 What is the function of a participating area?

(a) The function of a participating area is to allocate production to each committed tract within a participating area. The BLM will allocate production for royalty purposes to each committed tract within the participating area using the allocation methodology agreed to in the unit agreement (see §3137.23(g) of this subpart).

(b) For exploratory and primary recovery operations, BLM will consider gas cycling and pressure maintenance wells when establishing participating area boundaries.

(c) For secondary and tertiary recovery operations, BLM will consider all wells that contribute to production when establishing participating area boundaries.

[67 FR 17886, Apr. 11, 2002, as amended at 73 FR 6444, Feb. 4, 2008]

§ 3137.82 What are productivity criteria?

(a) Productivity criteria are characteristics of a unit well that warrant including a defined area surrounding the well in a participating area. The unit agreement must define these criteria for each separate producible interval. You must be able to determine whether you meet the criteria when the well is drilled and you complete well testing, after a reasonable period of time to analyze new data.

(b) To meet the productivity criteria, the well must indicate future production potential sufficient to pay for the costs of drilling, completing, and operating the well on a unit basis.

(c) BLM will consider wells that contribute to unit production (e.g., pressure maintenance, gas cycling) when setting the participating area boundaries as provided in §3137.81(b) and (c) of this subpart.

§ 3137.83 What establishes a participating area?

The first well you drill meeting the productivity criteria after the unit agreement is formed establishes an initial participating area. When you establish an initial participating area, lands that contain previously existing wells in the unit meeting the productivity criteria (see §3137.82 of this subpart), will—

(a) Be added to that initial participating area as a revision, if the well is completed in the same producible interval; or

(b) Become a separate participating area, if the well is completed in a different producible interval (see also §3137.88 of this subpart for wells that do not meet the productivity criteria).

§ 3137.84 What must I submit to BLM to establish a new participating area, or modify an existing participating area?

To establish a new participating area or modify an existing participating area, you must submit to BLM a—

(a) Statement that—

(1) The well meets the productivity criteria (see §3137.82 of this subpart), necessary to establish a new participating area. You must submit information supporting your statement; or

(2) Explains the reasons for modifying an existing participating area. You must submit information supporting your explanation;

(b) Map showing the new or revised participating area and acreage; and

(c) Schedule that establishes the production allocation for each NPR-A lease or tract, and each record title holder and operating rights owner in the participating area. You must submit a separate allocation schedule for each participating area.

§ 3137.85 What is the effective date of a participating area?

(a) The effective date of an initial participating area is the first day of the month in which you complete a well meeting the productivity criteria, but no earlier than the effective date of the unit.

(b) The effective date of a modified participating area or modified allocation schedule is the earlier of the first day of the month in which you file the proposal for a modification or such other effective date as may be provided for in the unit agreement and approved by the BLM, but no earlier than the effective date of the unit.

[67 FR 17886, Apr. 11, 2002, as amended at 73 FR 6444, Feb. 4, 2008]

§ 3137.86 What happens to a participating area when I obtain new information demonstrating that the participating area should be larger or smaller than previously determined?

(a) If you obtain new information demonstrating that the participating area should be larger than BLM previously determined, within 60 calendar days of obtaining the information, you must—

(1) File a statement, map and revised production allocation schedule under §3137.84 of this subpart requesting addition to the participating area of all committed tracts or portions of committed tracts in the unit area that meet the productivity criteria;

(2) If the proposed expanded participating area is outside the existing unit boundaries, invite all owners of oil and gas rights (leased or unleased) and lease interests (record title and operating rights) in such additional land to join the unit. If the owners of oil and gas rights in any tract of such land join the unit, you must submit to BLM—

(i) An application to enlarge the unit to include the expanded area;

(ii) A map showing the expanded area of the unit and the information with respect to each additional committed tract you proposed to add to the unit specified in §3137.23(c) of this subpart; and

(iii) A revised allocation schedule; and

(3) If any additional committed tract or tracts are added to the unit under paragraph (a)(2) of this section, you must file a statement, map and revised production allocation schedule under §3137.84 of this subpart requesting addition to the participating area of all such committed tracts or portions of such committed tracts in the unit area meeting the productivity criteria.

(b) If you obtain information demonstrating that the participating area should be smaller than previously determined, within 60 calendar days of obtaining the information, you must file a statement, map and revised production allocation schedule under §3137.84 of this subpart requesting removal from the participating area of all land that does not meet the productivity criteria.

§ 3137.87 What must I do if there are unleased Federal tracts in a participating area?

If there are unleased Federal tracts in a participating area, you must—

(a) Include the unleased Federal tracts in the participating area, even though BLM will not share in unit costs;

(b) Allocate production for royalty purposes as if the unleased Federal tracts were leased and committed to the unit agreement under §3137.100 of this subpart;

(c) Admit Federal tracts leased after the effective date of the unit agreement into the unit agreement on the date the lease is effective; and

(d) Submit to BLM revised maps, a list of committed leases, and allocation schedules that reflect the commitment of the newly leased Federal tracts to the unit.

§ 3137.88 What happens when a well outside a participating area does not meet the productivity criteria?

If a well outside any of the established participating area(s) does not meet the productivity criteria, all operations on that well are non-unit operations and we will not revise the participating area. You must notify BLM within 60 calendar days after you determine a well does not meet the productivity criteria. You must conduct non-unit operations under the terms of the underlying lease or other federally-approved cooperative oil and gas agreements.

§ 3137.89 How does production allocation occur from wells that do not meet the productivity criteria?

(a) If a well that does not meet the productivity criteria was drilled before the unit was formed, the production is allocated on a lease or other federally-approved oil and gas agreement basis. You must pay and report the royalties from any such well either as specified in the underlying lease or other federally-approved oil and gas agreements.

(b) If you drilled a well after the unit was formed and the well is completed within an existing participating area, the production becomes a part of that participating area production even if it does not meet the productivity criteria. BLM may require the participating area to be revised under §3137.84 of this subpart.

(c) If a well not meeting the productivity criteria is outside a participating area, the production is allocated as provided in paragraph (a) of this section.

§ 3137.90 Who must operate wells that do not meet the productivity criteria?

(a) If a well not meeting the productivity criteria was drilled before the unit was formed and is not included in the participating area, the operator of the well at the time the unit was formed may continue as operator.

(b) As unit operator, you must continue to operate wells drilled after unit formation not meeting the productivity criteria unless BLM approves a change in the designation of operator for those wells.

§ 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?

If you, as the unit operator, complete sufficient work so that a well BLM previously determined to be a non-unit well now meets the productivity criteria, you must demonstrate this to BLM within 60 calendar days after you determine that the well meets the productivity criteria. You must then modify an existing participating area or establish a new participating area (see §3137.84 of this subpart).

§ 3137.92 When does a participating area terminate?

(a) After contraction under §3137.76 of this subpart, a participating area terminates 60 calendar days after BLM notifies you that there is insufficient production to meet the operating costs of that production, unless you show that within 60 calendar days after BLM's notification—

(1) Your operations to restore or establish new production are in progress; and

(2) You are diligently pursuing oil or gas production.

(b) If you demonstrate to BLM that reasons beyond your control prevent you, despite reasonable diligence, from meeting the requirements in paragraphs (a)(1) and (a)(2) of this section within 60 calendar days after BLM notifies you that there is insufficient production to meet the operating costs of that production, BLM will extend the period of time to start those operations.

Production Allocation

§ 3137.100 How must I allocate production to the United States when a participating area includes unleased Federal lands?

(a) When a participating area includes unleased Federal lands, you must allocate production as if the unleased Federal lands were leased and committed to the unit agreement (see §§3137.80 and 3137.81 of

this subpart). The obligation to pay royalty for production attributable to unleased Federal lands accrues from the later of the date the—

(1) Committed leases in the participating area that includes unleased Federal lands receive a production allocation; or

(2) Previously leased tracts within the participating area become unleased.

(b) The royalty rate applicable to production allocated to unleased Federal lands is the greater of 12 1/2 percent or the highest royalty rate for any lease committed to the unit.

(c) The value of the production must be determined under the Minerals Management Service's oil and gas product value regulations at 30 CFR part 206.

Obligations and Extensions

§ 3137.110 Do the terms and conditions of a unit agreement modify Federal lease stipulations?

A unit agreement does not modify Federal lease stipulations.

§ 3137.111 When will BLM extend the primary term of all leases committed to a unit agreement or renew all leases committed to a unit agreement?

If the unit operator requests it, the BLM will extend the primary term of all NPR-A leases committed to a unit agreement or renew the leases committed to a unit agreement if any committed lease within the unit is extended or renewed under §3135.1-5 or §3135.1-6. If the BLM approves a lease renewal under §3135.1-6(b), the BLM will require a renewal fee of \$100 per acre for each lease in the unit that is renewed.

[73 FR 6444, Feb. 4, 2008]

§ 3137.112 What happens if I am prevented from performing actual or constructive drilling or reworking operations?

(a) If you demonstrate to BLM that reasons beyond your control prevent you, despite reasonable diligence, from starting actual or constructive drilling, reworking, or completing operations, BLM will extend all committed NPR-A leases as if you were performing constructive or actual drilling or reworking operations. You are limited to two extensions under this section.

(b) You must resume actual or constructive drilling or reworking operations when conditions permit. If you do not resume operations—

(1) BLM will cancel the extension; and

(2) The unit terminates (see §3137.131 of this subpart).

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?

As a transferee of an interest in an NPR-A lease that is included in a unit agreement, you are 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?

BLM will approve the voluntary termination of the unit at any time—

- (a) Before the unit operator discovers production sufficient to establish a participating area; and
- (b) The unit operator submits to BLM certification that at least 75 percent of the operating rights owners in the unit agreement, on a surface acreage basis, agree to the termination.

§ 3137.131 What happens if the unit terminated before the unit operator met the initial development obligations?

If the unit terminated before the unit operator met the initial development obligations, BLM's approval of the unit agreement is revoked. You, as lessee, forfeit all further benefits, including extensions and suspensions, granted any NPR–A lease because of having been committed to the unit. Any lease that the BLM extended because of being committed to the unit would expire unless it had been granted an extension or renewal under §3135.1–5 or §3135.1–6.

[67 FR 17886, Apr. 11, 2002, as amended at 73 FR 6444, Feb. 4, 2008]

§ 3137.132 What if I do not meet a continuing development obligation before I establish any participating area in the unit?

If you do not meet a continuing development obligation before you establish any participating area, the unit terminates automatically. Termination is effective the day after you did not meet a continuing development obligation.

§ 3137.133 After participating areas are established, when does the unit terminate?

After participating areas are established, the unit terminates when the last participating area of the unit terminates (see §3137.92 of this subpart).

§ 3137.134 What happens to committed leases if the unit terminates?

- (a) If the unit terminates, all committed NPR–A leases return to individual lease status and are subject to their original provisions.
- (b) An NPR–A lease that has completed its primary term on or before the date the unit terminates will expire unless it is granted an extension or renewal under §3135.1–5 or §3135.1–6.

[67 FR 17886, Apr. 11, 2002, as amended at 73 FR 6444, Feb. 4, 2008]

§ 3137.135 What are the unit operator's obligations after unit termination?

Within three months after unit termination, the unit operator must submit to BLM for approval a plan and schedule for mitigating the impacts resulting from unit operations. The plan must describe in detail planned plugging and abandonment and surface restoration operations. The unit operator must then comply with the BLM-approved plan and schedule.

Appeals

§ 3137.150 How do I appeal a decision that BLM issues under this subpart?

(a) You may file for a State Director Review (SDR) of a decision BLM issues under this subpart. Part 3160, subpart 3165 of this title contains regulations on SDR; or

(b) If you are adversely affected by a BLM decision under this subpart you may directly appeal the decision under parts 4 and 1840 of this title.

Subpart 3138—Subsurface Storage Agreements in the National Petroleum Reserve-Alaska (NPR-A)

Source: 67 FR 17893, Apr. 11, 2002, unless otherwise noted.

§ 3138.10 When will BLM enter into a subsurface storage agreement in NPR-A covering federally-owned lands?

BLM will enter into a subsurface storage agreement in NPR-A covering federally-owned lands to allow you to use either leased or unleased federally-owned lands for the subsurface storage of oil and gas, whether or not the oil or gas you intend to store is produced from federally-owned lands, if you demonstrate that storage is necessary to—

(a) Avoid waste; or

(b) Promote conservation of natural resources.

§ 3138.11 How do I apply for a subsurface storage agreement?

(a) You must submit an application to BLM for a subsurface storage agreement that includes—

(1) The reason for forming a subsurface storage agreement;

(2) A description of the area you plan to include in the subsurface storage agreement;

(3) A description of the formation you plan to use for storage;

(4) The proposed storage fees or rentals. The fees or rentals must be based on the value of the subsurface storage, injection, and withdrawal volumes, and rental income or other income generated by the operator for letting or subletting the storage facilities;

(5) The payment of royalty for native oil or gas (oil or gas that exists in the formation before injection and that is produced when the stored oil or gas is withdrawn);

(6) A description of how often and under what circumstances you and BLM intend to renegotiate fees and payments;

(7) The proposed effective date and term of the subsurface storage agreement;

(8) Certification that all owners of mineral rights (leased or unleased) and lease interests 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).