

Bureau of Land Management, Interior

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Federal leases covered by the application.

(ii) Each application shall contain a detailed statement of expenses and costs of operating the entire mine, the income from the sale of coal, and all facts indicating whether the mine can be successfully operated under the Federal rental and royalty provisions fixed in the Federal lease or why the reduction is necessary to promote development. Where the application is for a reduction in Federal royalty, full information shall be furnished as to whether royalties or payments out of production are paid to parties other than the United States, the amounts so paid, and efforts made to reduce them, if any. If the Federal lease included in the application is not part of nor adjoining an operating mine, these detailed financial data may be obtained from another operating mine which is in close proximity and for which the authorized officer has deemed to have similar operating characteristics.

(iii) The applicant shall also file a copy of agreements, between the operator/lessee and the holders of any royalty interests or production payments other than those created in order to finance a mine, to a reduction of all other royalties from the Federal lease so that the total royalties and production payments owed the holders of these interests will not be in excess of one-half of the Federal royalties, should the Federal royalty reduction be granted.

(3) If the applicant does not meet the criteria of the rules of this part, the authorized officer shall reject such application or request more data from the operator/lessee.

(4) If the applicant meets the criteria of the rules of this part, the authorized officer shall act on the application.

(d) If a Federal coal lease that provides for cents-per-ton Federal royalty is developed by *in situ* technology, BLM will establish a procedure for estimating tonnage for royalty purposes.

[47 FR 33179, July 30, 1982. Redesignated at 48 FR 41589—41594, Sept. 16, 1983, and amended at 54 FR 1532, Jan. 13, 1989]

§ 3485.3 Maintenance of and access to records.

(a) Operators/lessees shall maintain current and accurate records for the Federal lease or LMU showing:

(1) The type, quality, and weight of all coal mined, sold, used on the premises, or otherwise disposed of, and all coal in storage (remaining in inventory).

(2) The prices received for all coal sold and to whom and when sold.

(b) [Reserved]

(c) Licensees must maintain a current record of all coal mined and/or removed.

(d) Operators/lessees will retain these records for a period of time as determined by the authorized officer in accordance with current BLM rules and procedures.

[47 FR 33179, July 30, 1982, as amended at 48 FR 35641, Aug. 5, 1983. Redesignated at 48 FR 41589, Sept. 16, 1983]

Subpart 3486—Inspection, Enforcement, and Appeals

§ 3486.1 Inspections.

(a) The operator/lessee shall provide access, at all reasonable times, to the authorized officer for inspection or investigation of operations in order to determine whether the operations are in compliance with all applicable laws, rules, and orders; the terms and conditions of the Federal lease or license; and requirements of any approved exploration plan for:

(1) Abandonment.

(2) Environmental protection and reclamation practices.

(b) The operator/lessee shall provide access, at all reasonable times, to the authorized officer for inspection or investigation of operations in order to determine whether the operations are in compliance with all applicable laws, rules, and orders; the terms and conditions of the Federal lease or license; and requirements of any approved resource recovery and protection plan for:

(1) Production practices.

(2) Development.

(3) Resource recovery and protection.

(4) Diligent development and continued operation.

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(5) Audits of Federal rental and royalty payments on producing Federal leases.

(6) Abandonment.

(7) MER determinations.

§ 3486.2 Notices and orders.

(a) *Address of responsible party.* Before beginning operations, the operator/lessee shall inform the authorized officer in writing of the operator/lessee's post office address and the name and post office address of the superintendent or designated agent who will be in charge of the operations and who will act as the local representative of the operator/lessee. Thereafter, the authorized officer shall be informed of any changes.

(b) *Receipt of notices and orders.* The operator/lessee shall be construed to have received all notices and orders that are mailed by certified mail, return receipt requested, to the mine office or handed to a responsible official connected with the mine or exploration site for transmittal to the operator/lessee or his local representative.

§ 3486.3 Enforcement.

(a) If the authorized officer determines that an operator/lessee has failed to comply with the rules of this part, the terms and conditions of the Federal lease or license, the requirements of approved exploration or resource recovery and protection plans, or orders of the authorized officer, and such noncompliance does not threaten immediate and serious damage to the mine, the deposit being mined, valuable ore-bearing mineral deposits or other resources, or affect the royalty provisions of the rules of this part, the authorized officer shall serve a notice of noncompliance upon the operator/lessee by delivery in person to him or his agent, or by certified mail, return receipt requested, addressed to the operator/lessee at his last known address. Failure of the operator/lessee to take action in accordance with the notice of noncompliance within the time limits specified by the authorized officer shall be grounds for cessation of operations upon notice by the authorized officer. The authorized officer may also recommend to the authorized officer the initiation of action for cancellation of

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the Federal lease or license and forfeiture of any Federal lease bonds.

(b) The notice of noncompliance shall specify in what respect(s) the operator/lessee has failed to comply with the rules of this part, the terms and conditions of the Federal lease or license, the requirements of approved exploration or resource recovery and protection plans, or orders of the authorized officer, and shall specify the action that must be taken to correct such noncompliance and the time limits within which such action must be taken.

(c) If, in the judgment of the authorized officer, an operator/lessee is conducting activities which fail to comply with the rules of this part, the terms and conditions of the Federal lease or license, the requirements of approved exploration or resource recovery and protection plans, or orders of the authorized officer, and/or which threaten immediate and serious damage to the mine, the deposit being mined, valuable ore-bearing mineral deposits, or, regarding exploration, the environment, the authorized officer shall order the immediate cessation of such activities without prior notice of noncompliance.

(d) A written report shall be submitted by the operator/lessee to the authorized officer when such noncompliance has been corrected. Upon concurrence by the authorized officer that the conditions which warranted the issuance of a notice or order of noncompliance have been corrected, the authorized officer shall so notify the operator/lessee in writing.

(e) The authorized officer shall enforce requirements of SMCRA only if he finds a violation, condition, or practice that he determines to be an emergency situation for which an authorized representative of the Secretary is required to act pursuant to 30 CFR 843.11 and 843.12.

[47 FR 33179, July 30, 1982; 47 FR 53366, Nov. 26, 1982. Redesignated at 48 FR 41589, Sept. 16, 1983]

§ 3486.4 Appeals.

Decisions or orders issued by the BLM under part 3480 of this title may