

### § 3141.6-3

once in the FEDERAL REGISTER and at least once a week for 3 consecutive weeks in a newspaper, or for other such periods deemed necessary. The notice shall specify the time and place of sale, the manner in which the bids may be submitted; the description of the lands; the terms and conditions of the lease, including the royalty and rental rates; the amount of the minimum bid; and shall state that the terms and conditions of the leases are available for inspection and designate the proper BLM office where bid forms may be obtained.

[48 FR 7422, Feb. 18, 1983, as amended at 55 FR 12351, Apr. 3, 1990]

#### § 3141.6-3 Conduct of sales.

(a) Competitive sales shall be conducted by the submission of written sealed bids.

(b) Minimum bids shall be not less than \$25 per acre.

(c) In the event that only 1 sealed bid is received and it is equal to or greater than the minimum bid, that bid shall be considered the highest bid.

(d) The authorized officer may reject any or all bids.

(e) The authorized officer may waive minor deficiencies in the bids or the lease sale advertisement.

(f) A bid deposit of one-fifth of the amount of the sealed bid shall be required and shall accompany the sealed bid. All bid deposits shall be in the form of either a certified check, money order, bank cashier's check or cash.

#### § 3141.6-4 Qualifications.

Each bidder shall submit with the bid a statement over the bidder's signature with respect to compliance with subpart 3102 of this title.

#### § 3141.6-5 Fair market value.

Only those bids which reflect the fair market value of the tract(s) as determined by the authorized officer shall be accepted; all other bids shall be rejected.

#### § 3141.6-6 Rejection of bid.

If the high bid is rejected for failure by the successful bidder to execute the lease forms and pay the balance of the bonus bid, or otherwise to comply with

### 43 CFR Ch. II (10-1-99 Edition)

the regulations of this subpart, the one-fifth bonus accompanying the bid shall be forfeited.

#### § 3141.6-7 Consideration of next highest bid.

The Department reserves the right to accept the next highest bid if the highest bid is rejected. In no event shall an offer be made to the next highest bidder if the difference between his/her bid and that of the rejected successful bidder is greater than the one-fifth bonus forfeited by the rejected successful bidder.

[55 FR 12351, Apr. 3, 1990]

#### § 3141.7 Award of lease.

After determining the highest responsible qualified bidder, the authorized officer shall send 3 copies of the lease on a form approved by the Director, and any necessary stipulations, to the successful bidder. The successful bidder shall, not later than the 30th day after receipt of the lease, execute the lease, pay the balance of the bid and the first year's rental, and file a bond as required in subpart 3104 of this title. Failure to comply with this section shall result in rejection of the lease.

### Subpart 3142—Paying Quantities/ Diligent Development

SOURCE: 51 FR 7276, Mar. 3, 1986, unless otherwise noted.

#### § 3142.0.1 Purpose.

This subpart provides definitions and procedures for meeting the production in paying quantities and the diligent development requirements for tar sand in all combined hydrocarbon leases.

#### § 3142.0-3 Authority.

These regulations are issued under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351-359), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) and the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070).

**§ 3142.0-5 Definitions.**

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

- (a) Production, in compliance with an approved 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