

Bureau of Land Management, Interior

§ 3108.2-2

§ 3108.2 Termination by operation of law and reinstatement.

§ 3108.2-2 Reinstatement at existing rental and royalty rates: Class I reinstatements.

§ 3108.2-1 Automatic termination.

(a) Except as provided in paragraph (b) of this section, any lease on which there is no well capable of producing oil or gas in paying quantities shall automatically terminate by operation of law (30 U.S.C. 188) if the lessee fails to pay the rental at the designated Service office on or before the anniversary date of such lease. However, if the designated Service office is closed on the anniversary date, a rental payment received on the next day the Service office is open to the public shall be considered as timely made.

(b) If the rental payment due under a lease is paid on or before its anniversary date but the amount of the payment is deficient and the deficiency is nominal as defined in this section, or the amount of payment made was determined in accordance with the rental or acreage figure stated in a bill rendered by the designated Service office, or decision rendered by the authorized officer, and such figure is found to be in error resulting in a deficiency, such lease shall not have automatically terminated unless the lessee fails to pay the deficiency within the period prescribed in the Notice of Deficiency provided for in this section. A deficiency shall be considered nominal if it is not more than \$100 or more than 5 percent of the total payment due, whichever is less. The designated Service office shall send a Notice of Deficiency to the lessee. The Notice shall be sent by certified mail, return receipt requested, and shall allow the lessee 15 days from the date of receipt or until the due date, whichever is later, to submit the full balance due to the designated Service office. If the payment required by the Notice is not paid within the time allowed, the lease shall have terminated by operation of law as of its anniversary date.

[48 FR 33662, July 22, 1983, as amended at 49 FR 11637, Mar. 27, 1984; 49 FR 30448, July 30, 1984; 53 FR 17357, May 16, 1988]

(a) Except as hereinafter provided, the authorized officer may reinstate a lease which has terminated for failure to pay on or before the anniversary date the full amount of rental due, provided that:

(1) Such rental was paid or tendered within 20 days after the anniversary date; and

(2) It is shown to the satisfaction of the authorized officer that the failure to timely submit the full amount of the rental due was either justified or not due to a lack of reasonable diligence on the part of the lessee (reasonable diligence shall include a rental payment which is postmarked by the U.S. Postal Service, common carrier, or their equivalent (not including private postal meters) on or before the lease anniversary date or, if the designated Service office is closed on the anniversary date, postmarked on the next day the Service office is open to the public); and

(3) A petition for reinstatement, the processing fee for lease reinstatement, Class I, found in the fee schedule in §3000.12 of this chapter, and the required rental, including any back rental that has accrued from the date of the termination of the lease, are filed with the proper BLM office within 60 days after receipt of Notice of Termination of Lease due to late payment of rental. If a terminated lease becomes productive prior to the time the lease is reinstated, all required royalty that has accrued shall be paid to the Service.

(b) The burden of showing that the failure to pay on or before the anniversary date was justified or not due to lack of reasonable diligence shall be on the lessee.

(c) Under no circumstances shall a terminated lease be reinstated if:

(1) A valid oil and gas lease has been issued prior to the filing of a petition for reinstatement affecting any of the lands covered by that terminated lease; or

(2) The oil and gas interests of the United States in the lands have been disposed of or otherwise have become unavailable for leasing.