

Subpart 3208—Extending the Primary Lease Term

§ 3208.10 When may I extend my lease beyond the primary term?

(a) You have four opportunities to extend your lease beyond the primary term: by drilling, diligent efforts, production of byproducts, and unit commitment.

(1) For a drilling extension, we will extend your lease for five years if you:

(i) Are drilling when the primary term ends; and

(ii) Diligently drill to a reasonable target, based on the local geology and type of development you propose. BLM will determine if your target is adequate to extend the lease.

(2) For a diligent efforts extension, if you have not produced geothermal resources in commercial quantities before the primary or extended term ends, or before your lease is eliminated from a unit agreement, BLM may still approve up to two successive five-year extensions for your lease. You must have made a good faith effort to produce. To obtain a diligent efforts extension, follow the procedures at 43 CFR 3208.11(a)(2).

(3) For a byproducts extension, if your lease is in an additional term, and we determine that it can no longer produce commercial quantities, we may still extend your lease for five years. However, we will only do so if you are producing one or more valuable byproducts in commercial quantities. You should consult 43 CFR 3209.10 if you wish to convert your geothermal lease to a mineral lease for the byproduct.

(4) For a unit commitment extension, if your lease is committed to a unit agreement and its term would expire before the unit term would, BLM may extend your lease to match the term of the unit. We will do this if you have diligently pursued unit development while your lease is committed to the unit.

(b) During any extension period, if you use or produce geothermal resources in commercial quantities, or if you complete a well capable of producing geothermal resources in commercial quantities on the lease, BLM

will place the lease into an additional term.

§ 3208.11 What must I do to have my lease extended?

(a) You must take the following steps:

(1) For a drilling extension, notify BLM prior to the end of the primary term of your drilling activities so we may determine that you are diligently drilling beyond the end of the primary term and have met your well completion requirements.

(2) For a diligent efforts extension:

(i) Send BLM a written extension request at least 60 days before the primary or first extended term ends, or 60 days before your lease is eliminated from a unit agreement;

(ii) Include a report showing that you have made a good faith effort to produce or use geothermal resources in commercial quantities given the current economic conditions for marketing geothermal resources; and

(iii) Say whether you choose to pay instead of produce in commercial quantities under 43 CFR 3208.13 or to make significant expenditures under 43 CFR 3208.14 during the period of extension.

(3) For a byproducts extension, send us a request justifying an extension.

(4) For a unit commitment extension, send us a request at least 60 days before your lease ends which shows that you have diligently pursued unit development.

(b) Within 30 days after receiving your extension request, BLM will notify you whether we approve. BLM may request additional information from you.

§ 3208.12 What information must I give BLM to show that I have made bona fide efforts to produce or utilize geothermal resources in commercial quantities?

Send us a report which describes:

(a) Your efforts to identify and define the geothermal resource on your lease which you are making now or which you made during the primary term of the lease;

(b) The results of your efforts to identify and define the geothermal resource;

(c) Other actions taken to support your efforts, such as obtaining permits,

conducting environmental studies, and meeting permit requirements;

(d) Your efforts during the primary term and ongoing efforts to negotiate marketing arrangements, sales contracts, drilling agreements, financing for electrical generation and transmission projects, or other related actions; and,

(e) Current economic factors and conditions which affect your efforts to produce or utilize geothermal resources in commercial quantities on your lease.

§ 3208.13 Will BLM extend my lease if I choose to pay instead of produce in commercial quantities?

If you choose to pay instead of produce in commercial quantities under 43 CFR 3208.11(a)(2) and BLM approves the extension, we will modify the lease to require you to make an annual payment. We will specify the amount, which will not be less than \$3.00 per acre or fraction of an acre of the lands under lease during an initial extension, or \$6.00 per acre or fraction of an acre for a subsequent extension. The actual payment per acre is fixed for the period of the extension. If you request it, we will tell you the rate before you submit your petition for extension. You must make these payments to MMS at the same time you pay the lease rent. BLM may cancel your lease if you do not make these payments.

§ 3208.14 What will BLM do if I choose to make significant expenditures?

(a) If you choose to make significant expenditures under 43 CFR 3208.11(a)(2), and BLM approves the lease extension, we will modify your lease to require you to make annual expenditures of at least \$15.00 per acre or fraction of an acre for lands under lease during your first extension. You must make expenditures of \$18.00 per acre or fraction of an acre during any subsequent extension. If you spend more than the minimum required in a year, you may apply the excess toward the significant expenditures requirement in subsequent years of the same extension period.

(b) To give you credit for your significant expenditures, we must receive

your report no later than 60 days after the end of the lease year in which you made the expenditures. Describe your operations by type, location, date(s) conducted, and amount spent on those operations. Include all geologic information obtained from your operations in your report.

(c) After we review your report, we will notify you in writing whether you have met the diligent expenditure requirement. We must approve the type of work done and the expenditures claimed in your report before we can credit them toward your diligent exploration requirements.

(d) We will cancel your lease if you fail to make the significant expenditures under a modified lease.

§ 3208.15 What actions may I take which will count as significant expenditures?

Significant expenditures only include:

(a) Actual drilling operations on the lease;

(b) Geochemical or geophysical surveys for exploratory or development wells;

(c) Road or generating facility construction on the lease;

(d) Architectural or engineering services procured for the design of generating facilities located on the lease; and

(e) Environmental studies required by State or Federal law.

§ 3208.16 During the extension, may I switch my choice to either pay instead of produce in commercial quantities or make significant expenditures?

No, you may not make this change during an extension period. If you request a second extension, you may change your election for the second five year period when you submit your request.

§ 3208.17 If I begin production, do I get a credit for payments made instead of production in commercial quantities or significant expenditures?

No, if you begin production, you will not get a credit against royalties for either payments instead of production or significant expenditures made for that year.

Subpart 3209—Conversion of Lease Producing Byproducts

§ 3209.10 May I convert my geothermal lease to a mineral lease?

You may convert your geothermal lease to a mineral lease, effective the first day of the month following the date BLM determines you have met the terms of conversion, if:

- (a) Your lease is in an extended term;
- (b) The byproducts you are producing in commercial quantities are leasable under the Mineral Leasing Act (30 U.S.C. 181 *et seq.*), or under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–358); and
- (c) The lease is primarily valuable for the production of just that mineral.

§ 3209.11 May I convert my geothermal lease to a mining claim?

If the minerals are not leasable but are locatable and would be considered a byproduct if geothermal steam production were to continue, you are entitled to locate these minerals under the mining laws. To acquire these rights, you must complete the mining claim location within 90 days after the geothermal lease terminates. Also, there must have been no intervening location and the lands must be open to entry under the mining laws.

§ 3209.12 May BLM include additional terms and conditions to my converted lease?

If leases converted under either 43 CFR 3209.10 or 3209.11 affect lands withdrawn or acquired to aid some purpose of a Federal department or agency, including the Department of the Interior, BLM may include additional terms and conditions in your lease as prescribed by the appropriate agency.

§ 3209.13 How do I convert my geothermal lease to a mineral lease or a mining claim?

Just send us a request.

Subpart 3210—Additional Lease Information

§ 3210.10 When does lease segregation occur?

- (a) Lease segregation occurs when:

- (1) A portion of a lease is committed to a unit agreement while other portions are not committed; or

- (2) Only a portion of a lease is located in a participating area and the unit contracts. The portion of the lease outside the participating area would be eliminated from the unit agreement and segregated as of the effective date of the unit contraction.

- (b) BLM will assign the original lease serial number to the portion within the plan or agreement. We will give the lease portion outside the plan or agreement a new serial number with the same lease terms as the original lease.

§ 3210.11 Does a lease segregated from an agreement or plan receive any benefits from unitization of the committed portion of the original lease?

The new segregated lease stands alone and does not receive any of the benefits provided to the portion committed to the unit. We will not give you an extension for the eliminated portion of the lease based on status of the lands committed to the unit, including production in commercial quantities or the existence of a producible well.

§ 3210.12 May I consolidate leases?

BLM may approve your consolidation of two or more adjacent leases that have the same ownership and same lease terms, including expiration dates, if the combined leases do not exceed 2,560 acres in size. We may consolidate leases that have different stipulations if all other lease terms are the same.

§ 3210.13 What is the diligent exploration requirement?

- (a) During your lease's primary period, you must perform diligent exploration activities to yield new geologic information about the lease or related lands, until either:

- (1) Your approved expenditures on your lease total at least \$40 per acre, or
- (2) BLM places your lease in an additional term.

- (b) You must begin diligent exploration by the sixth year of the primary term and continue until there is a well capable of production in commercial quantities. Some examples of activities