

## Bureau of Land Management, Interior

## § 3108.2-4

whether such lease is still in effect or not;

(ii) The oil and gas interests of the United States in the lands have not been disposed of or have not otherwise become unavailable for leasing;

(iii) Payment of all back rentals and royalties at the rates established for the reinstated lease, including the release to the United States of funds being held in escrow, as appropriate;

(iv) An agreement has been signed by the lessee and attached to and made a part of the lease specifying future rentals at the applicable rates specified for reinstated leases in §3103.2-2 of this title and future royalties at the rates set in §3103.3-1 of this title for all production removed or sold from such lease or shared by such lease from production allocated to the lease by virtue of its participation in a unit or communitization agreement or other form of approved joint development agreement or plan;

(v) A notice of the proposed reinstatement of the terminated lease and the terms and conditions of reinstatement has been published in the FEDERAL REGISTER at least 30 days prior to the date of reinstatement for which the lessee shall reimburse the Bureau for the full costs incurred in the publishing of said notice; and

(vi) The lessee has paid the Bureau a nonrefundable administrative fee of \$500.

(c) The authorized officer shall not, after the receipt of a petition for reinstatement, issue a new lease affecting any of the lands covered by the terminated lease until all action on the petition is final.

(d) The authorized officer shall furnish to the Chairpersons of the Committee on Interior and Insular Affairs of the House of Representatives and of the Committee on Energy and Natural Resources of the Senate, at least 30 days prior to the date of reinstatement, a copy of the notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the authorized officer considers significant in making the determination to reinstate.

(e) If the authorized officer reinstates the lease, the reinstatement shall be as of the date of termination, for the un-

expired portion of the original lease or any extension thereof remaining on the date of termination, and so long thereafter as oil or gas is produced in paying quantities. Where a lease is reinstated under this section and the authorized officer finds that the reinstatement of such lease either (1) occurs after the expiration of the primary term or any extension thereof, or (2) will not afford the lessee a reasonable opportunity to continue operations under the lease, the authorized officer may extend the term of the reinstated lease for such period as determined reasonable, but in no event for more than 2 years from the date of the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

(f) The authorized officer may, either in acting on a petition for reinstatement or in response to a request filed after reinstatement, or both, reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes, if he/she determines there are either economic or other circumstances which could cause undue economic hardship or premature termination of production; or because of any written action of the United States, its agents or employees, which preceded, and was a major consideration in, the lessee's expenditure of funds to develop the lands covered by the lease after the rental had become due and had not been paid; or if the authorized officer determines it is equitable to do so for any other reason.

[49 FR 30449, July 30, 1984]

### **§ 3108.2-4 Conversion of unpatented oil placer mining claims: Class III reinstatements.**

(a) For any unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, and has been or is deemed after January 12, 1983, conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act (43 U.S.C. 1744), and it is shown to the satisfaction of the authorized officer that such failure was inadvertent, justifiable or not due to

### § 3108.3

### 43 CFR Ch. II (10–1–02 Edition)

lack of reasonable diligence on the part of the owner, the authorized officer may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease consistent with the provisions of section 17(e) of the Act (30 U.S.C. 226(e)). The effective date of any lease issued under this section shall be from the statutory date that the claim was deemed conclusively abandoned.

(b) The authorized officer may issue a noncompetitive oil and gas lease if a petition has been filed in the proper BLM office for the issuance of a noncompetitive oil and gas lease accompanied by the required rental and royalty, including back rental and royalty accruing, at the rates specified in §§ 3103.2–2 and 3103.3–1 of this title, for any claim deemed conclusively abandoned after January 12, 1983. The petition shall have been filed on or before the 120th day after the final notification by the Secretary or a court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim.

(c) The authorized officer shall not issue a noncompetitive oil and gas lease under this section if a valid oil and gas lease has been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of the petition for issuance of a noncompetitive oil and gas lease.

(d) After the filing of a petition for issuance of a noncompetitive oil and gas lease covering an abandoned oil placer claim, the authorized officer shall not issue any new lease affecting any lands covered by such petition until all action on the petition is final.

(e) Any noncompetitive lease issued under this section shall include:

(1) Terms and conditions for the payment of rental in accordance with § 3103.2–2(j) of this title. Payment of back rentals accruing from the date of abandonment of the oil placer mining claim, at the rental set by the authorized officer, shall be made prior to the lease issuance.

(2) Royalty rates set in accordance with § 3103.3–1 of this title. Royalty shall be paid at the rate established by the authorized officer on all production removed or sold from the oil placer mining claim, including all royalty on

production made subsequent to the date the claim was deemed conclusively abandoned prior to the lease issuance.

(f) Noncompetitive oil and gas leases issued under this section shall be subject to all regulations in part 3100 of this title except for those terms and conditions mandated by Title IV of the Federal Oil and Gas Royalty Management Act.

(g) A notice of the proposed conversion of the oil placer mining claim into a noncompetitive oil and gas lease, including the terms and conditions of conversion, shall be published in the FEDERAL REGISTER at least 30 days prior to the issuance of a noncompetitive oil and gas lease. The mining claim owner shall reimburse the Bureau for the full costs incurred in the publishing of said notice.

(h) The mining claim owner shall pay the Bureau a nonrefundable administrative fee of \$500 prior to the issuance of the noncompetitive lease.

(i) The authorized officer may, either in acting on a petition to issue a noncompetitive oil and gas lease or in response to a request filed after issuance, or both, reduce the royalty in such lease, if he/she determines there are either economic or other circumstances which could cause undue economic hardship or premature termination of production.

[49 FR 30449, July 30, 1984, as amended at 53 FR 17357, May 16, 1988; 53 FR 22840, June 17, 1988]

#### § 3108.3 Cancellation.

(a) Whenever the lessee fails to comply with any of the provisions of the law, the regulations issued thereunder, or the lease, the lease may be canceled by the Secretary, if the leasehold does not contain a well capable of production of oil or gas in paying quantities, or if the lease is not committed to an approved cooperative or unit plan or communitization agreement that contains a well capable of production of unitized substances in paying quantities. The lease may be canceled only after notice to the lessee in accordance with section 31(b) of the Act and only if default continues for the period prescribed in that section after service of 30 days notice of failure to comply.