

§ 3142.0-5 Definitions.

As used in part 3140 of this title, the term *production in paying quantities* means:

- (a) Production, in compliance with an approved plan of operations and by nonconventional methods, of oil and gas which can be marketed; or
- (b) Production of oil or gas by conventional methods as the term is currently used in part 3160 of this title.

§ 3142.1 Diligent development.

A lessee shall have met his/her diligent development obligation if:

- (a) The lessee is conducting activity on the lease in accordance with an approved plan of operations; and
- (b) The lessee files with the authorized officer, not later than the end of the eighth lease year, a supplement to the approved plan of operations which shall include the estimated recoverable tar sand reserves and a detailed development plan for the next stage of operations;
- (c) The lessee has achieved production in paying quantities, as that term is defined in § 3142.0-5(a) of this title, by the end of the primary term; and
- (d) The lessee annually produces the minimum amount of tar sand established by the authorized officer under the lease in the minimum production schedule which shall be made part of the plan of operations or pays annually advance royalty in lieu of this minimum production.

§ 3142.2 Minimum production levels.**§ 3142.2-1 Minimum production schedule.**

Upon receipt of the supplement to the plan of operations described in § 3142.1(b) of this title, the authorized officer shall examine the information furnished by the lessee and determine if the estimate of the recoverable tar sand reserves is adequate and reasonable. In making this determination, the authorized officer may request, and the lessee shall furnish, any information that is the basis of the lessee's estimate of the recoverable tar sand reserves. As part of the authorized officer's determination that the estimate of the recoverable tar sand reserves is adequate and reasonable, he/she may

consider, but is not limited to, the following: or grade, strip ratio, vertical and horizal continuity, extract process recoverability, and proven or unproven status of extraction technology, terrain, environmental mitigation factors, marketability of products and capital operations costs. The authorized officer shall then establish as soon as possible, but prior to the beginning of the eleventh year, based upon the estimate of the recoverable tar sand reserves, a minimum annual tar sand production schedule for the lease or unit operations which shall start in the eleventh year of the lease. This minimum production level shall escalate in equal annual increments to a maximum of 1 percent of the estimated recoverable tar sand reserves in the twentieth year of the lease and remain at 1 percent each year thereafter.

§ 3142.2-2 Advance royalties in lieu of production.

- (a) Failure to meet the minimum annual tar sand production schedule level in any year shall result in the assessment of an advance royalty in lieu of production which shall be credited to future production royalty assessments applicable to the lease or unit.
- (b) If there is no production during the lease year, and the lessee has reason to believe that there shall be no production during the remainder of the lease year, the lessee shall submit to the authorized officer a request for suspension of production at least 90 days prior to the end of that lease year and a payment sufficient to cover any advance royalty due and owing as a result of the failure to produce. Upon receipt of the request for suspension of production and the accompanying payment, the authorized officer shall approve a suspension of production for that lease year and the lease shall not expire during that year for lack of production.
- (c) If there is production on the lease or unit during the lease year, but such production fails to meet the minimum production schedule required by the plan of operations for that lease or unit, the lessee shall pay an advance royalty within 60 days of the end of the lease year in an amount sufficient to