

H-3107-1 - CONTINUATION, EXTENSION, OR RENEWAL OF LEASES

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KeywordsV. Extension of Lease Segregated By Assignment

A. Discovery of Oil and Gas in Paying Quantities on Segregated Portions of Assigned Leases. Under 43 CFR 3107.5-1, any lease segregated by partial assignment, including the lease for the retained portion, shall continue in force for the primary term of the original lease, but for not less than 2 years after the date of first discovery of oil or gas in paying quantities upon any other segregated portion of the original lease. This means that the first discovery on any portion of a lease that has been subjected to a partial assignment acts to extend all other leases stemming from the original base lease for a period of 2 years from the date of discovery. The discovery triggers the extension, not the segregation alone. This extension applies regardless of whether the discovery occurred prior to or after the effective date of the assignment.

EXTENSION
OF LEASE
SEGREGATED BY
ASSIGNMENTDISCOVERY
IN PAYING
QUANTITIES ON
SEGREGATED
PORTION OF
ASSIGNED LEASE
EXTENDS ALL
OTHER PORTIONS
OF ORIGINAL
LEASE

The requirement for lease extension under 43 CFR 3107.5-1 for any lease segregated by assignment is that a discovery of oil or gas in paying quantities must be made within 2 years prior to the end of the primary term of the original lease. This discovery may be on the retained portion or on any segregated portion of the original lease. All segregated portions of the lease, including the retained portion, but excepting the portion containing the drill site (that must be held by production in paying quantities if so established), are eligible for the extension by discovery.

Upon such discovery, each eligible segregated portion will continue in effect for the remainder of the primary term of the original lease at the time of the discovery, or for 2 years after the date of such discovery, whichever is the longer period. That is, a discovery in the 9th year of a 10-year lease would provide a 2-year extension from the date of discovery to the 11th year, while a discovery in the 7th year of a 10-year lease would provide no extension to the lease. (See JSC Producers, 99 IBLA 164 (1987) and Fuel Resources Development Co., 100 IBLA 37 (1987).)

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1. Standards for Determining Discovery. If an operator establishes that a well is capable of producing in paying quantities to the extent that the AO must prepare a FPM, the date of well completion in the FPM will ordinarily be the discovery date. The IBLA has ruled, however, that extensions of segregated leases may be appropriate even in the absence of a well completion if the evidence is clear that the well will be capable of producing in paying quantities when completed. A situation where the date will be so critical is not likely to occur frequently, but is possible when the lease on which the discovery takes place has a longer term than the lease entitled to the extension. This could occur where an extension resulting from some unitization procedure (segregation, termination or contraction) or a suspension of operations and/or production has been applied to the discovery lease but not to the other segregated lease. In any case where a lessee claims entitlement to an extension from a date earlier than the well completion date, the AO should consult Joseph I. O'Neill, Jr., et al., 1 IBLA 56, 77 I.D. 181 (1970).

STANDARDS FOR
DETERMINING
DISCOVERY
IN PAYING
QUANTITIES FOR
EXTENSIONS OF
SEGREGATED
LEASES

2. Responsibilities.a. Field Office Fluid Mineral Operations.

Because the type of lease extensions discussed in this portion of the Handbook is relatively infrequent, the FO operations staff processing the APD's and FPM's need not ordinarily be concerned with such lease extensions unless a specific situation has been brought to its attention. The possibility of such a lease extension can be detected when the Case Recordation Serial Register Page/Case Abstract is examined at the time the APD is being processed. The Serial Register Page/Case Abstract indicates whether the lease itself was created by or has been subjected to partial assignments. In such situations, the FO operations staff processing the APD's are to appropriately note the well file that other portions of the original lease may be eligible for a lease extension if a discovery is made. If the well does result in a FPM, the remarks section of the Serial Register Page/Case Abstract needs to indicate, at a minimum, that other segregated portions of the lease may be entitled to an extension for 2 years after discovery on a portion of the original lease.

FIELD OFFICE
OPERATIONS
ACTIONS

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b. State Office Lease Adjudication. The SO fluid lease adjudication is primarily responsible for determining which leases are to be extended pursuant to 43 CFR 3107.5-1. Receipt of any FPM on a Federal lease requires the SO lease adjudication to review and determine if the lease has been subject to a partial assignment (either been created by such an assignment or been reduced in size by a partial assignment out of the lease). (See Step II.B.5, above.) Upon such a determination, the SO lease adjudication is to identify all the leases entitled to an extension. Since some leases may have been subjected to several partial assignments, identification of all the affected leases may require considerable research of case files, abstracts, and the oil and gas plats. Once all affected leases have been identified, prepare appropriate decisions to send to the current lessees (see Illustration 21). Also prepare accounting advices for those leases in terminable (rental) status in MMS-DMD (see Illustration 22).

STATE OFFICE
ADJUDICATION
ACTIONS

DECISION
EXTENDING
LEASE TERM DUE
TO DISCOVERY

ALMRS Entry in Case Recordation also must be updated for each affected lease in the following manner:

AUTOMATED
NOTATION

Enter Action Date (MANDATORY ACTION CODE): Date of discovery on the segregated portion of lease (in most cases, this will be the well completion date); DE 1775 Action Code 258/DE 2910 Action Code 235; Action Remarks: THRU MM/DD/YY; BY ASGN; and

Enter Action Date (MANDATORY ACTION CODE): Date when extended lease expires); DE 1775/2910 Action Code 763.

c. Lessee. The lessee is responsible to be aware of any circumstances that may entitle the lease to an extension, and to make the annual rental payment timely to prevent the lease from automatically terminating by operation of law.

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B. Undeveloped Parts of Leases Issued Prior to September 2, 1960. When processing partial assignments of any lease issued prior to September 2, 1960, SO lease adjudication needs to be aware that the assigned and/or retained portion of the lease may be entitled to a 2-year extension from the effective date of the assignment if the lands are undeveloped and the lease is in any extended term beyond the original term of the lease. The extension authorized under 43 CFR 3107.5-2 applies only to pre-September 2, 1960, leases. When such extensions are appropriate, the affected parties are to be advised by a decision, with a copy of the decision also provided to the MMS-DMD.

UNDEVELOPED
PARTS OF
LEASES ISSUED
PRIOR TO
SEPTEMBER 2,
1960

Also, ALMRS Entry is to be updated to reflect the extension in the following manner:

AUTOMATED
NOTATION

Enter Action Date (MANDATORY ACTION CODE): Effective date of approval of assignment; DE 1775 Action Code 258/DE 2910 Action Code 235; Action Remarks: THRU MM/DD/YY; BY ASGN; and

Enter Action Date (MANDATORY ACTION CODE): Date when extended lease expires (e.g., 3-31-96, if assignment is effective 4-1-94); DE 1775/2910 Action Code 763.

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C. Undeveloped Parts of Leases in Extended Term Because of Production. Extensions under 43 CFR 3107.5-3 apply only to leases that are in their extended term by reason of production.

Responsible

Official	Step Action	Keywords
Adjudication	1. Receive partial assignment on a producing lease that is beyond the end of its primary term. If the case file does not clearly indicate developed lands, request a report from the FO operations for information on undeveloped lands in the lease (see Illustration 23).	IDENTIFY UNDEVELOPED LANDS
	2. If production is on both the assigned and retained portions, an extension does not apply, since there are no undeveloped portions of the lease involved. If the segregated lease has already benefited from an extension under 43 CFR 3107.5-2, an extension does not apply.	EXTENSIONS PARTIAL ASSIGNMENT
	3. If either the assigned or retained portion of the lease contains undeveloped lands, prepare a decision showing extension (see Illustration 24). If the assigned portion contains undeveloped lands, note on the face of the assignment: "43 CFR 3107.5-3 rules extend this lease through <u>(Date)</u> ."	DECISION - PARTIAL ASSIGNMENT PRODUCING LEASE
	<u>EXAMPLE:</u> If the assignment is approved effective 5-1-94, the lease extension is through 4-30-96.	
	4. Provide a copy of the decision for the lease being extended to the MMS-DMD. Since the lease account, prior to its segregation by the assignment, should have been in a nonterminable status in the MMS Common Reference Database, all data needed by the MMS-DMD is to be indicated in the decision so that the appropriate billing and rental accounting information for the segregated lease will occur in the MMS-DMD automated system.	COPY OF DECISION OF PARTIAL ASSIGNMENT AND LEASE EXTENSION TO MMS-DMD

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Responsible Official	Step	Action	Keywords
ALMRS Entry	5.	Update Case Recordation as follows:	AUTOMATED NOTATION
	5a.	Enter Action Date (MANDATORY ACTION CODE): Effective date of assignment approval; DE 1775 Action Code 258/DE 2910 Action Code 235; Action Remarks: THRU MM/DD/YY; BY ASGN; and	
	5b.	Enter Action Date (MANDATORY ACTION CODE): Date extended lease will expire (e.g., 3-31-96, if the assignment is effective 4-1-94); DE 1775/2910 Action Code 763.	
Adjudication	6.	Continue processing assignment under the procedures described in Handbook 3106-1.	