

§ 3602.23

§ 3602.23 When will BLM make refunds or allow credits?

(a) BLM may make refunds or allow credits if—

(1) When your contract expires, your total payments exceed the total value of mineral materials included in the contract;

(2) BLM determines that insufficient mineral materials existed in the sales area to fulfill the terms of the contract; or

(3) Materials you paid for are unavailable as a result of terminating your contract by mutual agreement under § 3602.22(b).

(b) If your refund or credit is a result of terminating your contract by mutual agreement under § 3602.22(b), BLM will reduce the amount of the refund or credit by the amount of the administrative cost of processing the disposal action. If these administrative costs exceed your total payments, BLM will not make a refund or allow a credit.

(c) BLM may credit to future production on the same contract, but not refund, payments that you make in lieu of production under § 3602.21(a)(3). However, if, upon expiration of the contract, the total value of payments you have made exceeds the total value of mineral materials included in your contract, BLM will refund the difference in accordance with paragraphs (a) and (b) of this section.

§ 3602.24 When may I assign my materials sales contract?

(a) You may not assign the contract or any interest therein unless BLM approves the transfer in writing.

(b) BLM will not approve your proposed assignment of contract, unless—

(1) Your assignee—

(i) Furnishes a financial guarantee as required by § 3602.14; or

(ii) Obtains a written commitment from the previous surety that it will be bound by the assignment when BLM approves it; and

(2) The assignment contains all the terms and conditions in your contract.

§ 3602.25 What rights and responsibilities does my assignee assume?

When BLM approves your assignment, your assignee is entitled to all

43 CFR Ch. II (10–1–05 Edition)

the rights and is subject to all the obligations under the contract.

§ 3602.26 If I assign my contract, when do my obligations under the contract end?

When BLM approves your assignment, you are released from any further liability under the contract for actions the assignee may take after the effective date of the assignment. You continue to be responsible for obligations that accrued before the approval date, whether or not you knew of them at the time of the transfer.

§ 3602.27 When will BLM extend the term of a contract?

BLM may grant a one-time extension of the contract not to exceed 1 year, if:

(a) (1) For contracts with terms over 90 days, BLM receives your written request between 30 and 90 days before the contract expires; or

(2) For contracts with terms of 90 days or less, BLM receives your written request not later than 15 days before the contract expires; and

(b) You show in writing that the delay in removing the mineral materials was due to causes beyond your control and was not due to your fault or negligence.

§ 3602.28 What records must I maintain and how long must I keep them?

(a) BLM may require you to maintain and preserve for 6 years records, maps, and surveys relating to production verification and valuation. These include, but are not limited to, detailed records of quantity, types, and value of commodities you moved, processed, sold, delivered, or used.

(b) You must make such records available to BLM to allow us to determine whether you have complied with statutes, regulations, and the terms of the contract.

§ 3602.29 How will BLM verify my production?

(a) You must submit at least one report per contract year of the amount of mineral materials you have mined or removed under your sales contract so BLM can verify that you have made

Bureau of Land Management, Interior

§ 3602.41

the required payments. BLM will specify the timing of the reports in your contract or permit.

(b) BLM may require more frequent reporting if we find it necessary.

(c) BLM may require you to conduct pre-operation, annual, and post-operation volumetric surveys of the mine site.

NONCOMPETITIVE SALES

§ 3602.30 Noncompetitive sales.

In addition to the following sections, §§ 3602.31 through 3602.35, the provisions of §§ 3602.11 through 3602.29 also apply to noncompetitive sales.

§ 3602.31 What volume limitations generally apply to noncompetitive mineral materials sales?

(a) BLM may sell, at not less than fair market value, and without advertising or calling for bids, mineral materials not greater than 200,000 cubic yards (or weight equivalent) in any individual sale, when BLM determines it to be:

(1) In the public interest; and

(2) Impracticable to obtain competition.

(b) BLM will not approve multiple noncompetitive sales that exceed a total of 300,000 cubic yards (or weight equivalent) made in any one State for the benefit of any one purchaser, whether an individual, partnership, corporation, or other entity, in any period of 12 consecutive months.

(c) The volume limitations in paragraphs (a) and (b) of this section do not apply to sales in the State of Alaska that BLM determines are needed for construction, operation, maintenance, or termination of the Trans-Alaska Pipeline System or the Alaska Natural Gas Transportation System.

(d) The volume limitations in paragraphs (a) and (b) of this section do not apply if:

(1) BLM determines that circumstances make it impossible to obtain competition; or

(2) There is insufficient time to invite competitive bids, because of an emergency situation affecting public property, health, or safety.

§ 3602.32 What volume and other limitations pertain to noncompetitive sales associated with public works projects?

BLM may sell mineral materials not exceeding 400,000 cubic yards (or weight equivalent), at not less than fair market value, without advertising or calling for bids if:

(a) BLM determines the sale to be in the public interest; and

(b) The materials will be used in connection with an urgent public works improvement program on behalf of a Federal, State, or local governmental agency, and time does not permit advertising for a competitive sale.

§ 3602.33 How will BLM dispose of mineral materials for use in developing Federal mineral leases?

(a) If you propose to use mineral materials in connection with developing a mineral lease issued by BLM, we may, without calling for competitive bids, sell you at fair market value a volume of mineral materials not exceeding a total of 200,000 cubic yards (or weight equivalent) in one State in any period of 12 consecutive months.

(b) If the materials remain within the boundaries of the lease, BLM will not charge for mineral materials that you must move in order to extract minerals under a Federal lease, whether or not you use them for lease development.

§ 3602.34 What is the term of a noncompetitive contract?

BLM will not issue a noncompetitive contract for the sale of mineral materials for a term exceeding 5 years, excluding any contract extension under § 3602.27 and any period that BLM may allow for removal of equipment and improvements under § 3601.52.

COMPETITIVE SALES

§ 3602.40 Competitive sales.

In addition to the following sections, §§ 3602.41 through 3602.49, the provisions of §§ 3602.11 through 3602.29 also apply to competitive sales.

§ 3602.41 When will BLM sell mineral materials on a competitive basis?

Except for sales from community pits and common use areas under subpart