

## § 2885.21

your new annual rental amount would cause you undue hardship, you may qualify for a 2-year phase-in period if you are a small business entity as that term is defined in Small Business Administration regulations and if it is in the public interest. The BLM will require you to submit information to support your claim. If approved by the BLM State Director, payment of the amount in excess of the previous year's rent may be phased-in by equal increments over a 2-year period. In addition, the BLM will adjust the total calculated rent for year 2 of the phase-in period by the annual index provided by § 2885.19(a)(1).

(c) If the BLM has not previously used the rent schedule to calculate your rent, we may do so after giving you reasonable written notice.

[73 FR 65073, Oct. 31, 2008]

### § 2885.21 How must I make rental payments for a linear grant or TUP?

(a) *Term grants or TUPs.* For TUPs you must make a one-time nonrefundable payment for the term of the TUP. For grants, except those that have been issued in perpetuity, you must make either nonrefundable annual payments or a nonrefundable payment for more than 1 year, as follows:

(1) *One-time payments.* You may pay in advance the total rent amount for the entire term of the grant or any remaining years.

(2) *Multiple payments.* If you choose not to make a one-time payment, you must pay according to one of the following methods:

(i) *Payments by individuals.* If your annual rent is \$100 or less, you must pay at 10-year intervals not to exceed the term of the grant. If your annual rent is greater than \$100, you may pay annually or at 10-year intervals, not to exceed the term of the grant. For example, if you have a grant with a remaining term of 30 years, you may pay in advance for 10 years, 20 years, or 30 years, but not any other multi-year period.

(ii) *Payments by all others.* If your annual rent is \$500 or less, you must pay rent at 10-year intervals, not to exceed the term of the grant. If your annual rent is greater than \$500, you may pay

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annually or at 10-year intervals, not to exceed the term of the grant.

(b) *Perpetual grants issued prior to November 16, 1973.* Except as provided by § 2885.22(a), you must make either nonrefundable annual payments or a nonrefundable payment for more than 1 year, as follows:

(1) *Payments by individuals.* If your annual rent is \$100 or less, you must pay at 10-year intervals, not to exceed 30 years. If your annual rent is greater than \$100, you may pay annually or at 10-year intervals, not to exceed 30 years.

(2) *Payments by all others.* If your annual rent is \$500 or less, you must pay rent at 10-year intervals, not to exceed 30 years. If your annual rent is greater than \$500, you may pay annually or at 10-year intervals, not to exceed 30 years.

(c) *Proration of payments.* The BLM considers the first partial calendar year in the initial rental payment period (the length of time for which the holder is paying rent) to be the first year of the term. The BLM prorates the first year rental amount based on the number of months left in the calendar year after the effective date of the grant.

[73 FR 65074, Oct. 31, 2008]

### § 2885.22 How may I make rental payments when land encumbered by my term or perpetual linear grant is being transferred out of Federal ownership?

(a) *One-time payment option for existing perpetual grants issued prior to November 16, 1973.* If you have a perpetual grant and the land your grant encumbers is being transferred out of Federal ownership, you may choose to make a one-time rental payment. The BLM will determine the one-time payment for perpetual right-of-way grants by dividing the current annual rent for the subject property by an overall capitalization rate calculated from market data, where the overall capitalization rate is the difference between a market yield rate and a percent annual rent increase as described in the formula in paragraphs (a)(1), (2), and (3) of this section. The formula for this calculation is: One-time Payment = Annual Rent/(Y – CR), where: