

Bureau of Land Management, Interior

§ 3483.4

(b) After an LMU has been terminated under the provision of paragraph (a) of this section, any Federal coal lease included in that LMU shall then be subject to the diligent development and continued operation requirements that would have been imposed on that Federal lease by the rules of this part, as if the Federal lease had not been included in the LMU.

(c) Any Federal coal lease on which continued operation is not maintained shall be subject to cancellation.

(d) The DOI may cancel any Federal coal lease or LMU which fails to meet the requirement for submission of a resource recovery and protection plan.

§ 3483.3 Suspension of continued operation or operations and production.

(a) Applications for suspensions of continued operation must be filed in triplicate in the office of the authorized officer. The authorized officer, if he or she determines an application to be in the public interest, may approve the application or terminate suspensions that have been or may be granted.

(1) The authorized officer must suspend the requirement for continued operation by the period of time he or she determines that strikes, the elements, or casualties not attributable to the operator/lessee have interrupted operations under the Federal coal lease or LMU.

(2) The authorized officer may suspend the requirement for continued operation upon the payment of advance royalty in accordance with § 3481.0-6 of this title for any operation. The authorized officer, upon notifying the operator/lessee 6 months in advance, may cease to accept advance royalty in lieu of the requirement for continued operation.

(b) In the interest of conservation, the authorized officer is authorized to act on applications for suspension of operations and production filed pursuant to paragraph (b) of this section, direct suspension of operations and production, and terminate such suspensions which have been or may be granted. Applications by an operator/lessee for relief from any operations and production requirements of a Federal lease shall contain justification for the

suspension and shall be filed in triplicate in the office of the authorized officer.

(1) A suspension in accordance with paragraph (b) of this section shall take effect as of the time specified by the authorized officer. Any such suspension of a Federal coal lease or LMU approved by the authorized officer also suspends all other terms and conditions of the Federal coal lease or LMU, for the entire period of such a suspension. Rental and royalty payments will be suspended during the period of such suspension of all operations and production, beginning with the first day of the Federal lease month on which the suspension of operations and production becomes effective. Rental and royalty payments shall resume on the first day of the Federal lease month in which operations or production is resumed. Where rentals are creditable against royalties and have been paid in advance, proper credit shall be allowed on the next rental or royalty on producing Federal leases due under the Federal lease.

(2) The minimum annual production requirements shall be proportionately reduced for that portion of a Federal lease year for which suspension of operations and production is directed or granted by the authorized officer, in the interest of conservation of recoverable coal reserves and other resources, in accordance with paragraph (b) of this section.

(3) The term, including the diligent development period, of any Federal lease shall be extended by adding to it any period of suspension in accordance with paragraph (b) of this section, of operations and production.

(4) A suspension in accordance with paragraph (b) of this section does not suspend the permit and the operator/lessee's reclamation obligation under the permit.

[47 FR 33179, July 30, 1982; 47 FR 53366, Nov. 26, 1982. Redesignated at 48 FR 41589, Sept. 16, 1983, and amended at 53 FR 49986, Dec. 13, 1988; 62 FR 44370, Aug. 20, 1997]

§ 3483.4 Payment of advance royalty in lieu of continued operation.

(a) Advance royalty may only be accepted in lieu of continued operation

upon application to and approval by the authorized officer.

(b) However, any request by an operator/lessee for suspension of the continued operation requirement and payment of advance royalty in lieu thereof shall be made no later than 30 days after the beginning of the continued operation year. If an operator/lessee requests authorization to pay advance royalty in lieu of continued operation later than 30 days after the beginning of any continued operation year, the authorized officer may condition acceptance of advance royalty on the payment of a late payment charge on the amount of the advance royalty due. The late payment charge will be calculated in accordance with 30 CFR 218.20.

(c) For advance royalty purposes, the value of the Federal coal will be calculated in accordance with § 3485.2 of this title and this section. When advance royalty is accepted in lieu of continued operation, it shall be paid in an amount equivalent to the production royalty that would be owed on the production of 1 percent of the recoverable coal reserves or the Federal LMU recoverable coal reserves. The advance royalty rate for an LMU shall be deemed to be 8 percent where the Federal LMU recoverable coal reserves contained in the LMU would be recovered by only underground mining operations and 12½ percent where the Federal LMU recoverable coal reserves contained in the LMU would be recovered only by other mining operations. For LMU's that contain Federal LMU recoverable coal reserves that would be recovered by a combination of underground and other mining methods, the advance royalty rate shall be deemed to be 12½ percent. The unit value of the recoverable coal reserves for determining the advance royalty payment for a Federal lease or LMU shall be:

(1) The unit value for production royalty purposes of coal produced and sold under the Federal coal lease or LMU during the immediately preceding production royalty payment period; or

(2) Computed at the average unit price at which coal from other Federal leases in the same region was sold during such period, if no coal was produced and sold under the Federal coal lease

or LMU during the immediately preceding royalty payment period, or if the authorized officer finds that there is an insufficient number of such sales to determine such value equitably; or

(3) Determined by the authorized officer, if there were no sales of Federal coal from such region during such period or if the authorized officer finds that there is an insufficient number of such sales to determine such value equitably.

(d) The aggregate number of years during the period of any Federal coal lease or LMU for which advance royalty may be accepted in lieu of the requirement of continued operation shall not exceed 10. For Federal leases issued prior to August 4, 1976, advance royalty shall not be accepted in lieu of continued operation for more than a total of 10 years following the first lease readjustment after August 4, 1976. Any continued operation year in which any advance royalty is paid shall be deemed a year in which advance royalty is accepted in lieu of continued operation for the purposes of this paragraph. However, if an operator/lessee meets the requirement for continued operation in any continued operation year in which the operator/lessee has paid advance royalty, such year shall not be considered when calculating the maximum number of years for which advance royalty may be accepted for the Federal lease or LMU. The number of years for which advance royalty has been paid under any Federal coal lease prior to its inclusion in an LMU shall not be considered when calculating the maximum number of years for which advance royalty may be accepted for the LMU.

(e) The dollar amount of any production royalty for a Federal coal lease or LMU owed for any continued operation year during or subsequent to the continued operation year in which advance royalty is paid, shall be reduced (but not below zero) by the dollar amount of any advance royalty paid under that Federal lease or LMU to the extent that such advance royalty has not been used to reduce production royalty for a prior year.

(f) No advance royalty paid during the initial 20-year term of a Federal

coal lease or LMU shall be used to reduce a production royalty pursuant to paragraph (e) of this section after the 20th year of the Federal coal lease or LMU. For purposes of this paragraph, the initial 20-year term of a Federal lease shall commence on the effective date of the Federal lease for all Federal leases issued after August 4, 1976; on the effective date of the first lease readjustment after August 4, 1976, for all Federal leases issued prior to August 4, 1976; and on the effective date of LMU approval for all LMU's. Any advance royalty paid on a Federal lease prior to its inclusion in an LMU shall be credited to the LMU and shall be considered to have been paid on the date of LMU approval for the purposes of this paragraph, provided that the Federal lease has been included in an LMU within the initial 20-year term of the Federal lease as determined in this paragraph and to the extent that the advance royalty has not already been credited against production royalty on the Federal lease.

(g) If an operator/lessee fails to make an approved advance royalty payment in any continued operation year, the authorized officer shall inform the operator/lessee in writing that the operator/lessee is in violation of the continued operation requirement. If the operator/lessee then fails to comply with 30 CFR 218.200, the Federal lease or LMU shall be subject to cancellation pursuant to § 3483.2 of this title.

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

§ 3483.5 Crediting of production toward diligent development.

(a) For Federal coal leases issued after August 4, 1976, all production after the effective date of the Federal lease shall be credited toward diligent development.

(b) For Federal coal leases issued prior to August 4, 1976, all production after the effective date of the first lease readjustment after August 4, 1976, shall be credited toward diligent development.

(c) For Federal coal leases issued prior to August 4, 1976, that have not been readjusted after August 4, 1976, if the operator/lessee has elected under

§ 3483.1 of this title to be subject to the diligent development and continued operation requirements of the rules of this part, all production after the effective date of the operator/lessee's election shall be applied toward diligent development.

(d) For Federal coal leases issued prior to August 4, 1976, that have not been readjusted after August 4, 1976, if the operator/lessee has elected under § 3483.1 of this title to be subject to the diligent development and continued operation requirements of the rules of this part, all production after August 4, 1976, that occurred prior to the effective date of the operator/lessee's election shall be applied toward diligent development if the operator/lessee so requests.

(e) For Federal coal leases issued prior to August 4, 1976, that have been readjusted after August 4, 1976, all production after August 4, 1976, that occurred prior to the effective date of the first lease readjustment after August 4, 1976, shall be applied toward diligent development if the operator/lessee so requests. Such a request shall comply with the election application provisions at § 3483.1(b)(1) of this title. Any production after such readjustment shall be applied toward diligent development pursuant to paragraph (b) of this section.

(f) For Federal coal leases issued prior to August 4, 1976, that are governed by the Federal lease clauses which describe the minimum production requirements until the first lease readjustment after August 4, 1976, no production prior to the effective date of that first Federal lease readjustment shall be applied toward diligent development.

(g) For LMU's, any production credited under the rules of this part to a Federal lease prior to its inclusion in the LMU shall be applied toward diligent development for the LMU.

§ 3483.6 Special logical mining unit rules.

(a) Production anywhere within the LMU, of either Federal or non-Federal recoverable coal reserves or a combination thereof, shall be applied toward satisfaction of the requirements of the rules of this part for achievement of