§ 172. Certain Alabama lands subject to homestead entry

All lands designated as agricultural in the reclassification of the public lands of Alabama by the Secretary of the Interior under authority of Act March 27, 1906 (chapter 1347, section 1, Thirty-fourth Statutes, page 88), shall be subject to homestead entry as such.

(Mar. 27, 1906, ch. 1347, § 2, 34 Stat. 88.)

REFERENCES IN TEXT

Act March 27, 1906 (chapter 1347, section 1, Thirty-fourth Statutes, page 88), referred to in text, is not classified to the Code.

CHAPTER 3A—LEASES AND PROSPECTING PERMITS

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SUBCHAPTER I—GENERAL PROVISIONS

§181. Lands subject to disposition; persons entitled to benefits; reciprocal privileges; helium rights reserved

Deposits of coal, phosphate, sodium, potassium, oil, oil shale, gilsonite (including all vein-type solid hydrocarbons), or gas, and lands containing such deposits owned by the United States, including those in national forests, but excluding lands acquired under the Appalachian Forest Act, approved March 1, 1911 (36 Stat. 961), and those in incorporated cities, towns, and villages and in national parks and monuments, those acquired under other Acts subsequent to February 25, 1920, and lands within the naval petroleum and oil-shale reserves, except as hereinafter provided, shall be subject to disposition in the form and manner provided by this chapter to citizens of the United States, or to associations of such citizens, or to any corporation organized under the laws of the United States, or of any State or Territory thereof, or in the case of coal, oil, oil shale, or gas, to municipalities. Citizens of another country, the laws, customs, or regulations of which deny similar or like privileges to citizens or corporations of this country, shall not by stock ownership, stock holding, or stock control, own any interest in any lease acquired under the provisions of this chapter.

The term ''oil'' shall embrace all nongaseous hydrocarbon substances other than those substances leasable as coal, oil shale, or gilsonite (including all vein-type solid hydrocarbons).

The term ''combined hydrocarbon lease'' shall refer to a lease issued in a special tar sand area pursuant to section 226 of this title after November 16, 1981.

The term ''special tar sand area'' means (1) an area designated by the Secretary of the Interior's orders of November 20, 1980 (45 FR 76800–76801) and January 21, 1981 (46 FR 6077–6078) as containing substantial deposits of tar sand.

The United States reserves the ownership of and the right to extract helium from all gas produced from lands leased or otherwise granted under the provisions of this chapter, under such rules and regulations as shall be prescribed by the Secretary of the Interior: *Provided further*, That in the extraction of helium from gas produced from such lands it shall be so extracted as to cause no substantial delay in the delivery of gas produced from the well to the purchaser thereof.

(Feb. 25, 1920, ch. 85, §1, 41 Stat. 437; Feb. 7, 1927, ch. 66, §5, 44 Stat. 1058; Aug. 8, 1946, ch. 916, §1, 60 Stat. 950; Pub. L. 86–705, §7(a), Sept. 2, 1960, 74 Stat. 790; Pub. L. 97–78, §1(1), (4), Nov. 16, 1981, 95 Stat. 1070.)

References in Text

The Appalachian Forest Act, referred to in the first undesignated paragraph, is act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, also known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552 and 563 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 552 of Title 16 and Tables.

Amendments

1981—Pub. L. 97–78, in first par., substituted ''gilsonite (including all vein-type solid hydrocarbons),'' for ''native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried)'', and added, after first par. three paragraphs which defined ''oil'', ''combined hydrocarbon lease'', and ''special tar sand area'', respectively.

1960—Pub. L. 86–705 included deposits of native asphalt, solid and semisolid bitumen, and bituminous rock.

1946—Act Aug. 8, 1946, reenacted: existing par., less three provisos, as first sentence of first par., inserting ''potassium'' after ''sodium'', which was also included in the 1927 amendment, and substituting provision for disposition of deposits ''in incorporated cities, towns, and villages, and in national parks and monuments, those acquired under other Acts subsequent to February 25, 1920, and lands within the naval petroleum and oil-shale reserves'' for such disposition ''in national parks, and in lands withdrawn or reserved for military or naval uses or purposes'' and phrase ''associations of such citizens'' for ''any association of such persons''; former third proviso as second sentence of first par.; former first proviso, as second par., inserting reservation of ownership provision and striking out ''permitted'' before ''leased or otherwise granted''; and former second proviso as proviso in second par.

1927—Act Feb. 7, 1927, included deposits of potassium.

Short Title of 2000 Amendments

Pub. L. 106–463, §1, Nov. 7, 2000, 114 Stat. 2010, provided that: ''This Act [amending section 184 of this title and enacting provisions set out as a note under section 184 of this title] may be cited as the 'Coal Market Competition Act of 2000'.''

Pub. L. 106–393, title V, §501, Oct. 30, 2000, 114 Stat. 1624, provided that: ''This title [amending section 191 of this title and enacting provisions set out as a note under section 191 of this title] may be cited as the 'Mineral Revenue Payments Clarification Act of 2000'.''

Short Title of 1987 Amendment

Pub. L. 100–203, title V, §5101(a), Dec. 22, 1987, 101 Stat. 1330–256, provided that: ''This subtitle [subtitle B (§§5101–5113) of Pub. L. 100–203, enacting sections 195 and 226–3 of this title, amending sections 187a, 187b, 188, 191, and 226 of this title and section 3148 of Title 16,

Conservation, and enacting provisions set out as notes under this section and section 226 of this title] may be cited as the 'Federal Onshore Oil and Gas Leasing Reform Act of 1987'.''

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–78, Nov. 16, 1981, 95 Stat. 1070, which amended this section and sections 182, 184, 209, 226, 241, 351, and 352 of this title and enacted provisions set out as a note under this section, is popularly known as the ''Combined Hydrocarbon Leasing Act of 1981''.

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–377, § 1(a), Aug. 4, 1976, 90 Stat. 1083, as amended by Pub. L. 95–554, § 8, Oct. 30, 1978, 92 Stat. 2075, provided that: ''This Act [enacting sections 202a, 208–1, and 208–2 of this title, amending sections 184, 191, 201, 203, 207, 209, and 352 of this title, repealing sections 201–1 and 204 of this title, and enacting provisions set out as notes under sections 184, 201, 201–1, 203, and 204 of this title] may be cited as the 'Federal Coal Leasing Amendments Act of 1976'.''

SHORT TITLE OF 1960 AMENDMENT

Section 1 of Pub. L. 86–705 provided: ''That this Act [amending this section and sections 182, 184, 187a, 226, 226–1, 226–2, and 241 of this title, and enacted provisions set out as notes under sections 187a and 226 of this title] may be cited as the 'Mineral Leasing Act Revision of 1960'.''

SHORT TITLE

Act Feb. 25, 1920, ch. 85, § 44, as added Dec. 22, 1987, Pub. L. 100–203, title V, § 5113, 101 Stat. 1330–263, provided that: ''This Act [enacting this chapter] may be cited as the 'Mineral Leasing Act'.''

This chapter is also popularly known as the ''Mineral Leasing Act of 1920'' and the ''Mineral Lands Leasing Act''.

SAVINGS PROVISION

Provisions of Federal Land Policy and Management Act of 1976, Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, not to be construed as permitting any person to place, or allow to be placed, spent oil shale, etc., on any Federal land other than land leased for the recovery of shale oil under the act of Feb. 25, 1920, section 181 et seq. of this title, see section 701(d) of Pub. L. 94–579, set out as a note under section 1701 of Title 43, Public Lands.

Section 15 of act Aug. 8, 1946, provided: ''No repeal or amendment made by this Act [enacting sections 187a, 187b, 226c–226e, and 236b, amending this section and sections 184, 188, 193, 209, 225, 226, and 285, and repealing sections 223a, 226a, and 226b of this title] shall affect any right acquired under the law as it existed prior to such repeal or amendment, and such right shall be governed by the law in effect at the time of its acquisition; but any person holding a lease on the effective date of this Act [Aug. 8, 1946] may, by filing a statement to that effect, elect to have his lease governed by the applicable provisions of this Act instead of by the law in effect prior thereto.''

CONSTRUCTION AND APPLICABILITY OF 1981 AMENDMENTS

Section 1(10), (11) of Pub. L. 97–78 provided that:

''(10) Nothing in this Act [see Short Title of 1981 Amendment note above] shall affect the taxable status of production from tar sand under the Crude Oil Windfall Profit Tax Act of 1980 (Public Law 96–223) [see Tables for classification], reduce the depletion allowance for production from tar sand, or otherwise affect the existing tax status applicable to such production.

''(11) No provision of this Act [see Short Title of 1981 Amendment note above] shall apply to national parks, national monuments, or other lands where mineral leasing is prohibited by law. The Secretary of the Interior shall apply the provisions of this Act to the Glen Canyon National Recreation Area, and to any other units of the national park system where mineral leasing is permitted, in accordance with any applicable minerals management plan if the Secretary finds that there will be no resulting significant adverse impacts on the administration of such area, or on other contiguous units of the national park system.''

ADMISSION OF ALASKA AS STATE: SELECTION OF LANDS

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Selection of lands by Alaska from lands made available by Statehood provisions including lands subject to leases, permits, licenses or contracts issued under this chapter, see section 6(h) of Pub. L. 85–508, set out as note preceding section 21 of Title 48.

OUTER CONTINENTAL SHELF; MINERAL LEASES

Grant by the Secretary of the Interior of mineral leases on submerged lands of outer Continental Shelf, see section 1331 et seq., of Title 43, Public Lands.

§ 182. Lands disposed of with reservation of deposits of coal, etc.

The provisions of this chapter shall also apply to all deposits of coal, phosphate, sodium, oil, oil shale, gilsonite (including all vein-type solid hydrocarbons), or gas in the lands of the United States, which lands may have been or may be disposed of under laws reserving to the United States such deposits, with the right to prospect for, mine, and remove the same, subject to such conditions as are or may hereafter be provided by such laws reserving such deposits.

(Feb. 25, 1920, ch. 85, § 34, 41 Stat. 450; Pub. L. 86–705, § 7(a), Sept. 2, 1960, 74 Stat. 790; Pub. L. 97–78, § 1(1), Nov. 16, 1981, 95 Stat. 1070.)

AMENDMENTS

1981—Pub. L. 97–78 substituted ''gilsonite (including all vein-type solid hydrocarbons),'' for ''native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried)''.

1960—Pub. L. 86–705 included native asphalt, solid and semisolid bitumen, and bituminous rock.

§ 183. Cancellation of prospecting permits

The Secretary of the Interior shall reserve and may exercise the authority to cancel any prospecting permit upon failure by the permittee to exercise due diligence in the prosecution of the prospecting work in accordance with the terms and conditions stated in the permit, and shall insert in every such permit issued under the provisions of this chapter appropriate provisions for its cancellation by him.

(Feb. 25, 1920, ch. 85, § 26, 41 Stat. 448.)

§ 184. Limitations on leases held, owned or controlled by persons, associations or corporations

(a) Coal leases

No person, association, or corporation, or any subsidiary, affiliate, or persons controlled by or under common control with such person, asso-

ciation, or corporation shall take, hold, own or control at one time, whether acquired directly from the Secretary under this chapter or otherwise, coal leases or permits on an aggregate of more than 75,000 acres in any one State and in no case greater than an aggregate of 150,000 acres in the United States: *Provided*, That any person, association, or corporation currently holding, owning, or controlling more than an aggregate of 150,000 acres in the United States on the date of enactment of this section shall not be required on account of this section to relinquish said leases or permits: *Provided*, *further*, That in no case shall such person, association, or corporation be permitted to take, hold, own, or control any further Federal coal leases or permits until such time as their holdings, ownership, or control of Federal leases or permits has been reduced below an aggregate of 150,000 acres within the United States.

(b) Sodium leases or permits, acreage

(1) No person, association, or corporation, except as otherwise provided in this subsection, shall take, hold, own, or control at one time, whether acquired directly from the Secretary under this chapter, or otherwise, sodium leases or permits on an aggregate of more than five thousand one hundred and twenty acres in any one State.

(2) The Secretary may, in his discretion, where the same is necessary in order to secure the economic mining of sodium compounds leasable under this chapter, permit a person, association, or corporation to take or hold sodium leases or permits on up to 30,720 acres in any one State.

(c) Phosphate leases, acreage

No person, association, or corporation shall take, hold, own, or control at one time, whether acquired directly from the Secretary under this chapter, or otherwise, phosphate leases or permits on an aggregate of more than twenty thousand four hundred and eighty acres in the United States.

(d) Oil or gas leases, acreage, Alaska; options, semi-annual statements

(1) No person, association, or corporation, except as otherwise provided in this chapter, shall take, hold, own or control at one time, whether acquired directly from the Secretary under this chapter, or otherwise, oil or gas leases (including options for such leases or interests therein) on land held under the provisions of this chapter exceeding in the aggregate two hundred forty-six thousand and eighty acres in any one State other than Alaska[1] *Provided*, *however*, That acreage held in special tar sand areas, and acreage under any lease any portion of which has been committed to a federally approved unit or cooperative plan or communitization agreement or for which royalty (including compensatory royalty or royalty in-kind) was paid in the preceding calendar year, shall not be chargeable against such State limitations. In the case of the State of Alaska, the limit shall be three hundred thousand acres in the northern leasing district and three hundred thousand acres in the southern leasing district, and the boundary between said two districts shall be the left limit of the Tanana River from the border between the United States and Canada to the confluence of the Tanana and Yukon Rivers, and the left limit of the Yukon River from said confluence to its principal southern mouth.

(2) No person, association, or corporation shall take, hold, own, or control at one time options to acquire interests in oil or gas leases under the provisions of this chapter which involve, in the aggregate, more than two hundred thousand acres of land in any one State other than Alaska, or, in the case of Alaska, more than two hundred thousand acres in each of its two leasing districts, as hereinbefore described. No option to acquire any interest in such an oil or gas lease shall be enforcible if entered into for a period of more than three years (which three years shall be inclusive of any renewal period if a right to renew is reserved by any party to the option) without the prior approval of the Secretary. In any case in which an option to acquire the optionor's entire interest in the whole or a part of the acreage under a lease is entered into, the acreage to which the option is applicable shall be charged both to the optionor and to the optionee, but the charge to the optionor shall cease when the option is exercised. In any case in which an option to acquire a part of the optionor's interest in the whole or a part of the acreage under a lease is entered into, the acreage to which the option is applicable shall be fully charged to the optionor and a share thereof shall also be charged to the optionee, as his interest may appear, but after the option is exercised said acreage shall be charged to the parties pro rata as their interests may appear. In any case in which an assignment is made of a part of a lessee's interest in the whole or part of the acreage under a lease or an application for a lease, the acreage shall be charged to the parties pro rata as their interests may appear. No option or renewal thereof shall be enforcible until notice thereof has been filed with the Secretary or an officer or employee of the Department of the Interior designated by him to receive the same. Each such notice shall include, in addition to any other matters prescribed by the Secretary, the names and addresses of the parties thereto, the serial number of the lease or application for a lease to which the option is applicable, and a statement of the number of acres covered thereby and of the interests and obligations of the parties thereto and shall be subscribed by all parties to the option or their duly authorized agents. An option which has not been exercised shall remain charged as hereinbefore provided until notice of its relinquishment or surrender has been filed, by either party, with the Secretary or any officer or employee of the Department of the Interior designated by him to receive the same. In addition, each holder of any such option shall file with the Secretary or an officer or employee of the Department of the Interior as aforesaid within ninety days after the 30th day of June and the 31st day of December in each year a statement showing, in addition to any other matters prescribed by the Secretary, his name, the name and address of each grantor of an option held by him, the serial number of every lease or application for a lease to which

[1] So in original. Probably should be followed by a colon.

such an option is applicable, the number of acres covered by each such option, the total acreage in each State to which such options are applicable, and his interest and obligation under each such option. The failure of the holder of an option so to file shall render the option unenforcible[2] by him. The unenforcibility[3] of any option under the provisions of this paragraph shall not diminish the number of acres deemed to be held under option by any person, association, or corporation in computing the amount chargeable under the first sentence of this paragraph and shall not relieve any party thereto of any liability to cancellation, forfeiture, forced disposition, or other sanction provided by law. The Secretary may prescribe forms on which the notice and statements required by this paragraph shall be made.

(e) Association or stockholder interests, conditions; combined interests

(1) No person, association, or corporation shall take, hold, own or control at one time any interest as a member of an association or as a stockholder in a corporation holding a lease, option, or permit under the provisions of this chapter which, together with the area embraced in any direct holding, ownership or control by him of such a lease, option, or permit or any other interest which he may have as a member of other associations or as a stockholder in other corporations holding, owning or controlling such leases, options, or permits for any kind of minerals, exceeds in the aggregate an amount equivalent to the maximum number of acres of the respective kinds of minerals allowed to any one lessee, optionee, or permittee under this chapter, except that no person shall be charged with his pro rata share of any acreage holdings of any association or corporation unless he is the beneficial owner of more than 10 per centum of the stock or other instruments of ownership or control of such association or corporation, and except that within three years after September 2, 1960 no valid option in existence prior to September 2, 1960 held by a corporation or association on September 2, 1960 shall be chargeable to any stockholder of such corporation or to a member of such association so long as said option shall be so held by such corporation or association under the provisions of this chapter.

(2) No contract for development and operation of any lands leased under this chapter, whether or not coupled with an interest in such lease, and no lease held, owned, or controlled in common by two or more persons, associations, or corporations shall be deemed to create a separate association under the preceding paragraph of this subsection between or among the contracting parties or those who hold, own or control the lease in common, but the proportionate interest of each such party shall be charged against the total acreage permitted to be held, owned or controlled by such party under this chapter. The total acreage so held, owned, or controlled in common by two or more parties shall not exceed, in the aggregate, an amount equivalent to the maximum number of acres of the respective kinds of minerals allowed to any one lessee, optionee, or permittee under this chapter.

(f) Limitations on other sections; combined interests permitted for certain purposes

Nothing contained in subsection (e) of this section shall be construed (i) to limit sections 227, 228, 251 of this title or (ii), subject to the approval of the Secretary, to prevent any number of lessees under this chapter from combining their several interests so far as may be necessary for the purpose of constructing and carrying on the business of a refinery or of establishing and constructing, as a common carrier, a pipeline or railroad to be operated and used by them jointly in the transportation of oil from their several wells or from the wells of other lessees under this chapter or in the transportation of coal or (iii) to increase the acreage which may be taken, held, owned, or controlled under this section.

(g) Forbidden interests acquired by descent, will, judgment, or decree; permissible holding period

Any ownership or interest otherwise forbidden in this chapter which may be acquired by descent, will, judgment, or decree may be held for two years after its acquisition and no longer.

(h) Cancellation, forfeiture, or disposal of interests for violation; bona fide purchasers and other valid interests; sale by Secretary; record of proceedings

(1) If any interest in any lease is owned, or controlled, directly or indirectly, by means of stock or otherwise, in violation of any of the provisions of this chapter, the lease may be canceled, or the interest so owned may be forfeited, or the person so owning or controlling the interest may be compelled to dispose of the interest, in any appropriate proceeding instituted by the Attorney General. Such a proceeding shall be instituted in the United States district court for the district in which the leased property or some part thereof is located or in which the defendant may be found.

(2) The right to cancel or forfeit for violation of any of the provisions of this chapter shall not apply so as to affect adversely the title or interest of a bona fide purchaser of any lease, interest in a lease, option to acquire a lease or an interest therein, or permit which lease, interest, option, or permit was acquired and is held by a qualified person, association, or corporation in conformity with those provisions, even though the holdings of the person, association, or corporation from which the lease, interest, option, or permit was acquired, or of his predecessor in title (including the original lessee of the United States) may have been canceled or forfeited or may be or may have been subject to cancellation or forfeiture for any such violation. If, in any such proceeding, an underlying lease, interest, option, or permit is canceled or forfeited to the Government and there are valid interests therein or valid options to acquire the lease or an interest therein which are not subject to cancellation, forfeiture, or compulsory disposition, the underlying lease, interest, option, or permit shall be sold by the Secretary to the highest re-

[2] So in original. Probably should be ''unenforceable''.

[3] So in original. Probably should be ''unenforceability''.

sponsible qualified bidder by competitive bidding under general regulations subject to all outstanding valid interests therein and valid options pertaining thereto. Likewise if, in any such proceeding, less than the whole interest in a lease, interest, option, or permit is canceled or forfeited to the Government, the partial interests so canceled or forfeited shall be sold by the Secretary to the highest responsible qualified bidder by competitive bidding under general regulations. If competitive bidding fails to produce a satisfactory offer the Secretary may, in either of these cases, sell the interest in question by such other method as he deems appropriate on terms not less favorable to the Government than those of the best competitive bid received.

(3) The commencement and conclusion of every proceeding under this subsection shall be promptly noted on the appropriate public records of the Bureau of Land Management.

(i) Bona fide purchasers, conditions for obtaining dismissals

Effective September 21, 1959, any person, association, or corporation who is a party to any proceeding with respect to a violation of any provision of this chapter, whether initiated prior to said date or thereafter, shall have the right to be dismissed promptly as such a party upon showing that he holds and acquired as a bona fide purchaser the interest involving him as such a party without violating any provisions of this chapter. No hearing upon any such showing shall be required unless the Secretary presents prima facie evidence indicating a possible violation of this chapter on the part of the alleged bona fide purchaser.

(j) Waiver or suspension of rights

If during any such proceeding, a party thereto files with the Secretary a waiver of his rights under his lease (including particularly, where applicable, rights to drill and to assign) or if such rights are suspended by the Secretary pending a decision in the proceeding, whether initiated prior to enactment of this chapter or thereafter, payment of rentals and running of time against the term of the lease or leases involved shall be suspended as of the first day of the month following the filing of the waiver or suspension of the rights until the first day of the month following the final decision in the proceeding or the revocation of the waiver or suspension.

(k) Unlawful trusts; forfeiture

Except as otherwise provided in this chapter, if any lands or deposits subject to the provisions of this chapter shall be subleased, trusteed, possessed, or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner whatsoever, so that they form a part of or are in any wise controlled by any combination in the form of an unlawful trust, with the consent of the lessee, optionee, or permittee, or form the subject of any contract or conspiracy in restraint of trade in the mining or selling of coal, phosphate, oil, oil shale, gilsonite (including all vein-type solid hydrocarbons), gas, or sodium entered into by the lessee, optionee, or permittee or any agreement or understanding, written, verbal, or otherwise, to which such lessee, optionee, or permittee shall be a party, of which his or its output is to be or become the subject, to control the price or prices thereof or of any holding of such lands by any individual, partnership, association, corporation, or control in excess of the amounts of lands provided in this chapter, the lease, option, or permit shall be forfeited by appropriate court proceedings.

(*l*) Rules and regulations; notice to and consultation with Attorney General; application of antitrust laws; definitions

(1) At each stage in the formulation and promulgation of rules and regulations concerning coal leasing pursuant to this chapter, and at each stage in the issuance, renewal, and readjustment of coal leases under this chapter, the Secretary of the Interior shall consult with and give due consideration to the views and advice of the Attorney General of the United States.

(2) No coal lease may be issued, renewed, or readjusted under this chapter until at least thirty days after the Secretary of the Interior notifies the Attorney General of the proposed issuance, renewal, or readjustment. Such notification shall contain such information as the Attorney General may require in order to advise the Secretary of the Interior as to whether such lease would create or maintain a situation inconsistent with the antitrust laws. If the Attorney General advises the Secretary of the Interior that a lease would create or maintain such a situation, the Secretary of the Interior may not issue such lease, nor may he renew or readjust such lease for a period not to exceed one year, as the case may be, unless he thereafter conducts a public hearing on the record in accordance with subchapter II of chapter 5 of title 5 and finds therein that such issuance, renewal, or readjustment is necessary to effectuate the purposes of this chapter, that it is consistent with the public interest, and that there are no reasonable alternatives consistent with this chapter, the antitrust laws, and the public interest.

(3) Nothing in this chapter shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

(4) As used in this subsection, the term ''antitrust law'' means—

(A) the Act entitled ''An Act to protect trade and commerce against unlawful restraints and monopolies'', approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(B) the Act entitled ''An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes'', approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(C) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(D) sections 73 and 74 of the Act entitled ''An Act to reduce taxation, to provide revenue for the Government, and for other purposes'', approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; or

(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(Feb. 25, 1920, ch. 85, §27, 41 Stat. 448; Apr. 30, 1926, ch. 197, 44 Stat. 373; July 3, 1930, ch. 854, §1,

46 Stat. 1007; Mar. 4, 1931, ch. 506, 46 Stat. 1524; Aug. 8, 1946, ch. 916, § 6, 60 Stat. 954; June 1, 1948, ch. 365, 62 Stat. 285; June 3, 1948, ch. 379, § 6, 62 Stat. 291; Aug. 2, 1954, ch. 650, 68 Stat. 648; Pub. L. 85–122, Aug. 13, 1957, 71 Stat. 341; Pub. L. 85–698, Aug. 21, 1958, 72 Stat. 688; Pub. L. 86–294, § 1, Sept. 21, 1959, 73 Stat. 571; Pub. L. 86–391, § 1(c), Mar. 18, 1960, 74 Stat. 8; Pub. L. 86–705, § 3, Sept. 2, 1960, 74 Stat. 785; Pub. L. 88–526, § 1, Aug. 31, 1964, 78 Stat. 710; Pub. L. 88–548, Aug. 31, 1964, 78 Stat. 754; Pub. L. 94–377, §§ 11, 15, Aug. 4, 1976, 90 Stat. 1090, 1091; Pub. L. 97–78, § 1(2), (5), Nov. 16, 1981, 95 Stat. 1070; Pub. L. 106–191, § 2, Apr. 28, 2000, 114 Stat. 232; Pub. L. 106–463, § 3, Nov. 7, 2000, 114 Stat. 2011; Pub. L. 109–58, title III, § 352, Aug. 8, 2005, 119 Stat. 714.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), probably means the date of enactment of Pub. L. 94–377, which was Aug. 4, 1976.

The Act entitled ''An Act to protect trade and commerce against unlawful restraints and monopolies'', approved July 2, 1890, as amended, referred to in subsec. (*l*)(4)(A), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, known as the Sherman Act, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Act entitled ''An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes'', approved October 15, 1914, as amended, referred to in subsec. (*l*)(4)(B), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, known as the Clayton Act, and is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act, referred to in subsec. (*l*)(4)(C), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

Act of June 19, 1936, chapter 592, referred to in subsec. (*l*)(4)(E), is act June 19, 1936, ch. 592, 49 Stat. 1526, known as the Robinson-Patman Antidiscrimination Act and also as the Robinson-Patman Price Discrimination Act, which enacted sections 13a, 13b, and 21a of Title 15, Commerce and Trade, and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

CODIFICATION

In subsec. (*l*)(2), ''subchapter II of chapter 5 of title 5'' substituted for ''the Administrative Procedure Act'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

2005—Subsec. (d)(1). Pub. L. 109–58 inserted '', and acreage under any lease any portion of which has been committed to a federally approved unit or cooperative plan or communitization agreement or for which royalty (including compensatory royalty or royalty in-kind) was paid in the preceding calendar year,'' after ''acreage held in special tar sand areas''.

2000—Subsec. (a). Pub. L. 106–463 inserted heading, struck out ''(1)'' before ''No person'', substituted ''75,000 acres'' for ''forty-six thousand and eighty acres'', and substituted ''150,000 acres'' for ''one hundred thousand acres'' wherever appearing.

Subsec. (b)(2). Pub. L. 106–191 substituted ''30,720 acres'' for ''fifteen thousand three hundred and sixty acres''.

1981—Subsec. (d)(1). Pub. L. 97–78, § 1(5), inserted proviso that acreage held in special tar sand areas not be chargeable against State limitations.

Subsec. (k). Pub. L. 97–78, § 1(2), substituted ''gilsonite (including all vein-type solid hydrocarbons)'' for ''native asphalt, solid and semisolid bitumen, bituminous rock''.

1976—Subsec. (a)(1). Pub. L. 94–377, § 11(a), inserted ''or any subsidiary, affiliate, or persons controlled by or under common control with such person, association, or corporation'' before ''shall take, hold, own or control'', ''and in no case greater than an aggregate of one hundred thousand acres in the United States'' after ''in any one State,'' proviso relating to non-relinquishment of leases or permits by an entity owning or controlling more than an aggregate of one hundred thousand acres, and proviso prohibiting ownership or control of further Federal leases or permits until reduction to below an aggregate of one hundred thousand acres.

Subsec. (a)(2). Pub. L. 94–377, § 11(b), struck out par. (2) providing for application, hearing and granting of additional acreage, not to exceed 5120 acres in any one State, to a person, association or corporation requiring such extra acreage to carry on business economically, and the subsequent reevaluation of such entity's continuing need for such extra acreage.

Subsec. (*l*). Pub. L. 94–377, § 15, added subsec. (*l*).

1964—Subsec. (a)(1). Pub. L. 88–526 struck out '', except as otherwise provided in this subsection,'' after ''corporation'' and increased aggregate number of acres from 10,240 to 46,080 acres.

Subsec. (c). Pub. L. 88–548 increased aggregate number of acres from 10,240 to 20,480 acres.

1960—Pub. L. 86–705 generally revised provisions and divided them into subsecs. (a) to (k). Other changes concerned: maximum acreage in Alaska, unreported options, their unenforceability, form for notice of options, party to give notice, inclusion of options in acreage determinations, charge of association or corporate holdings against principal stockholders, hearings requirement based upon prima facie evidence of violations, running of time against a lease and the payment of rentals during a waiver or suspension of a lessee's rights.

Pub. L. 86–391 authorized issuance of phosphate permits.

1959—Pub. L. 86–294 inserted provision that the right of cancellation or forfeiture for violations shall not apply so as to affect adversely the interest of a bona fide purchaser in a lease acquired in conformity with acreage limitations; that bona fide purchasers in such situations have the right to be dismissed as parties from proceedings; and that if a party to proceedings files waiver of rights to drill or assigns his interests, or if such rights are suspended pending decision, he shall, if he is not in violation of provisions, have the right to have his interest extended for a period of time equal to the period between filing of waiver or order of suspension and final decision, without payment of rental.

1958—Pub. L. 85–698 increased limitation on acreage which may be taken or held under coal leases or permits in any one State from 5,120 to 10,240 acres, permitted applications for additional coal leases or permits not exceeding 5,120 additional acres in the State, provided for hearings on such applications, authorized reevaluation and cancellation of leases and permits for additional acreage, and prohibited assignment, transfer, or sale of any of the additional acreage without the Secretary's approval.

1957—Pub. L. 85–122 struck out ''or permits exceeding in the aggregate five thousand one hundred and twenty acres in any one State, and'' after ''phosphate leases'' in second sentence.

1954—Act Aug. 2, 1954, increased acreage that any one person can hold in the aggregate from fifteen thousand three hundred and sixty acres to forty-six thousand and eighty acres, increased number of acres that can be

held under option from one hundred thousand acres to two hundred thousand acres, and extended terms of the option from 2 to 3 years.

1948—Act June 1, 1948, substituted in second proviso ''within two years after the passage of this Act'' for ''on or before August 8, 1950'' in order to allow options to be exercised up to that time.

Act June 3, 1948, increased aggregate acreage allowed one person, etc., from two thousand five hundred and sixty acres to five thousand one hundred and twenty acres of coal or sodium leases, and increased the aggregate acreage allowed one person, etc., from seven thousand six hundred and eighty acres to fifteen thousand three hundred and sixty acres of oil or gas leases.

1946—Act Aug. 8, 1946, principally doubled amount of land that may be leased by any person or corporation in any one State and abolished former acreage limitation of 2,560 acres on one structure; excluded operating contracts and leases held in common from definition of ''association''; inserted provisions relating to options; and omitted provisions relating to cooperative or unit plans and operating, drilling or development contracts.

1931—Act Mar. 4, 1931, amended section generally.

1930—Act July 3, 1930, amended section generally.

1926—Act Apr. 30, 1926, amended section generally.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 2 of Pub. L. 86–294 provided that: ''The rights granted by the second and third sentences of the amendment contained within section 1 of this Act [amending this section to provide that holder of interest in lease has right to be dismissed from cancellation or forfeiture proceedings upon showing he acquired his interest as bona fide purchaser and without violation of provisions, and to provide right to have his lease extended if rights thereunder to drill and to assign are suspended or waived during such proceedings and it is determined he is not in violation of provisions] shall apply with respect to any proceeding now pending or initiated after the date of enactment of this Act [Sept. 21, 1959].''

SAVINGS PROVISION

See note set out under section 181 of this title.

Section 11(b) of Pub. L. 94–377 provided in part that repeal by such section of subsec. (a)(2) of this section is subject to valid existing rights.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior, referred to in subsec. (*l*), to promulgate regulations under this chapter relating to the fostering of competition for Federal leases, the implementation of alternative bidding systems authorized for the award of Federal leases, the establishment of diligence requirements for operations conducted on Federal leases, the setting of rates for production of Federal leases, and the specifying of the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97–100, title II, §201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

FINDINGS

Pub. L. 106–463, §2, Nov. 7, 2000, 114 Stat. 2010, provided that: ''Congress finds that—

''(1) Federal land contains commercial deposits of coal, the Nation's largest deposits of coal being located on Federal land in Utah, Colorado, Montana, and the Powder River Basin of Wyoming;

''(2) coal is mined on Federal land through Federal coal leases under the Act of February 25, 1920 (commonly known as the 'Mineral Leasing Act') (30 U.S.C. 181 et seq.);

''(3) the sub-bituminous coal from these mines is low in sulfur, making it the cleanest burning coal for energy production;

''(4) the Mineral Leasing Act sets for each leasable mineral a limitation on the amount of acreage of Federal leases any 1 producer may hold in any 1 State or nationally;

''(5)(A) the present acreage limitation for Federal coal leases has been in place since 1976;

''(B) currently the coal lease acreage limit of 46,080 acres per State is less than the per-State Federal lease acreage limit for potash (96,000 acres) and oil and gas (246,080 acres);

''(6) coal producers in Wyoming and Utah are operating mines on Federal leaseholds that contain total acreage close to the coal lease acreage ceiling;

''(7) the same reasons that Congress cited in enacting increases for State lease acreage caps applicable in the case of other minerals—the advent of modern mine technology, changes in industry economics, greater global competition, and the need to conserve Federal resources—apply to coal;

''(8) existing coal mines require additional lease acreage to avoid premature closure, but those mines cannot relinquish mined-out areas to lease new acreage because those areas are subject to 10-year reclamation plans, and the reclaimed acreage is counted against the State and national acreage limits;

''(9) to enable them to make long-term business decisions affecting the type and amount of additional infrastructure investments, coal producers need certainty that sufficient acreage of leasable coal will be available for mining in the future; and

''(10) to maintain the vitality of the domestic coal industry and ensure the continued flow of valuable revenues to the Federal and State governments and of energy to the American public from coal production on Federal land, the Mineral Leasing Act should be amended to increase the acreage limitation for Federal coal leases.''

Pub. L. 106–191, §1, Apr. 28, 2000, 114 Stat. 231, provided that: ''The Congress finds and declares that—

''(1) The Federal lands contain commercial deposits of trona, with the world's largest body of this mineral located on such lands in southwestern Wyoming.

''(2) Trona is mined on Federal lands through Federal sodium leases issued under the Mineral Leasing Act of 1920 [30 U.S.C. 181 et seq.].

''(3) The primary product of trona mining is soda ash (sodium carbonate), a basic industrial chemical that is used for glass making and a variety of consumer products, including baking soda, detergents, and pharmaceuticals.

''(4) The Mineral Leasing Act [30 U.S.C. 181 et seq.] sets for each leasable mineral limitations on the amount of acreage of Federal leases any one producer may hold in any one State or nationally.

''(5) The present acreage limitation for Federal sodium (trona) leases has been in place for over five decades, since 1948, and is the oldest acreage limitation in the Mineral Leasing Act. Over this time frame Congress and/or the BLM has revised acreage limits for other minerals to meet the needs of the respective industries. Currently, the sodium lease acreage limitation of 15,360 acres per State is approximately one-third of the per State Federal lease acreage cap for coal (46,080 acres) and potassium (51,200 acres) and one-sixteenth that of oil and gas (246,080 acres).

''(6) Three of the four trona producers in Wyoming are operating mines on Federal leaseholds that contain total acreage close to the sodium lease acreage ceiling.

''(7) The same reasons that Congress cited in enacting increases in other minerals' per State lease acreage caps apply to trona: the advent of modern mine technology, changes in industry economics, greater global competition, and need to conserve the Federal resource.

''(8) Existing trona mines require additional lease acreage to avoid premature closure, and are unable to relinquish mined-out areas to lease new acreage because those areas continue to be used for mine access, ventilation, and tailings disposal and may provide fu-

ture opportunities for secondary recovery by solution mining.

''(9) Existing trona producers are having to make long term business decisions affecting the type and amount of additional infrastructure investments based on the certainty that sufficient acreage of leaseable [sic] trona will be available for mining in the future.

''(10) To maintain the vitality of the domestic trona industry and ensure the continued flow of valuable revenues to the Federal and State governments and products to the American public from trona production on Federal lands, the Mineral Leasing Act should be amended to increase the acreage limitation for Federal sodium leases.''

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 184a. Authorization of States to include in agreements for conservation of oil and gas resources lands acquired from United States

Notwithstanding the provisions of any applicable grant, deed, patent, exchange, or law of the United States, any State owning lands or interests therein acquired by it from the United States may consent to the operation or development of such lands or interests, or any part thereof, under agreements approved by the Secretary of the Interior made jointly or severally with lessees or permittees of lands or mineral deposits of the United States or others, for the purpose of more properly conserving the oil and gas resources within such State. Such agreements may provide for the cooperative or unit operation or development of part or all of any oil or gas pool, field, or area; for the allocation of production and the sharing of proceeds from the whole or any specified part thereof regardless of the particular tract from which production is obtained or proceeds are derived; and, with the consent of the State, for the modification of the terms and provisions of State leases for lands operated and developed thereunder, including the term of years for which said leases were originally granted, to conform said leases to the terms and provisions of such agreements: *Provided*, That nothing in this section contained, nor the effectuation of it, shall be construed as in any respect waiving, determining or affecting any right, title, or interest, which otherwise may exist in the United States, and that the making of any agreement, as provided in this section, shall not be construed as an admission as to the title or ownership of the lands included.

(Jan. 26, 1940, ch. 14, 54 Stat. 17.)

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

§ 185. Rights-of-way for pipelines through Federal lands

(a) Grant of authority

Rights-of-way through any Federal lands may be granted by the Secretary of the Interior or appropriate agency head for pipeline purposes for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom to any applicant possessing the qualifications provided in section 181 of this title in accordance with the provisions of this section.

(b) Definitions

(1) For the purposes of this section ''Federal lands'' means all lands owned by the United States except lands in the National Park System, lands held in trust for an Indian or Indian tribe, and lands on the Outer Continental Shelf. A right-of-way through a Federal reservation shall not be granted if the Secretary or agency head determines that it would be inconsistent with the purposes of the reservation.

(2) ''Secretary'' means the Secretary of the Interior.

(3) ''Agency head'' means the head of any Federal department or independent Federal office or agency, other than the Secretary of the Interior, which has jurisdiction over Federal lands.

(c) Inter-agency coordination

(1) Where the surface of all of the Federal lands involved in a proposed right-of-way or permit is under the jurisdiction of one Federal agency, the agency head, rather than the Secretary, is authorized to grant or renew the right-of-way or permit for the purposes set forth in this section.

(2) Where the surface of the Federal lands involved is administered by the Secretary or by two or more Federal agencies, the Secretary is authorized, after consultation with the agencies involved, to grant or renew rights-of-way or permits through the Federal lands involved. The Secretary may enter into interagency agreements with all other Federal agencies having jurisdiction over Federal lands for the purpose of avoiding duplication, assigning responsibility, expediting review of rights-of-way or permit applications, issuing joint regulations, and assuring a decision based upon a comprehensive review of all factors involved in any right-of-way or permit application. Each agency head shall administer and enforce the provisions of this section, appropriate regulations, and the terms and conditions of rights-of-way or permits insofar as they involve Federal lands under the agency head's jurisdiction.

(d) Width limitations

The width of a right-of-way shall not exceed fifty feet plus the ground occupied by the pipeline (that is, the pipe and its related facilities) unless the Secretary or agency head finds, and records the reasons for his finding, that in his judgment a wider right-of-way is necessary for operation and maintenance after construction, or to protect the environment or public safety. Related facilities include but are not limited to valves, pump stations, supporting structures, bridges, monitoring and communication devices, surge and storage tanks, terminals, roads, airstrips and campsites and they need not necessarily be connected or contiguous to the pipe and may be the subjects of separate rights-of-way.

(e) Temporary permits

A right-of-way may be supplemented by such temporary permits for the use of Federal lands in the vicinity of the pipeline as the Secretary or agency head finds are necessary in connection with construction, operation, maintenance, or termination of the pipeline, or to protect the natural environment or public safety.

(f) Regulatory authority

Rights-of-way or permits granted or renewed pursuant to this section shall be subject to regulations promulgated in accord with the provisions of this section and shall be subject to such terms and conditions as the Secretary or agency head may prescribe regarding extent, duration, survey, location, construction, operation, maintenance, use, and termination.

(g) Pipeline safety

The Secretary or agency head shall impose requirements for the operation of the pipeline and related facilities in a manner that will protect the safety of workers and protect the public from sudden ruptures and slow degradation of the pipeline.

(h) Environmental protection

(1) Nothing in this section shall be construed to amend, repeal, modify, or change in any way the requirements of section 102(2)(C) [42 U.S.C. 4332(2)(C)] or any other provision of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

(2) The Secretary or agency head, prior to granting a right-of-way or permit pursuant to this section for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way or permit which shall comply with this section. The Secretary or agency head shall issue regulations or impose stipulations which shall include, but shall not be limited to: (A) requirements for restoration, revegetation, and curtailment of erosion of the surface of the land; (B) requirements to insure that activities in connection with the right-of-way or permit will not violate applicable air and water quality standards nor related facility siting standards established by or pursuant to law; (C) requirements designed to control or prevent (i) damage to the environment (including damage to fish and wildlife habitat), (ii) damage to public or private property, and (iii) hazards to public health and safety; and (D) requirements to protect the interests of individuals living in the general area of the right-of-way or permit who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes. Such regulations shall be applicable to every right-of-way or permit granted pursuant to this section, and may be made applicable by the Secretary or agency head to existing rights-of-way or permits, or rights-of-way or permits to be renewed pursuant to this section.

(i) Disclosure

If the applicant is a partnership, corporation, association, or other business entity, the Secretary or agency head shall require the applicant to disclose the identity of the participants in the entity. Such disclosure shall include where applicable (1) the name and address of each partner, (2) the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote, and (3) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

(j) Technical and financial capability

The Secretary or agency head shall grant or renew a right-of-way or permit under this section only when he is satisfied that the applicant has the technical and financial capability to construct, operate, maintain, and terminate the project for which the right-of-way or permit is requested in accordance with the requirements of this section.

(k) Public hearings

The Secretary or agency head by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local government agencies and the public adequate notice and an opportunity to comment upon right-of-way applications filed after the date of enactment of this subsection.

(*l*) Reimbursement of costs

The applicant for a right-of-way or permit shall reimburse the United States for administrative and other costs incurred in processing the application, and the holder of a right-of-way or permit shall reimburse the United States for the costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities on such right-of-way or permit area and shall pay annually in advance the fair market rental value of the right-of-way or permit, as determined by the Secretary or agency head.

(m) Bonding

Where he deems it appropriate the Secretary or agency head may require a holder of a right-of-way or permit to furnish a bond, or other security, satisfactory to the Secretary or agency head to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or permit or by any rule or regulation of the Secretary or agency head.

(n) Duration of grant

Each right-of-way or permit granted or renewed pursuant to this section shall be limited to a reasonable term in light of all circumstances concerning the project, but in no event more than thirty years. In determining the duration of a right-of-way the Secretary or agency head shall, among other things, take into consideration the cost of the facility, its useful life, and any public purpose it serves. The Secretary or agency head shall renew any right-of-way, in accordance with the provisions of this section,

so long as the project is in commercial operation and is operated and maintained in accordance with all of the provisions of this section.

(*o*) Suspension or termination of right-of-way

(1) Abandonment of a right-of-way or noncompliance with any provision of this section may be grounds for suspension or termination of the right-of-way if (A) after due notice to the holder of the right-of-way, (B) a reasonable opportunity to comply with this section, and (C) an appropriate administrative proceeding pursuant to section 554 of title 5, the Secretary or agency head determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed upon condition, event, or time.

(2) If the Secretary or agency head determines that an immediate temporary suspension of activities within a right-of-way or permit area is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding.

(3) Deliberate failure of the holder to use the right-of-way for the purpose for which it was granted or renewed for any continuous two-year period shall constitute a rebuttable presumption of abandonment of the right-of-way: *Provided*, That where the failure to use the right-of-way is due to circumstances not within the holder's control the Secretary or agency head is not required to commence proceedings to suspend or terminate the right-of-way.

(p) Joint use of rights-of-way

In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way across Federal lands, the utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary or agency head the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way or permit area granted pursuant to this section.

(q) Statutes

No rights-of-way for the purposes provided for in this section shall be granted or renewed across Federal lands except under and subject to the provisions, limitations, and conditions of this section. Any application for a right-of-way filed under any other law prior to the effective date of this provision may, at the applicant's option, be considered as an application under this section. The Secretary or agency head may require the applicant to submit any additional information he deems necessary to comply with the requirements of this section.

(r) Common carriers

(1) Pipelines and related facilities authorized under this section shall be constructed, operated, and maintained as common carriers.

(2)(A) The owners or operators of pipelines subject to this section shall accept, convey, transport, or purchase without discrimination all oil or gas delivered to the pipeline without regard to whether such oil or gas was produced on Federal or non-Federal lands.

(B) In the case of oil or gas produced from Federal lands or from the resources on the Federal lands in the vicinity of the pipeline, the Secretary may, after a full hearing with due notice thereof to the interested parties and a proper finding of facts, determine the proportionate amounts to be accepted, conveyed, transported or purchased.

(3)(A) The common carrier provisions of this section shall not apply to any natural gas pipeline operated by any person subject to regulation under the Natural Gas Act [15 U.S.C. 717 et seq.] or by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality.

(B) Where natural gas not subject to State regulatory or conservation laws governing its purchase by pipelines is offered for sale, each such pipeline shall purchase, without discrimination, any such natural gas produced in the vicinity of the pipeline.

(4) The Government shall in express terms reserve and shall provide in every lease of oil lands under this chapter that the lessee, assignee, or beneficiary, if owner or operator of a controlling interest in any pipeline or of any company operating the pipeline which may be operated accessible to the oil derived from lands under such lease, shall at reasonable rates and without discrimination accept and convey the oil of the Government or of any citizen or company not the owner of any pipeline operating a lease or purchasing gas or oil under the provisions of this chapter.

(5) Whenever the Secretary has reason to believe that any owner or operator subject to this section is not operating any oil or gas pipeline in complete accord with its obligations as a common carrier hereunder, he may request the Attorney General to prosecute an appropriate proceeding before the Secretary of Energy or Federal Energy Regulatory Commission or any appropriate State agency or the United States district court for the district in which the pipeline or any part thereof is located, to enforce such obligation or to impose any penalty provided therefor, or the Secretary may, by proceeding as provided in this section, suspend or terminate the said grant of right-of-way for noncompliance with the provisions of this section.

(6) The Secretary or agency head shall require, prior to granting or renewing a right-of-way, that the applicant submit and disclose all plans, contracts, agreements, or other information or material which he deems necessary to determine whether a right-of-way shall be granted or renewed and the terms and conditions which should be included in the right-of-way. Such information may include, but is not limited to: (A) conditions for, and agreements among owners or operators, regarding the addition of pumping facilities, looping, or otherwise increasing the pipeline or terminal's throughput capacity in response to actual or anticipated increases in demand; (B) conditions for adding or abandoning intake, offtake, or storage points or facilities; and (C) minimum shipment or purchase tenders.

(s) Exports of Alaskan North Slope oil

(1) Subject to paragraphs (2) through (6) of this subsection and notwithstanding any other provi-

sion of this chapter or any other provision of law (including any regulation) applicable to the export of oil transported by pipeline over right-of-way granted pursuant to section 1652 of title 43, such oil may be exported unless the President finds that exportation of this oil is not in the national interest. The President shall make his national interest determination within five months of November 28, 1995. In evaluating whether exports of this oil are in the national interest, the President shall at a minimum consider—

(A) whether exports of this oil would diminish the total quantity or quality of petroleum available to the United States;

(B) the results of an appropriate environmental review, including consideration of appropriate measures to mitigate any potential adverse effects of exports of this oil on the environment, which shall be completed within four months of November 28, 1995; and

(C) whether exports of this oil are likely to cause sustained material oil supply shortages or sustained oil prices significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including noncontiguous States and Pacific territories.

If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that such exports are consistent with the national interest.

(2) Except in the case of oil exported to a country with which the United States entered into a bilateral international oil supply agreement before November 26, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to section 1652 of title 43 shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 50501 of title 46).

(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), or Part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271–76) to prohibit exports.

(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination, including any licensing requirements and conditions, within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

(5) If the Secretary of Commerce finds that exporting oil under authority of this subsection has caused sustained material oil supply shortages or sustained oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused or are likely to cause sustained material adverse employment effects in the United States, the Secretary of Commerce, in consultation with the Secretary of Energy, shall recommend, and the President may take, appropriate action concerning exports of this oil, which may include modifying or revoking authority to export such oil.

(6) Administrative action under this subsection is not subject to sections 551 and 553 through 559 of title 5.

(t) Existing rights-of-way

The Secretary or agency head may ratify and confirm any right-of-way or permit for an oil or gas pipeline or related facility that was granted under any provision of law before the effective date of this subsection, if it is modified by mutual agreement to comply to the extent practical with the provisions of this section. Any action taken by the Secretary or agency head pursuant to this subsection shall not be considered a major Federal action requiring a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1970 (Public Law 90–190; 42 U.S.C. 4321).[1]

(u) Limitations on export

Any domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to this section, except such crude oil which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1979 (50 U.S.C. App. 2401 and following) and, in addition, before any crude oil subject to this section may be exported under the limitations and licensing requirements and penalty and enforcement provisions of the Export Administration Act of 1979 the President must make and publish an express finding that such exports will not diminish the total quantity or quality of petroleum available to the United States, and are in the national interest and are in accord with the provisions of the Export Administration Act of 1979: *Provided*, That the President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within this time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to the aforementioned Presidential findings shall cease.

(v) State standards

The Secretary or agency head shall take into consideration and to the extent practical comply with State standards for right-of-way construction, operation, and maintenance.

[1] So in original. Probably should be "National Environmental Policy Act of 1969 (Public Law 91–190; 42 U.S.C. 4332(2)(C))".

(w) Reports

(1) The Secretary and other appropriate agency heads shall report to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate annually on the administration of this section and on the safety and environmental requirements imposed pursuant thereto.

(2) The Secretary or agency head shall promptly notify the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate upon receipt of an application for a right-of-way for a pipeline twenty-four inches or more in diameter, and no right-of-way for such a pipeline shall be granted until a notice of intention to grant the right-of-way, together with the Secretary's or agency head's detailed findings as to the terms and conditions he proposes to impose, has been submitted to such committees.

(3) Periodically, but at least once a year, the Secretary of the Department of Transportation shall cause the examination of all pipelines and associated facilities on Federal lands and shall cause the prompt reporting of any potential leaks or safety problems.

(x) Liability

(1) The Secretary or agency head shall promulgate regulations and may impose stipulations specifying the extent to which holders of rights-of-way and permits under this chapter shall be liable to the United States for damage or injury incurred by the United States in connection with the right-of-way or permit. Where the right-of-way or permit involves lands which are under the exclusive jurisdiction of the Federal Government, the Secretary or agency head shall promulgate regulations specifying the extent to which holders shall be liable to third parties for injuries incurred in connection with the right-of-way or permit.

(2) The Secretary or agency head may, by regulation or stipulation, impose a standard of strict liability to govern activities taking place on a right-of-way or permit area which the Secretary or agency head determines, in his discretion, to present a foreseeable hazard or risk of danger to the United States.

(3) Regulations and stipulations pursuant to this subsection shall not impose strict liability for damage or injury resulting from (A) an act of war, or (B) negligence of the United States.

(4) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage or injury in excess of this amount shall be determined by ordinary rules of negligence.

(5) The regulations and stipulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liability, damage, or claims arising in connection with the right-of-way or permit.

(6) Any regulation or stipulation promulgated or imposed pursuant to this section shall provide that all owners of any interest in, and all affiliates or subsidiaries of any holder of, a right-of-way or permit shall be liable to the United States in the event that a claim for damage or injury cannot be collected from the holder.

(7) In any case where liability without fault is imposed pursuant to this subsection and the damages involved were caused by the negligence of a third party, the rules of subrogation shall apply in accordance with the law of the jurisdiction where the damage occurred.

(y) Antitrust laws

The grant of a right-of-way or permit pursuant to this section shall grant no immunity from the operation of the Federal antitrust laws.

(Feb. 25, 1920, ch. 85, § 28, 41 Stat. 449; Aug. 21, 1935, ch. 599, § 1, 49 Stat. 678; Aug. 12, 1953, ch. 408, 67 Stat. 557; Pub. L. 93–153, title I, § 101, Nov. 16, 1973, 87 Stat. 576; Pub. L. 95–91, title III, §§ 301(b), 306, title IV, § 402(a), (b), title VII, §§ 703, 707, Aug. 4, 1977, 91 Stat. 578, 581, 583, 584, 606, 607; Pub. L. 99–64, title I, § 123(b), July 12, 1985, 99 Stat. 156; Pub. L. 101–475, § 1, Oct. 30, 1990, 104 Stat. 1102; Pub. L. 103–437, § 11(a)(1), Nov. 2, 1994, 108 Stat. 4589; Pub. L. 104–58, title II, § 201, Nov. 28, 1995, 109 Stat. 560; Pub. L. 104–66, title I, § 1121(k), Dec. 21, 1995, 109 Stat. 724.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (h)(1), is Pub. L. 91–190, Jan 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The date of enactment of this subsection, referred to in subsec. (k), the effective date of this provision, referred to in subsec. (q), and the effective date of this subsection, referred to in subsec. (t), probably mean the date of approval of Pub. L. 93–153, which was Nov. 16, 1973.

The Natural Gas Act, referred to in subsec. (r)(3)(A), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§ 717 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables.

The International Emergency Economic Powers Act, referred to in subsec. (s)(3), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, as amended, which is classified generally to chapter 35 (§ 1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

The National Emergencies Act, referred to in subsec. (s)(3), is Pub. L. 94–412, Sept. 14, 1976, 90 Stat. 1255, as amended, which is classified principally to chapter 34 (§ 1601 et seq.) of Title 50. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

The Energy Policy and Conservation Act, referred to in subsec. (s)(3), is Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, as amended. Part B of title II of the Act is classified generally to part B (§ 6271 et seq.) of subchapter II of chapter 77 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of Title 42 and Tables.

The Export Administration Act of 1979, referred to in subsec. (u), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, as amended, which is classified principally to section 2401 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of Title 50, Appendix, and Tables.

CODIFICATION

In subsec. (s)(2), ''section 50501 of title 46'' substituted for ''section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)'' on authority of Pub. L. 109–304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 50501 of Title 46, Shipping.

AMENDMENTS

1995—Subsec. (s). Pub. L. 104–58 amended heading and text of subsec. (s) generally. Prior to amendment, subsec. (s) provided that the Secretary of Interior, in consultation with Federal and State agencies, review need for national system of transportation and utility corridors across Federal lands and report to Congress and the President by July 1, 1975.

Subsec. (w)(4). Pub. L. 104–66 struck out par. (4) which read as follows: ''The Secretary of the Department of Transportation shall report annually to the President, the Congress, the Secretary of the Interior, and the Secretary of Energy any potential dangers of or actual explosions, or potential or actual spillage on Federal lands and shall include in such report a statement of corrective action taken to prevent such explosion or spillage.''

1994—Subsec. (w)(1), (2). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' before ''of the United States House''.

1990—Subsec. (w)(1). Pub. L. 101–475, §1(a), substituted ''Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate'' for ''House and Senate Committees on Interior and Insular Affairs''.

Subsec. (w)(2). Pub. L. 101–475, §1(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary or agency head shall notify the House and Senate Committees on Interior and Insular Affairs promptly upon receipt of an application for a right-of-way for a pipeline twenty-four inches or more in diameter, and no right-of-way for such a pipeline shall be granted until sixty days (not counting days on which the House of Representatives or the Senate has adjourned for more than three days) after a notice of intention to grant the right-of-way, together with the Secretary's or agency head's detailed findings as to terms and conditions he proposes to impose, has been submitted to such committees, unless each committee by resolution waives the waiting period.''

1985—Subsec. (u). Pub. L. 99–64 substituted ''Export Administration Act of 1979 (50 U.S.C. App. 2401 and following)'' for ''Export Administration Act of 1969 (Act of December 30, 1969; 83 Stat. 841)'' and ''Export Administration Act of 1979'' for ''Export Administration Act of 1969'' in two places.

1973—Pub. L. 93–153 completely rewrote the section substituting 25 subsecs. lettered (a) through (y) covering all aspects of the granting of rights-of-way for pipelines through Federal lands for the former single unlettered paragraph under which rights-of-way of 25 feet on each side of the pipeline could be granted and under which the pipeline was to be operated as a common carrier.

1953—Act Aug. 12, 1953, permitted companies subject to Federal regulation, or public utilities subject to State regulations, to pass through the public domain without incurring the obligation to become a common carrier.

1935—Act Aug. 21, 1935, substituted ''may be granted by the Secretary of the Interior'' for ''are granted'' and inserted ''and conditions'' after ''regulations'' in two places, and ''and shall accept, convey, transport, or purchase without discrimination, oil or natural gas produced from Government lands in the vicinity of the pipe line in such proportionate amounts as the Secretary of the Interior may, after a full hearing with notice thereof to the interested parties and a proper finding of facts, determine to be reasonable:'' after ''and maintained as common carriers.''.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with grants of rights-of-way and temporary use permits for Federal land and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of Department of Agriculture, related to compliance with associated land use permits authorized for and in conjunction with grants of rights-of-way across Federal lands issued under this section with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas were transferred to the Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, until the first anniversary of date of initial operation of the Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

''Secretary of Energy or Federal Energy Regulatory Commission'' substituted for ''Interstate Commerce Commission or Federal Power Commission'' in subsec. (r)(5) pursuant to sections 301(b), 306, 402(a), (b), 703, and 707 of Pub. L. 95–91, which are classified to sections 7151(b), 7155, 7172(a), (b), 7293, and 7297 of Title 42, The Public Health and Welfare, and which transferred functions vested in Interstate Commerce Commission, and Chairman and members thereof, relating to transportation of oil by pipeline to Secretary of Energy (except for certain functions which were transferred to Federal Energy Regulatory Commission within Department of Energy), and terminated Federal Power Commission and transferred its functions to Secretary of Energy (except for certain functions which were transferred to Federal Energy Regulatory Commission).

REIMBURSEMENT OF ADMINISTRATIVE AND OTHER COSTS

Pub. L. 105–277, div. A, §101(e) [title II], Oct. 21, 1998, 112 Stat. 2681–231, 2681–272, provided that: ''Notwithstanding any other provision of law, hereafter money collected, in advance or otherwise, by the Forest Service under authority of section 101 of Public Law 93–153 (30 U.S.C. 185(1)[(*l*)]) as reimbursement of administrative and other costs incurred in processing pipeline right-of-way or permit applications and for costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities, may be used to reimburse the applicable appropriation to which such costs were originally charged.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105–83, title II, Nov. 14, 1997, 111 Stat. 1576.

Pub. L. 104–208, div. A, title I, §101(d) [title II], Sept. 30, 1996, 110 Stat. 3009–181, 3009–208.

Pub. L. 104–134, title I, §101(c) [title II], Apr. 26, 1996, 110 Stat. 1321–156, 1321–184; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103–332, title II, Sept. 30, 1994, 108 Stat. 2524.

Pub. L. 103–138, title II, Nov. 11, 1993, 107 Stat. 1403.

Pub. L. 102–381, title II, Oct. 5, 1992, 106 Stat. 1401.

Pub. L. 102–154, title II, Nov. 13, 1991, 105 Stat. 1017.

GAO REPORT

Section 202 of Pub. L. 104–58 directed the Comptroller General of the United States to commence, three years after Nov. 28, 1995, a review of energy production in

California and Alaska and the effects of Alaskan North Slope oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast and in Hawaii, and to submit to Congress, within twelve months after commencing the review, a report containing recommendations for Congress and the President to address job loss in the shipbuilding and ship repair industry on the West Coast, as well as adverse impacts on consumers and refiners on the West Coast and in Hawaii, that are attributed to Alaska North Slope oil exports.

OUTER CONTINENTAL SHELF; PIPELINE RIGHTS-OF-WAY

Pipeline rights-of-way in connection with oil, gas, and other leases on submerged lands of outer Continental Shelf, see section 1334 of Title 43, Public Lands.

EXPORTS OF ALASKAN NORTH SLOPE (ANS) CRUDE OIL

Memorandum of President of the United States, Apr. 28, 1996, 61 F.R. 19507, provided:

Memorandum for the Secretary of Commerce [and] the Secretary of Energy

Pursuant to section 28(s) of the Mineral Leasing Act, as amended, 30 U.S.C. 185, I hereby determine that exports of crude oil transported over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act [43 U.S.C. 1652] are in the national interest. In making this determination, I have taken into account the conclusions of an interagency working group, which found that such oil exports:

—will not diminish the total quantity or quality of petroleum available to the United States; and

—are not likely to cause sustained material oil supply shortages or sustained oil price increases significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including those located in noncontiguous States and Pacific Territories.

I have also considered the interagency group's conclusions regarding potential environmental impacts of lifting the ban. Based on their findings and recommendations, I have concluded that exports of such crude oil will not pose significant risks to the environment if certain terms and conditions are met.

Therefore, pursuant to section 28(s) of the Mineral Leasing Act I direct the Secretary of Commerce to promulgate immediately a general license, or a license exception, authorizing exports of such crude oil, subject to appropriate documentation requirements, and consistent with the following conditions:

—tankers exporting ANS exports must use the same route that they do for shipments to Hawaii until they reach a point 300 miles due south of Cape Hinchinbrook Light and then turn toward Asian destinations. After reaching that point, tankers in the ANS oil trade must remain outside of the 200 nautical-miles Exclusive Economic Zone of the United States as defined in the Fisheries Conservation and Management Act (16 U.S.C. 1811) [probably means the Magnuson-Stevens Fishery Conservation and Management Act]. This condition also applies to tankers returning from foreign ports to Valdez, Alaska. Exceptions can be made at the discretion of the vessel master only to ensure the safety of the vessel;

—that export tankers be equipped with satellite-based communications systems that will enable the Coast Guard independently to determine their location. The Coast Guard will conduct appropriate monitoring of the tankers, a measure that will ensure compliance with the 200-mile condition, and help the Coast Guard respond quickly to any emergencies;

—the owner or operator of an Alaskan North Slope crude oil export tankship shall maintain a Critical Area Inspection Plan for each tankship in the trade in accordance with the U.S. Coast Guard's Navigation and Inspection Circular No. 15–91 as amended, which shall include an annual internal survey of the vessel's cargo block tanks; and

—the owner or operator of an Alaskan North Slope crude oil export tankship shall adopt a mandatory program of deep water ballast exchange (i.e., in 2,000 meters water depth). Exceptions can be made at the discretion of the captain only in order to ensure the safety of the vessel. Recordkeeping subject to Coast Guard audit will be required as part of this regime.

The Secretary of Commerce is authorized and directed to inform the appropriate committees of the Congress of this determination and to publish it in the Federal Register.

WILLIAM J. CLINTON.

§ 186. Reservation of easements or rights-of-way for working purposes; reservation of right to dispose of surface of lands; determination before offering of lease; easement periods

Any permit, lease, occupation, or use permitted under this chapter shall reserve to the Secretary of the Interior the right to permit upon such terms as he may determine to be just, for joint or several use, such easements or rights-of-way, including easements in tunnels upon, through, or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same, or of other lands containing the deposits described in this chapter, and the treatment and shipment of the products thereof by or under authority of the Government, its lessees, or permittees, and for other public purposes. The Secretary of the Interior, in his discretion, in making any lease under this chapter, may reserve to the United States the right to lease, sell, or otherwise dispose of the surface of the lands embraced within such lease under existing law or laws hereafter enacted, insofar as said surface is not necessary for use of the lessee in extracting and removing the deposits therein. If such reservation is made it shall be so determined before the offering of such lease. The said Secretary, during the life of the lease, is authorized to issue such permits for easements herein provided to be reserved.

(Feb. 25, 1920, ch. 85, § 29, 41 Stat. 449.)

§ 187. Assignment or subletting of leases; relinquishment of rights under leases; conditions in leases for protection of diverse interests in operation of mines, wells, etc.; State laws not impaired

No lease issued under the authority of this chapter shall be assigned or sublet, except with the consent of the Secretary of the Interior. The lessee may, in the discretion of the Secretary of the Interior, be permitted at any time to make written relinquishment of all rights under such a lease, and upon acceptance thereof be thereby relieved of all future obligations under said lease, and may with like consent surrender any legal subdivision of the area included within the lease. Each lease shall contain provisions for the purpose of insuring the exercise of reasonable diligence, skill, and care in the operation of said property; a provision that such rules for the safety and welfare of the miners and for the prevention of undue waste as may be prescribed by said Secretary shall be observed, including a restriction of the workday to not exceeding eight hours in any one day for underground workers except in cases of emergency; provisions prohibiting the employment of any child under the age

of sixteen in any mine below the surface; provisions securing the workmen complete freedom of purchase; provision requiring the payment of wages at least twice a month in lawful money of the United States, and providing proper rules and regulations to insure the fair and just weighing or measurement of the coal mined by each miner, and such other provisions as he may deem necessary to insure the sale of the production of such leased lands to the United States and to the public at reasonable prices, for the protection of the interests of the United States, for the prevention of monopoly, and for the safeguarding of the public welfare. None of such provisions shall be in conflict with the laws of the State in which the leased property is situated.

(Feb. 25, 1920, ch. 85, § 30, 41 Stat. 449; Pub. L. 95–554, § 5, Oct. 30, 1978, 92 Stat. 2074.)

AMENDMENTS

1978—Pub. L. 95–554 substituted ''provisions prohibiting the employment of any child under the age of sixteen in any mine below the surface'' for ''provisions prohibiting the employment of any boy under the age of sixteen or the employment of any girl or woman, without regard to age, in any mine below the surface''.

§ 187a. Oil or gas leases; partial assignments

Notwithstanding anything to the contrary in section 187 of this title, any oil or gas lease issued under the authority of this chapter may be assigned or subleased, as to all or part of the acreage included therein, subject to final approval by the Secretary and as to either a divided or undivided interest therein, to any person or persons qualified to own a lease under this chapter, and any assignment or sublease shall take effect as of the first day of the lease month following the date of filing in the proper land office of three original executed counterparts thereof, together with any required bond and proof of the qualification under this chapter of the assignee or sublessee to take or hold such lease or interest therein. Until such approval, however, the assignor or sublessor and his surety shall continue to be responsible for the performance of any and all obligations as if no assignment or sublease had been executed. The Secretary shall disapprove the assignment or sublease only for lack of qualification of the assignee or sublessee or for lack of sufficient bond: *Provided, however*, That the Secretary may, in his discretion, disapprove an assignment of any of the following, unless the assignment constitutes the entire lease or is demonstrated to further the development of oil and gas:

(1) A separate zone or deposit under any lease.

(2) A part of a legal subdivision.

(3) Less than 640 acres outside Alaska or of less than 2,560 acres within Alaska.

Requests for approval of assignment or sublease shall be processed promptly by the Secretary. Except where the assignment or sublease is not in accordance with applicable law, the approval shall be given within 60 days of the date of receipt by the Secretary of a request for such approval. Upon approval of any assignment or sublease, the assignee or sublessee shall be bound by the terms of the lease to the same extent as if such assignee or sublessee were the original lessee, any conditions in the assignment or sublease to the contrary notwithstanding. Any partial assignment of any lease shall segregate the assigned and retained portions thereof, and as above provided, release and discharge the assignor from all obligations thereafter accruing with respect to the assigned lands; and such segregated leases shall continue in full force and effect for the primary term of the original lease, but for not less than two years after the date of discovery of oil or gas in paying quantities upon any other segregated portion of the lands originally subject to such lease. Assignments under this section may also be made of parts of leases which are in their extended term because of any provision of this chapter. Upon the segregation by an assignment of a lease issued after September 2, 1960 and held beyond its primary term by production, actual or suspended, or the payment of compensatory royalty, the segregated lease of an undeveloped, assigned, or retained part shall continue for two years, and so long thereafter as oil or gas is produced in paying quantities.

(Feb. 25, 1920, ch. 85, § 30A, formerly § 30a, as added Aug. 8, 1946, ch. 916, § 7, 60 Stat. 955; amended July 29, 1954, ch. 644, § 1(6), 68 Stat. 585; Pub. L. 86–705, § 6, Sept. 2, 1960, 74 Stat. 790; renumbered § 30A and amended Pub. L. 100–203, title V, § 5103, Dec. 22, 1987, 101 Stat. 1330–258.)

AMENDMENTS

1987—Pub. L. 100–203 substituted third to fifth sentences for former third sentence which read as follows: ''The Secretary shall disapprove the assignment or sublease only for lack of qualification of the assignee or sublessee or for lack of sufficient bond: *Provided, however*, That the Secretary may, in his discretion, disapprove an assignment of a separate zone or deposit under any lease, or of a part of a legal subdivision.''

1960—Pub. L. 86–705 amended last sentence to restrict automatic extensions after Sept. 2, 1960.

1954—Act July 29, 1954, authorized partial assignment of a lease in its extended term regardless of reason for extension.

SAVINGS PROVISION

See note set out under section 181 of this title.

LEASES ISSUED PRIOR TO SEPTEMBER 2, 1960

Section 6 of Pub. L. 86–705 provided in part that: ''The provisions of this section 6 [amending this section] shall not be applicable to any lease issued prior to the effective date of this Act [Sept. 2, 1960].''

§ 187b. Oil or gas leases; written relinquishment of rights; release of obligations

Notwithstanding any provision to the contrary in section 187 of this title, a lessee may at any time make and file in the appropriate land office a written relinquishment of all rights under any oil or gas lease issued under the authority of this chapter or of any legal subdivision of the area included within any such lease. Such relinquishment shall be effective as of the date of its filing, subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties and to place all wells on the lands to be relinquished in condition for suspension or abandonment in accordance with the applicable lease terms and regulations; thereupon the lessee shall be re-

leased of all obligations thereafter accruing under said lease with respect to the lands relinquished, but no such relinquishment shall release such lessee, or his bond, from any liability for breach of any obligation of the lease, other than an obligation to drill, accrued at the date of the relinquishment.

(Feb. 25, 1920, ch. 85, § 30B, formerly § 30b, as added Aug. 8, 1946, ch. 916, § 8, 60 Stat. 956; renumbered § 30B, Pub. L. 100–203, title V, § 5103, Dec. 22, 1987, 101 Stat. 1330–258.)

SAVINGS PROVISION

See note set out under section 181 of this title.

§ 188. Failure to comply with provisions of lease

(a) Forfeiture

Except as otherwise herein provided, any lease issued under the provisions of this chapter may be forfeited and canceled by an appropriate proceeding in the United States district court for the district in which the property, or some part thereof, is located whenever the lessee fails to comply with any of the provisions of this chapter, of the lease, or of the general regulations promulgated under this chapter and in force at the date of the lease; and the lease may provide for resort to appropriate methods for the settlement of disputes or for remedies for breach of specified conditions thereof.

(b) Cancellation

Any lease issued after August 21, 1935, under the provisions of section 226 of this title shall be subject to cancellation by the Secretary of the Interior after 30 days notice upon the failure of the lessee to comply with any of the provisions of the lease, unless or until the leasehold contains a well capable of production of oil or gas in paying quantities, or the lease is committed to an approved cooperative or unit plan or communitization agreement under section 226(m) of this title which contains a well capable of production of unitized substances in paying quantities. Such notice in advance of cancellation shall be sent the lease owner by registered letter directed to the lease owner's record post-office address, and in case such letter shall be returned as undelivered, such notice shall also be posted for a period of thirty days in the United States land office for the district in which the land covered by such lease is situated, or in the event that there is no district land office for such district, then in the post office nearest such land. Notwithstanding the provisions of this section, however, upon failure of a lessee to pay rental on or before the anniversary date of the lease, for any lease on which there is no well capable of producing oil or gas in paying quantities, the lease shall automatically terminate by operation of law: *Provided, however*, That when the time for payment falls upon any day in which the proper office for payment is not open, payment may be received the next official working day and shall be considered as timely made: *Provided*, That if the rental payment due under a lease is paid on or before the anniversary date but either (1) the amount of the payment has been or is hereafter deficient and the deficiency is nominal, as determined by the Secretary by regulation, or (2) the payment was calculated in accordance with the acreage figure stated in the lease, or in any decision affecting the lease, or made in accordance with a bill or decision which has been rendered by him and such figure, bill, or decision is found to be in error resulting in a deficiency, such lease shall not automatically terminate unless (1) a new lease had been issued prior to May 12, 1970, or (2) the lessee fails to pay the deficiency within the period prescribed in a notice of deficiency sent to him by the Secretary.

(c) Reinstatement

Where any lease has been or is hereafter terminated automatically by operation of law under this section for failure to pay on or before the anniversary date the full amount of rental due, but such rental was paid on or tendered within twenty days thereafter, and it is shown to the satisfaction of the Secretary of the Interior that such failure was either justifiable or not due to a lack of reasonable diligence on the part of the lessee, the Secretary may reinstate the lease if—

(1) a petition for reinstatement, together with the required rental, including back rental accruing from the date of termination of the lease, is filed with the Secretary; and

(2) no valid lease has been issued affecting any of the lands covered by the terminated lease prior to the filing of said petition. The Secretary shall not issue any new lease affecting any of the lands covered by such terminated lease for a reasonable period, as determined in accordance with regulations issued by him. In any case where a reinstatement of a terminated lease is granted under this subsection and the Secretary finds that the reinstatement of such lease will not afford the lessee a reasonable opportunity to continue operations under the lease, the Secretary may, at his discretion, extend the term of such lease for such period as he deems reasonable: *Provided*, That (A) such extension shall not exceed a period equivalent to the time beginning when the lessee knew or should have known of the termination and ending on the date the Secretary grants such petition; (B) such extension shall not exceed a period equal to the unexpired portion of the lease or any extension thereof remaining at the date of termination; and (C) when the reinstatement occurs after the expiration of the term or extension thereof the lease may be extended from the date the Secretary grants the petition.

(d) Additional grounds for reinstatement

(1) Where any oil and gas lease issued pursuant to section 226(b) or (c) of this title or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) has been, or is hereafter, terminated automatically by operation of law under this section for failure to pay on or before the anniversary date the full amount of the rental due, and such rental is not paid or tendered within twenty days thereafter, and it is shown to the satisfaction of the Secretary of the Interior that such failure was justifiable or not due to lack of reasonable diligence on the part of the lessee, or, no matter when the rental is paid after termination, it is shown to the satisfaction of the

Secretary that such failure was inadvertent, the Secretary may reinstate the lease as of the date of termination for the unexpired portion of the primary term of the original lease or any extension thereof remaining at the date of termination, and so long thereafter as oil or gas is produced in paying quantities. In any case where a lease is reinstated under this subsection and the Secretary finds that the reinstatement of such lease (A) occurs after the expiration of the primary term or any extension thereof, or (B) will not afford the lessee a reasonable opportunity to continue operations under the lease, the Secretary may, at his discretion, extend the term of such lease for such period as he deems reasonable, but in no event for more than two years from the date the Secretary authorizes the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

(2) No lease shall be reinstated under paragraph (1) of this subsection unless—

(A) with respect to any lease that terminated under subsection (b) of this section on or before August 8, 2005, a petition for reinstatement (together with the required back rental and royalty accruing after the date of termination) is filed on or before the earlier of—

(i) 60 days after the lessee receives from the Secretary notice of termination, whether by return of check or by any other form of actual notice; or

(ii) 15 months after the termination of the lease; or

(B) with respect to any lease that terminates under subsection (b) of this section after August 8, 2005, a petition for reinstatement (together with the required back rental and royalty accruing after the date of termination) is filed on or before the earlier of—

(i) 60 days after receipt of the notice of termination sent by the Secretary by certified mail to all lessees of record; or

(ii) 24 months after the termination of the lease.

(e) Conditions for reinstatement

Any reinstatement under subsection (d) of this section shall be made only if these conditions are met:

(1) no valid lease, whether still in existence or not, shall have been issued affecting any of the lands covered by the terminated lease prior to the filing of such petition: *Provided, however*, That after receipt of a petition for reinstatement, the Secretary shall not issue any new lease affecting any of the lands covered by such terminated lease for a reasonable period, as determined in accordance with regulations issued by him;

(2) payment of back rentals and either the inclusion in a reinstated lease issued pursuant to the provisions of section 226(b) of this title of a requirement for future rentals at a rate of not less than $10 per acre per year, or the inclusion in a reinstated lease issued pursuant to the provisions of section 226(c) of this title of a requirement that future rentals shall be at a rate not less than $5 per acre per year, all as determined by the Secretary;

(3)(A) payment of back royalties and the inclusion in a reinstated lease issued pursuant to the provisions of section 226(b) of this title of a requirement for future royalties at a rate of not less than 16⅔ percent computed on a sliding scale based upon the average production per well per day, at a rate which shall be not less than 4 percentage points greater than the competitive royality[1] schedule then in force and used for royalty determination for competitive leases issued pursuant to such section as determined by the Secretary: *Provided*, That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the termination of the original lease;

(B) payment of back royalties and inclusion in a reinstated lease issued pursuant to the provisions of section 226(c) of this title of a requirement for future royalties at a rate not less than 16⅔ percent: *Provided*, That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the cancellation or termination of the original lease; and

(4) notice of the proposed reinstatement of a terminated lease, including the terms and conditions of reinstatement, shall be published in the Federal Register at least thirty days in advance of the reinstatement.

A copy of said notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the Secretary deemed significant in making this determination to reinstate, shall be furnished to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate at least thirty days in advance of the reinstatement. The lessee of a reinstated lease shall reimburse the Secretary for the administrative costs of reinstating the lease, but not to exceed $500. In addition the lessee shall reimburse the Secretary for the cost of publication in the Federal Register of the notice of proposed reinstatement.

(f) Issuance of noncompetitive oil and gas lease; conditions

Where an unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, has been or is hereafter deemed conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 1744 of title 43, and it is shown to the satisfaction of the Secretary that such failure was inadvertent, justifiable, or not due to lack of reasonable diligence on the part of the owner, the Secretary may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease, consistent with the provisions of section 226(e) of this title, to be effective from the statutory date the claim was deemed conclusively abandoned. Issuance of such a lease shall be conditioned upon:

(1) a petition for issuance of a noncompetitive oil and gas lease, together with the required rental and royalty, including back rental and royalty accruing from the statu-

[1] So in original. Probably should be ''royalty''.

tory date of abandonment of the oil placer mining claim, being filed with the Secretary—

(A) with respect to any claim deemed conclusively abandoned on or before January 12, 1983, on or before the one hundred and twentieth day after January 12, 1983, or

(B) with respect to any claim deemed conclusively abandoned after January 12, 1983, on or before the one hundred and twentieth day after final notification by the Secretary or a court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim;

(2) a valid lease not having been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of such petition: *Provided, however*, That after the filing of a petition for issuance of a lease under this subsection, the Secretary shall not issue any new lease affecting any of the lands covered by such abandoned oil placer mining claim for a reasonable period, as determined in accordance with regulations issued by him;

(3) a requirement in the lease for payment of rental, including back rentals accruing from the statutory date of abandonment of the oil placer mining claim, of not less than $5 per acre per year;

(4) a requirement in the lease for payment of royalty on production removed or sold from the oil placer mining claim, including all royalty on production made subsequent to the statutory date the claim was deemed conclusively abandoned, of not less than 12½ percent; and

(5) compliance with the notice and reimbursement of costs provisions of paragraph (4) of subsection (e) of this section but addressed to the petition covering the conversion of an abandoned unpatented oil placer mining claim to a noncompetitive oil and gas lease.

(g) Treatment of leases

(1) Except as otherwise provided in this section, a reinstated lease shall be treated as a competitive or a noncompetitive oil and gas lease in the same manner as the original lease issued pursuant to section 226(b) or (c) of this title.

(2) Except as otherwise provided in this section, the issuance of a lease in lieu of an abandoned patented oil placer mining claim shall be treated as a noncompetitive oil and gas lease issued pursuant to section 226(c) of this title.

(3) Notwithstanding any other provision of law, any lease issued pursuant to section 223 of this title shall be eligible for reinstatement under the terms and conditions set forth in subsections (c), (d), and (e) of this section, applicable to leases issued under section 226(c) of this title except, that, upon reinstatement, such lease shall continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.

(4) Notwithstanding any other provision of law, any lease issued pursuant to section 223 of this title shall, upon renewal on or after November 15, 1990, continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.

(h) Statutory provisions applicable to leases

The minimum royalty provisions of section 226(m) of this title and the provisions of section 209 of this title shall be applicable to leases issued pursuant to subsections (d) and (f) of this section.

(i) Royalty reductions

(1) In acting on a petition to issue a noncompetitive oil and gas lease, under subsection (f) of this section or in response to a request filed after issuance of such a lease, or both, the Secretary is authorized to reduce the royalty on such lease if in his judgment it is equitable to do so or the circumstances warrant such relief due to uneconomic or other circumstances which could cause undue hardship or premature termination of production.

(2) In acting on a petition for reinstatement pursuant to subsection (d) of this section or in response to a request filed after reinstatement, or both, the Secretary is authorized to reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes if, in his judgment, there are uneconomic or other circumstances which could cause undue hardship or premature termination of production; or because of any written action of the United States, its agents or employees, which preceded, and was a major consideration in, the lessee's expenditure of funds to develop the property under the lease after the rent had become due and had not been paid; or if in the judgment of the Secretary it is equitable to do so for any reason.

(j) Discretion of Secretary

Where, in the judgment of the Secretary of the Interior, drilling operations were being diligently conducted on the last day of the primary term of the lease, and, except for nonpayment of rental, the lessee would have been entitled to extension of his lease, pursuant to section 226–1(d) of this title, the Secretary of the Interior may reinstate such lease notwithstanding the failure of the lessee to have made payment of the next year's rental, provided the conditions of subparagraphs (1) and (2) of subsection (c) of this section are satisfied.

(Feb. 25, 1920, ch. 85, § 31, 41 Stat. 450; Aug. 8, 1946, ch. 916, § 9, 60 Stat. 956; July 29, 1954, ch. 644, § 1(7), 68 Stat. 585; Pub. L. 87–822, § 1, Oct. 15, 1962, 76 Stat. 943; Pub. L. 91–245, §§ 1, 2, May 12, 1970, 84 Stat. 206; Pub. L. 97–451, title IV, § 401, Jan. 12, 1983, 96 Stat. 2462; Pub. L. 100–203, title V, §§ 5102(d)(2), 5104, Dec. 22, 1987, 101 Stat. 1330–258, 1330–259; Pub. L. 101–567, § 1, Nov. 15, 1990, 104 Stat. 2802; Pub. L. 103–437, § 11(a)(1), Nov. 2, 1994, 108 Stat. 4589; Pub. L. 109–58, title III, § 371(b), Aug. 8, 2005, 119 Stat. 734.)

REFERENCES IN TEXT

The Mineral Leasing Act for Acquired Lands, referred to in subsec. (d)(1), is act Aug. 7, 1947, ch. 513, 61 Stat. 913, as amended, which is classified generally to chapter 7 (§ 351 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 351 of this title and Tables.

AMENDMENTS

2005—Subsec. (d)(2)(A), (B). Pub. L. 109–58 added subpars. (A) and (B) and struck out former subpars. (A) and

(B), which related to reinstatement with respect to any lease that terminated under subsec. (b) of this section prior to Jan. 12, 1983, and reinstatement with respect to any lease that terminated under subsec. (b) of this section on or after Jan. 12, 1983.

1994—Subsec. (e). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' before ''of the House'' in concluding provisions.

1990—Subsec. (g)(3), (4). Pub. L. 101–567 added pars. (3) and (4).

1987—Subsec. (b). Pub. L. 100–203, § 5104, amended first sentence generally. Prior to amendment, first sentence read as follows: ''Any lease issued after August 21, 1935, under the provisions of section 226 of this title shall be subject to cancellation by the Secretary of the Interior after thirty days' notice upon the failure of the lessee to comply with any of the provisions of the lease, unless or until the land covered by any such lease is known to contain valuable deposits of oil or gas.''

Subsec. (h). Pub. L. 100–203, § 5102(d)(2), substituted ''section 226(m)'' for ''section 226(j)''.

1983—Subsecs. (d) to (j). Pub. L. 97–451 added subsecs. (d) to (i) and redesignated former subsec. (d) as (j).

1970—Subsec. (b). Pub. L. 91–245, § 1, inserted proviso authorizing continuance of a lease where timely paid rent is nominally deficient or miscalculated due to an error either in acreage figure stated in the lease, in any decision affecting the lease, or in a bill or decision rendered by the Secretary, except where a new lease was issued prior to May 12, 1970 or the lessee failed to pay the deficiency within the period allowed by the Secretary.

Subsec. (c). Pub. L. 91–245, § 2, inserted provisions allowing reinstatement of a lease despite a twenty-day delay in payment of rent, made the payment of back rental accruing from the date of termination of the lease a prerequisite to such reinstatement, restricted the Secretary's power to issue a new lease on the lands covered by the terminated lease, gave the Secretary discretion to extend the term of a reinstated lease so as to afford the lessee a reasonable opportunity to continue operations under the lease, and struck out requirement that the petition for reinstatement of any lease terminated prior to Oct. 15, 1962 be filed within 180 days after Oct. 15, 1962.

1962—Pub. L. 87–822 designated existing pars. as subsecs. (a) and (b) and added subsecs. (c) and (d).

1954—Act July 29, 1954, provided for automatic termination of a lease on failure to pay rental on or before anniversary date of lease, for any lease on which there is no well capable of producing oil or gas in paying quantities.

1946—Act Aug. 8, 1946, principally added second par. relating to cancellation of leases by Secretary of the Interior.

SAVINGS PROVISION

See note set out under section 181 of this title.

REINSTATEMENT OF LEASES

Pub. L. 109–58, title III, § 371(a), Aug. 8, 2005, 119 Stat. 734, provided that:

''Notwithstanding section 31(d)(2)(B) of the Mineral Leasing Act (30 U.S.C. 188(d)(2)(B)) as in effect before the effective date of this section [probably means the date of enactment of Pub. L. 109–58, Aug. 8, 2005], and notwithstanding the amendment made by subsection (b) of this section [amending this section], the Secretary of the Interior may reinstate any oil and gas lease issued under that Act [30 U.S.C. 181 et seq.] that was terminated for failure of a lessee to pay the full amount of rental on or before the anniversary date of the lease, during the period beginning on September 1, 2001, and ending on June 30, 2004, if—

''(1) not later than 120 days after the date of enactment of this Act [Aug. 8, 2005], the lessee—

''(A) files a petition for reinstatement of the lease;

''(B) complies with the conditions of section 31(e) of the Mineral Leasing Act (30 U.S.C. 188(e)); and

''(C) certifies that the lessee did not receive a notice of termination by the date that was 13 months before the date of termination; and

''(2) the land is available for leasing.''

AUTHORITY FOR ISSUANCE OF LEASES UNAFFECTED BY REINSTATEMENT OF LEASES

Section 2 of Pub. L. 87–822 provided that: ''Nothing in this Act [amending this section] shall be construed as limiting the authority of the Secretary of the Interior to issue, during the periods in which petitions for reinstatement may be filed, oil and gas leases for any of the lands affected.''

OUTER CONTINENTAL SHELF; CANCELLATION OF LEASES

Cancellation of mineral leases on submerged lands of outer Continental Shelf, see sections 1334 and 1337 of Title 43, Public Lands.

§ 188a. Surrender of leases

The Secretary of the Interior is authorized to accept the surrender of any lease issued pursuant to any of the provisions of this chapter, or any amendment thereof, where the surrender is filed in the Bureau of Land Management subsequent to the accrual but prior to the payment of the yearly rental due under the lease, upon payment of the accrued rental on a pro rata monthly basis for the portion of the lease year prior to the filing of the surrender. The authority granted to the Secretary of the Interior by this section shall extend only to cases in which he finds that the failure of the lessee to file a timely surrender of the lease prior to the accrual of the rental was not due to a lack of reasonable diligence, but it shall not extend to claims or cases which have been referred to the Department of Justice for purposes of suit.

(Nov. 28, 1943, ch. 329, 57 Stat. 593; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

TRANSFER OF FUNCTIONS

''Bureau of Land Management'' substituted in text for ''General Land Office'' on authority of Reorg. Plan No. 3 of 1946, § 403, set out in the Appendix to Title 5, Government Organization and Employees.

§ 189. Rules and regulations; boundary lines; State rights unaffected; taxation

The Secretary of the Interior is authorized to prescribe necessary and proper rules and regulations and to do any and all things necessary to carry out and accomplish the purposes of this chapter, also to fix and determine the boundary lines of any structure, or oil or gas field, for the purposes of this chapter. Nothing in this chapter shall be construed or held to affect the rights of the States or other local authority to exercise any rights which they may have, including the right to levy and collect taxes upon improvements, output of mines, or other rights, property, or assets of any lessee of the United States.

(Feb. 25, 1920, ch. 85, § 32, 41 Stat. 450.)

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior to promulgate regulations under this chapter relating to fostering of

competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97–100, title II, § 201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

OUTER CONTINENTAL SHELF; RULES AND REGULATIONS WITH RESPECT TO LEASES

Rules and regulations with respect to mineral leases on submerged lands of outer Continental Shelf to be prescribed by Secretary of the Interior, see section 1334 of Title 43, Public Lands.

§ 190. Oath; requirement; form; blanks

All statements, representations, or reports required by the Secretary of the Interior under this chapter shall be upon oath, unless otherwise specified by him, and in such form and upon such blanks as the Secretary of the Interior may require.

(Feb. 25, 1920, ch. 85, § 33, 41 Stat. 450.)

§ 191. Disposition of moneys received

(a) In general

All money received from sales, bonuses, royalties including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982 [30 U.S.C. 1701 et seq.], and rentals of the public lands under the provisions of this chapter and the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.], shall be paid into the Treasury of the United States; and, subject to the provisions of subsection (b) of this section, 50 per centum thereof shall be paid by the Secretary of the Treasury to the State other than Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys paid to any of such States on or after January 1, 1976, to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this chapter, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service; and excepting those from Alaska, 40 per centum thereof shall be paid into, reserved, appropriated, as part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902, and of those from Alaska, 90 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof: *Provided*, That all moneys which may accrue to the United States under the provisions of this chapter and the Geothermal Steam Act of 1970 from lands within the naval petroleum reserves shall be deposited in the Treasury as ''miscellaneous receipts'', as provided by section 7433(b) of title 10. All moneys received under the provisions of this chapter and the Geothermal Steam Act of 1970 not otherwise disposed of by this section shall be credited to miscellaneous receipts. Payments to States under this section with respect to any moneys received by the United States, shall be made not later than the last business day of the month in which such moneys are warranted by the United States Treasury to the Secretary as having been received, except for any portion of such moneys which is under challenge and placed in a suspense account pending resolution of a dispute. Such warrants shall be issued by the United States Treasury not later than 10 days after receipt of such moneys by the Treasury. Moneys placed in a suspense account which are determined to be payable to a State shall be made not later than the last business day of the month in which such dispute is resolved. Any such amount placed in a suspense account pending resolution shall bear interest until the dispute is resolved.

(b) Administrative costs

In determining the amount of payments to the States under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.

(c) Rentals received on or after August 8, 2005

(1) Notwithstanding the first sentence of subsection (a) of this section, any rentals received from leases in any State (other than the State of Alaska) on or after August 8, 2005, shall be deposited in the Treasury, to be allocated in accordance with paragraph (2).

(2) Of the amounts deposited in the Treasury under paragraph (1)—

(A) 50 percent shall be paid by the Secretary of the Treasury to the State within the boundaries of which the leased land is located or the deposits were derived; and

(B) 50 percent shall be deposited in a special fund in the Treasury, to be known as the ''BLM Permit Processing Improvement Fund'' (referred to in this subsection as the ''Fund'').

(3) For each of fiscal years 2006 through 2015, the Fund shall be available to the Secretary of the Interior for expenditure, without further appropriation and without fiscal year limitation, for the coordination and processing of oil and gas use authorizations on onshore Federal land under the jurisdiction of the Pilot Project offices identified in section 15924(d) of title 42.

(Feb. 25, 1920, ch. 85, § 35, 41 Stat. 450; May 27, 1947, ch. 83, 61 Stat. 119; Aug. 3, 1950, ch. 527, 64 Stat. 402; Pub. L. 85–88, § 2, July 10, 1957, 71 Stat. 282; Pub. L. 85–508, §§ 6(k), 28(b), July 7, 1958, 72 Stat. 343, 351; Pub. L. 94–273, § 6(2), Apr. 21, 1976, 90 Stat. 377; Pub. L. 94–377, § 9, Aug. 4, 1976, 90 Stat. 1089; Pub. L. 94–422, title III, § 301, Sept. 28, 1976, 90 Stat. 1323; Pub. L. 94–579, title III, § 317(a), Oct. 21, 1976, 90 Stat. 2770; Pub. L. 97–451, title I, §§ 104(a), 111(g), Jan. 12, 1983, 96 Stat. 2451, 2456; Pub. L. 100–203, title V, § 5109, Dec. 22, 1987, 101 Stat. 1330–261; Pub. L. 100–443, § 5(b), Sept. 22, 1988, 102 Stat. 1768; Pub. L. 103–66, title X, § 10201, Aug. 10, 1993, 107 Stat. 407; Pub. L. 106–393, title V, § 503, Oct. 30, 2000, 114 Stat. 1624; Pub. L. 109–58, title III, § 365(g), Aug. 8, 2005, 119 Stat. 725.)

REFERENCES IN TEXT

The Federal Oil and Gas Royalty Management Act of 1982, referred to in subsec. (a), is Pub. L. 97–451, Jan. 12,

1983, 96 Stat. 2447, which is classified generally to chapter 29 (§1701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

The Geothermal Steam Act of 1970, referred to in subsec. (a), is Pub. L. 91–581, Dec. 24, 1970, 84 Stat. 1566, which is classified principally to chapter 23 (§1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Reclamation Act, approved June 17, 1902, referred to in subsec. (a), is act June 17, 1902, ch. 1093, 32 Stat. 388, which is classified generally to chapter 12 (§371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables.

CODIFICATION

''Section 7433(b) of title 10'' substituted in subsec. (a) for ''the Act of June 4, 1920 (41 Stat. 813), as amended June 30, 1938 (52 Stat. 1252)'', which was classified to section 524 of former Title 34, Navy, on authority of act Aug. 10, 1956, ch. 1041, §49(b), 70A Stat. 640, the first section of which enacted Title 10, Armed Forces.

Provisions of subsec. (a) which authorized the payment of monies to the Territory of Alaska were omitted as superseded by the provisions authorizing the payment of monies to the State of Alaska.

AMENDMENTS

2005—Subsec. (c). Pub. L. 109–58 added subsec. (c).

2000—Subsec. (b). Pub. L. 106–393 amended subsec. (b) generally. Prior to amendment, subsec. (b) related to deductions for administration from the amount to be paid to States under this section or under other laws requiring payment to a State of revenues derived from the leasing of onshore lands owned by the United States for the production of the same types of minerals leasable under this chapter or of geothermal steam.

1993—Pub. L. 103–66 struck out last sentence, designated remaining provisions as subsec. (a) and in first sentence inserted ''and, subject to the provisions of subsection (b) of this section,'' before ''50 per centum'', and added subsec. (b). Prior to amendment, last sentence read as follows: ''In determining the amount of payments to States under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.''

1988—Pub. L. 100–443 struck out ''notwithstanding the provisions of section 20 thereof,'' before ''shall be paid''.

1987—Pub. L. 100–203 inserted at end ''In determining the amount of payments to States under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.''

1983—Pub. L. 97–451, §111(g), inserted reference to interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982.

Pub. L. 97–451, §104(a), struck out ''as soon as practicable after March 31 and September 30 of each year'' after ''Secretary of the Treasury'' and ''of those from Alaska'', and inserted at end provisions directing that payments to States be made not later than the last business day of the month in which such moneys are warranted by the United States Treasury to the Secretary as having been received, that warrants be issued by the Treasury not later than 10 days after receipt of the money by the Treasury, that moneys placed in a suspense account which are determined to be payable to a State be made not later than the last business day of the month in which a dispute is resolved, and that amounts placed in a suspense account pending resolution bear interest until the dispute is resolved.

1976—Pub. L. 94–579 substituted provisions setting forth determination of amount, time for payments, and manner of expenditure by the States of all moneys received from sales, etc., under provisions of this chapter and the Geothermal Steam Act of 1970, and proviso relating to naval petroleum reserve moneys, for provisions setting forth determination of amount and time for payment to the States of all moneys received from sales, etc., under the provisions of this chapter, and provisos relating to naval petroleum reserve moneys, additional moneys from sales, etc., under this chapter and the Geothermal Steam Act of 1970, and expenditure of State oil shale funds.

Pub. L. 94–422 inserted proviso that all moneys paid to any State from sales, bonuses, royalties, and rentals of oil shale in public lands may be used by any State for planning, construction, and maintenance of public facilities as legislature of State may direct.

Pub. L. 94–377 substituted ''40 per centum thereof shall be paid into, reserved'' for ''52½ per centum thereof shall be paid into, reserved'', inserted ''and the Geothermal Steam Act of 1970, notwithstanding the provisions of section 20 thereof'' before ''shall be paid into the Treasury of the United States'', ''and the Geothermal Steam Act of 1970'' before ''from lands within the naval petroleum reserves'' and before ''not otherwise disposed of by this section'', and provisos relating to the payment of an additional 12½ per centum of all money received from lands under provisions of this chapter and the Geothermal Steam Act of 1970 to the State within whose boundaries the lands are located, to be used for construction of public facilities, and relating to the use of funds received by Colorado and Utah under the specified leases.

Pub. L. 94–273 substituted ''March'' for ''December'' and ''September'' for ''June''.

1958—Pub. L. 85–508, §§6(k), 28(b), struck out provisions which related to disposition of proceeds or income derived by the United States from mineral school sections in the Territory of Alaska and substituted '', and of those from Alaska 52½ per centum thereof shall be paid to the State of Alaska for disposition by the legislators thereof'' for '', and of those from Alaska 52½ per centum thereof shall be paid to the Territory of Alaska for disposition by the Legislature of the Territory of Alaska'' before proviso.

1957—Pub. L. 85–88 inserted '', and of those from Alaska 52½ per centum thereof shall be paid to the Territory of Alaska for disposition by the Legislature of the Territory of Alaska'' before proviso.

1950—Act Aug. 3, 1950, in providing that payments to States be made bi-annually instead of annually, substituted ''as soon as practicable after December 31 and June 30 of each year'' for ''after the expiration of each fiscal year''.

1947—Act May 27, 1947, extended provisions by allocating 37½% of the money received from sales, bonuses, royalties, and rentals of public lands to the Territory of Alaska, for the construction and maintenance of public schools or other public educational institutions and inserted provisions relating to disposition of proceeds or income derived by the United States from mineral school sections in the Territory of Alaska.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 104(a) of Pub. L. 97–451 applicable with respect to payments received by the Secretary of the Treasury after Oct. 1, 1983, unless the Secretary by rule, prescribes an earlier effective date, see section 104(c) of Pub. L. 97–451, set out as an Effective Date note under section 1714 of this title.

SAVINGS PROVISION

Amendment by Pub. L. 94–579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94–579, set out as a note under section 1701 of Title 43, Public Lands.

FINDINGS

Pub. L. 106–393, title V, §502, Oct. 30, 2000, 114 Stat. 1624, provided that: ''The Congress finds the following:

''(1) Section 10201 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 407) amended section 35 of the Mineral Leasing Act (30

U.S.C. 191) to change the sharing of onshore mineral revenues and revenues from geothermal steam from a 50:50 split between the Federal Government and the States to a complicated formula that entailed deducting from the State share of leasing revenues '50 percent of the portion of the enacted appropriations of the Department of the Interior and any other agency during the preceding fiscal year allocable to the administration of all laws providing for the leasing of any onshore lands or interest in land owned by the United States for the production of the same types of minerals leasable under this Act or of geothermal steam, and to enforcement of such laws * * *'.

''(2) There is no legislative record to suggest a sound public policy rationale for deducting prior-year administrative expenses from the sharing of current-year receipts, indicating that this change was made primarily for budget scoring reasons.

''(3) The system put in place by this change in law has proved difficult to administer and has given rise to disputes between the Federal Government and the States as to the nature of allocable expenses. Federal accounting systems have proven to be poorly suited to breaking down administrative costs in the manner required by the law. Different Federal agencies implementing this law have used varying methodologies to identify allocable costs, resulting in an inequitable distribution of costs during fiscal years 1994 through 1996. In November 1997, the Inspector General of the Department of the Interior found that 'the congressionally approved method for cost sharing deductions effective in fiscal year 1997 may not accurately compute the deductions'.

''(4) Given the lack of a substantive rationale for the 1993 change in law and the complexity and administrative burden involved, a return to the sharing formula prior to the enactment of the Omnibus Budget Reconciliation Act of 1993 [Aug. 10, 1993] is justified.''

FUNDS HELD BY COLORADO AND UTAH FROM INTERIOR DEPARTMENT OIL SHALE TEST LEASES

Section 317(b) of Pub. L. 94–579 provided that: ''Funds now held pursuant to said section 35 [this section] by the States of Colorado and Utah separately from the Department of the Interior oil shale test leases known as C–A; C–B; U–A and U–B shall be used by such States and subdivisions as the legislature of each State may direct giving priority to those subdivisions socially or economically impacted by the development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services.''

ADMISSION OF ALASKA AS STATE

Effectiveness of amendment by Pub. L. 85–508 was dependent on admission of Alaska into the Union under sections 6(k) and 8(b) of Pub. L. 85–508. Admission was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508. See notes preceding section 21 of Title 48, Territories and Insular Possessions.

OUTER CONTINENTAL SHELF; REVENUES FROM LEASES

Disposition of revenues from leases on submerged lands of outer Continental Shelf, see sections 1337 and 1338 of Title 43, Public Lands.

§ 191a. Late payment charges under Federal mineral leases

(a) Distribution of late payment charges

Any interest or other charges paid to the United States by reason of the late payment of any royalty, rent, bonus, or other amount due to the United States under any lease issued by the United States for the extraction of oil, gas, coal, or any other mineral, or for geothermal steam, shall be deposited in the same account and distributed to the same recipients, in the same manner, as such royalty, rent, bonus, or other amount.

(b) Effective date

Subsection (a) of this section shall apply with respect to any interest, or other charge referred to in subsection (a) of this section, which is paid to the United States on or after July 1, 1988.

(c) Prohibition against recoupment

Any interest, or other charge referred to in subsection (a) of this section, which was paid to the United States before July 1, 1988, and distributed to any State or other recipient is hereby deemed to be authorized and approved as of the date of payment or distribution, and no part of any such payment or distribution shall be recouped from the State or other recipient. This subsection shall not apply to interest or other charges paid in connection with any royalty, rent, bonus, or other amount determined not to be owing to the United States.

(Pub. L. 100–524, § 7, Oct. 24, 1988, 102 Stat. 2607.)

CODIFICATION

Section was enacted as part of the Congaree Swamp National Monument Expansion and Wilderness Act, and not as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

§ 191b. Collection of unpaid and underpaid royalties and late payment interest owed by lessees

Beginning in fiscal year 1996 and thereafter, the Secretary shall take appropriate action to collect unpaid and underpaid royalties and late payment interest owed by Federal and Indian mineral lessees and other royalty payors on amounts received in settlement or other resolution of disputes under, and for partial or complete termination of, sales agreements for minerals from Federal and Indian leases.

(Pub. L. 104–134, title I, § 101(c) [title I], Apr. 26, 1996, 110 Stat. 1321–156, 1321–167; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation act:

Pub. L. 103–332, title I, Sept. 30, 1994, 108 Stat. 2508.

§ 192. Payment of royalties in oil or gas; sale of such oil or gas

All royalty accruing to the United States under any oil or gas lease or permit under this chapter on demand of the Secretary of the Interior shall be paid in oil or gas.

Upon granting any oil or gas lease under this chapter, and from time to time thereafter during said lease, the Secretary of the Interior shall, except whenever in his judgment it is desirable to retain the same for the use of the

United States, offer for sale for such period as he may determine, upon notice and advertisement on sealed bids or at public auction, all royalty oil and gas accruing or reserved to the United States under such lease. Such advertisement and sale shall reserve to the Secretary of the Interior the right to reject all bids whenever within his judgment the interest of the United States demands; and in cases where no satisfactory bid is received or where the accepted bidder fails to complete the purchase, or where the Secretary of the Interior shall determine that it is unwise in the public interest to accept the offer of the highest bidder, the Secretary of the Interior, within his discretion, may readvertise such royalty for sale, or sell at private sale at not less than the market price for such period, or accept the value thereof from the lessee: *Provided*, That inasmuch as the public interest will be served by the sale of royalty oil to refineries not having their own source of supply for crude oil, the Secretary of the Interior, when he determines that sufficient supplies of crude oil are not available in the open market to such refineries, is authorized and directed to grant preference to such refineries in the sale of oil under the provisions of this section, for processing or use in such refineries and not for resale in kind, and in so doing may sell to such refineries at private sale at not less than the market price any royalty oil accruing or reserved to the United States under leases issued pursuant to this chapter: *Provided further*, That in selling such royalty oil the Secretary of the Interior may at his discretion prorate such oil among such refineries in the area in which the oil is produced: *Provided, however*, That pending the making of a permanent contract for the sale of any royalty, oil or gas as herein provided, the Secretary of the Interior may sell the current product at private sale, at not less than the market price: *And provided further*, That any royalty, oil, or gas may be sold at not less than the market price at private sale to any department or agency of the United States.

(Feb. 25, 1920, ch. 85, § 36, 41 Stat. 451; July 13, 1946, ch. 574, 60 Stat. 533.)

AMENDMENTS

1946—Act July 13, 1946, inserted first two provisos which were enacted in order to assist small business enterprise by encouraging the operation of oil refineries not having an adequate supply of crude oil.

OUTER CONTINENTAL SHELF; ROYALTIES FROM LEASES

Payment of royalties from mineral leases on submerged lands of outer Continental Shelf, see section 1337 of Title 43, Public Lands.

§ 192a. Cancellation or modification of contracts

Where, under any existing contract entered into pursuant to the first proviso in the second paragraph of section 192 of this title, any refinery is required to pay a premium price for the purchase of Government royalty oil, such refinery may, at its option, by written notice to the Secretary of the Interior, elect either—

(1) to terminate such contract, the termination to take place at the end of the calendar month following the month in which such notice is given; or

(2) to retain such contract with the modifications, that (a) the price, on and after March 1, 1949, shall be as defined in the contract, without premium payments, (b) any credit thereby resulting from past premium payments shall be added to the refinery's account, and (c) the Secretary may, at his option, elect to terminate the contract as so modified, such termination to take place at the end of the third calendar month following the month in which written notice thereof is given by the Secretary.

(Sept. 1, 1949, ch. 529, § 1, 63 Stat. 682.)

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

§ 192b. Application to contracts

The provisions of sections 192a to 192c of this title shall apply to all existing contracts for the purchase of Government royalty oil entered into after July 13, 1946, and prior to September 1, 1949, irrespective of whether a determination of preference status was made in connection with the award of such contracts, but shall not apply to any such contract which subsequent to its award has been transferred, through the acquisition of stock interests or other transactions, to the ownership or control of a refinery ineligible for a preference under section 192 of this title, and the regulations in force thereunder at the time of such transfer.

(Sept. 1, 1949, ch. 529, § 2, 63 Stat. 682.)

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

§ 192c. Rules and regulations governing issuance of certain leases; disposition of receipts

The Secretary of the Interior is authorized under general rules and regulations to be prescribed by him to issue leases or permits for the exploration, development, and utilization of the mineral deposits, other than those subject to the provisions of chapter 7 of this title, in those lands added to the Shasta National Forest by the Act of March 19, 1948 (Public Law 449, Eightieth Congress), which were acquired with funds of the United States or lands received in exchange therefor: *Provided*, That any permit or lease of such deposits in lands administered by the Secretary of Agriculture shall be issued only with his consent and subject to such conditions as he may prescribe to insure the adequate utilization of the lands for the purposes set forth in the Act of March 19, 1948: *And provided further*, That all receipts derived from leases or permits issued under the authority of sections 192a to 192c of this title shall be paid into the same funds or accounts in the Treasury and shall be distributed in the same manner as prescribed for other receipts from the lands affected by the lease or permit, the intention of this provision being that sections 192a to 192c of this title shall not affect the distribution of receipts pursuant to legislation applicable to such lands.

(Sept. 1, 1949, ch. 529, § 3, 63 Stat. 683.)

REFERENCES IN TEXT

Act of March 19, 1948 (Public Law 449, Eightieth Congress), referred to in text, is act Mar. 19, 1948, ch. 139, 62 Stat. 83. See Shasta National Forest codification note set out under sections 486a to 486w of Title 16, Conservation.

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior under this section, with respect to use and disposal from lands under jurisdiction of Secretary of Agriculture of those mineral materials which Secretary of Agriculture is authorized to dispose of from other lands under his jurisdiction under sections 601 to 604 and 611 to 615 of this title, see Pub. L. 86–509, June 11, 1960, 74 Stat. 205, set out as a Transfer of Functions from Secretary of the Interior to Secretary of Agriculture note under section 2201 of Title 7, Agriculture.

§ 193. Disposition of deposits of coal, and so forth

The deposits of coal, phosphate, sodium, potassium, oil, oil shale, and gas, herein referred to, in lands valuable for such minerals, including lands and deposits in Lander, Wyoming, coal entries numbered 18 to 49, inclusive, shall be subject to disposition only in the form and manner provided in this chapter, except as provided in sections 1716 and 1719 of title 43, and except as to valid claims existent on February 25, 1920, and thereafter maintained in compliance with the laws under which initiated, which claims may be perfected under such laws, including discovery.

(Feb. 25, 1920, ch. 85, § 37, 41 Stat. 451; Feb. 7, 1927, ch. 66, § 5, 44 Stat. 1058; Aug. 8, 1946, ch. 916, § 11, 60 Stat. 957; Pub. L. 95–554, § 4, Oct. 30, 1978, 92 Stat. 2074.)

CODIFICATION

Section was from act Feb. 25, 1920, in which words now reading ''in Lander, Wyoming, coal entries numbered 18 to 49, inclusive,'' originally read ''described in the joint resolution entitled 'Joint resolution authorizing the Secretary of the Interior to permit the continuation of coal mining operations on certain lands in Wyoming,' approved August 12, 1912, (Thirty-seven Statutes at Large p. 1346).'' The change was effected by interpolation, in lieu of the reference to the 1912 resolution, the actual description of lands contained in said resolution.

AMENDMENTS

1978—Pub. L. 95–554 provided for disposition of minerals as provided in sections 1716 and 1719 of title 43.

1946—Act Aug. 8, 1946, excluded from section 5 of act Feb. 7, 1927, the incorporation, by reference, of section 181 of this title, and reenacted inclusion of deposits of potassium.

1927—Act Feb. 7, 1927, included deposits of potassium.

§ 193a. Preference right of United States to purchase coal for Army and Navy; price for coal; civil actions; jurisdiction

The United States shall, at all times, have the preference right to purchase so much of the product of any mine or mines opened upon the lands sold under the provisions of this Act, as may be necessary for the use of the Army and Navy, and at such reasonable and remunerative price as may be fixed by the President; but the producers of any coal so purchased who may be dissatisfied with the price thus fixed shall have the right to prosecute suits against the United States in the United States Court of Federal Claims for the recovery of any additional sum or sums they may claim as justly due upon such purchase.

(May 28, 1908, ch. 211, § 2, 35 Stat. 424; Pub. L. 97–164, title I, § 160(a)(10), Apr. 2, 1982, 96 Stat. 48; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

REFERENCES IN TEXT

This Act, referred to in text, is act May 28, 1908, ch. 211, 35 Stat. 424. Sections 1, 3, and 4 of this Act related to consolidation of claims permitted and the limit of acreage, prohibition against unlawful trusts, etc., and contents of patents, respectively, and are not classified to the Code.

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

Section was formerly classified to section 453 of Title 48, Territories and Insular Possessions.

AMENDMENTS

1992—Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

1982—Pub. L. 97–164 substituted ''United States Claims Court'' for ''Court of Claims''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

§ 194. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 644

Section, acts Feb. 25, 1920, ch. 85, § 38, 41 Stat. 451; Mar. 3, 1925, ch. 462, 43 Stat. 1145, related to fees and commissions of registers (successors to consolidated offices of registers and receivers), the predecessors of managers.

§ 195. Enforcement

(a) Violations

It shall be unlawful for any person:

(1) to organize or participate in any scheme, arrangement, plan, or agreement to circumvent or defeat the provisions of this chapter or its implementing regulations, or

(2) to seek to obtain or to obtain any money or property by means of false statements of material facts or by failing to state material facts concerning:

(A) the value of any lease or portion thereof issued or to be issued under this chapter;

(B) the availability of any land for leasing under this chapter;

(C) the ability of any person to obtain leases under this chapter; or

(D) the provisions of this chapter and its implementing regulations.

(b) Penalty

Any person who knowingly violates the provisions of subsection (a) of this section shall be punished by a fine of not more than $500,000, imprisonment for not more than five years, or both.

(c) Civil actions

Whenever it shall appear that any person is engaged, or is about to engage, in any act which constitutes or will constitute a violation of subsection (a) of this section, the Attorney General may institute a civil action in the district court of the United States for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located, for a temporary restraining order, injunction, civil penalty of not more than $100,000 for each violation, or other appropriate remedy, including but not limited to, a prohibition from participation in exploration, leasing, or development of any Federal mineral, or any combination of the foregoing.

(d) Corporations

(1) Whenever a corporation or other entity is subject to civil or criminal action under this section, any officer, employee, or agent of such corporation or entity who knowingly authorized, ordered, or carried out the proscribed activity shall be subject to the same action.

(2) Whenever any officer, employee, or agent of a corporation or other entity is subject to civil or criminal action under this section for activity conducted on behalf of the corporation or other entity, the corporation or other entity shall be subject to the same action, unless it is shown that the officer, employee, or agent was acting without the knowledge or consent of the corporation or other entity.

(e) Remedies, fines, and imprisonment

The remedies, penalties, fines, and imprisonment prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies, penalties, fines, and imprisonment prescribed in this section shall be in addition to any other remedies, penalties, fines, and imprisonment afforded by any other law or regulation.

(f) State civil actions

(1) A State may commence a civil action under subsection (c) of this section against any person conducting activity within the State in violation of this section. Civil actions brought by a State shall only be brought in the United States district court for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to order appropriate remedies and penalties as described in subsection (c) of this section.

(2) A State shall notify the Attorney General of the United States of any civil action filed by the State under this subsection within 30 days of filing of the action. The Attorney General of the United States shall notify a State of any civil action arising from activity conducted within that State filed by the Attorney General under this subsection within 30 days of filing of the action.

(3) Any civil penalties recovered by a State under this subsection shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate. If a civil action is jointly brought by the Attorney General and a State, by more than one State or by the Attorney General and more than one State, any civil penalties recovered as a result of the joint action shall be shared by the parties bringing the action in the manner determined by the court rendering judgment in such action.

(4) If a State has commenced a civil action against a person conducting activity within the State in violation of this section, the Attorney General may join in such action but may not institute a separate action arising from the same activity under this section. If the Attorney General has commenced a civil action against a person conducting activity within a State in violation of this section, that State may join in such action but may not institute a separate action arising from the same activity under this section.

(5) Nothing in this section shall deprive a State of jurisdiction to enforce its own civil and criminal laws against any person who may also be subject to civil and criminal action under this section.

(Feb. 25, 1920, ch. 85, §41, as added Pub. L. 100–203, title V, §5108, Dec. 22, 1987, 101 Stat. 1330–260.)

§196. Cooperative agreements; delegation of authority

Notwithstanding any other provision of law, for fiscal year 1992 and each year thereafter, the Secretary of the Interior or his designee is authorized to—

(a) enter into a cooperative agreement or agreements with any State or Indian tribe to share royalty management information, to carry out inspection, auditing, investigation or enforcement (not including the collection of royalties, civil penalties, or other payments) activities in cooperation with the Secretary, except that the Secretary shall not enter into such cooperative agreement with a State with respect to any such activities on Indian lands except with the permission of the Indian tribe involved; and

(b) upon written request of any State, to delegate to the State all or part of the authorities and responsibilities of the Secretary under the authorizing leasing statutes, leases, and regulations promulgated pursuant thereto to conduct audits, investigations, and inspections, except that the Secretary shall not undertake such a delegation with respect to any Indian lands except with permission of the Indian tribe involved,

with respect to any lease authorizing exploration for or development of coal, any other solid mineral, or geothermal steam on any Federal lands or Indian lands within the State or

with respect to any lease or portion of a lease subject to section 1337(g) of title 43, on the same terms and conditions as those authorized for oil and gas leases under sections 1732, 1733, 1735, and 1736 of this title and the regulations duly promulgated with respect thereto: *Provided further*, That section 1734 of this title shall apply to leases authorizing exploration for or development of coal, any other solid mineral, or geothermal steam on any Federal lands, or to any lease or portion of a lease subject to section 1337(g) of title 43: *Provided further*, That the Secretary shall compensate any State or Indian tribe for those costs which are necessary to carry out activities conducted pursuant to such cooperative agreement or delegation.

(Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1001.)

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

SUBCHAPTER II—COAL

§ 201. Leases and exploration

(a) Leases

(1) The Secretary of the Interior is authorized to divide any lands subject to this chapter which have been classified for coal leasing into leasing tracts of such size as he finds appropriate and in the public interest and which will permit the mining of all coal which can be economically extracted in such tract and thereafter he shall, in his discretion, upon the request of any qualified applicant or on his own motion, from time to time, offer such lands for leasing and shall award leases thereon by competitive bidding: *Provided*, That notwithstanding the competitive bidding requirement of this section, the Secretary may, subject to such conditions which he deems appropriate, negotiate the sale at fair market value of coal the removal of which is necessary and incidental to the exercise of a right-of-way permit issued pursuant to title V of the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1761 et seq.]. No less than 50 per centum of the total acreage offered for lease by the Secretary in any one year shall be leased under a system of deferred bonus payment. Upon default or cancellation of any coal lease for which bonus payments are due, any unpaid remainder of the bid shall be immediately payable to the United States. A reasonable number of leasing tracts shall be reserved and offered for lease in accordance with this section to public bodies, including Federal agencies, rural electric cooperatives, or nonprofit corporations controlled by any of such entities: *Provided*, That the coal so offered for lease shall be for use by such entity or entities in implementing a definite plan to produce energy for their own use or for sale to their members or customers (except for short-term sales to others). No bid shall be accepted which is less than the fair market value, as determined by the Secretary, of the coal subject to the lease. Prior to his determination of the fair market value of the coal subject to the lease, the Secretary shall give opportunity for and consideration to public comments on the fair market value. Nothing in this section shall be construed to require the Secretary to make public his judgment as to the fair market value of the coal to be leased, or the comments he receives thereon prior to the issuance of the lease. He is authorized, in awarding leases for coal lands improved and occupied or claimed in good faith, prior to February 25, 1920, to consider and recognize equitable rights of such occupants or claimants.

(2)(A) The Secretary shall not issue a lease or leases under the terms of this chapter to any person, association, corporation, or any subsidiary, affiliate, or persons controlled by or under common control with such person, association, or corporation, where any such entity holds a lease or leases issued by the United States to coal deposits and has held such lease or leases for a period of ten years when such entity is not, except as provided for in section 207(b) of this title, producing coal from the lease deposits in commercial quantities. In computing the ten-year period referred to in the preceding sentence, periods of time prior to August 4, 1976, shall not be counted.

(B) Any lease proposal which permits surface coal mining within the boundaries of a National Forest which the Secretary proposes to issue under this chapter shall be submitted to the Governor of each State within which the coal deposits subject to such lease are located. No such lease may be issued under this chapter before the expiration of the sixty-day period beginning on the date of such submission. If any Governor to whom a proposed lease was submitted under this subparagraph objects to the issuance of such lease, such lease shall not be issued before the expiration of the six-month period beginning on the date the Secretary is notified by the Governor of such objection. During such six-month period, the Governor may submit to the Secretary a statement of reasons why such lease should not be issued and the Secretary shall, on the basis of such statement, reconsider the issuance of such lease.

(3)(A)(i) No lease sale shall be held unless the lands containing the coal deposits have been included in a comprehensive land-use plan and such sale is compatible with such plan. The Secretary of the Interior shall prepare such land-use plans on lands under his responsibility where such plans have not been previously prepared. The Secretary of the Interior shall inform the Secretary of Agriculture of substantial development interest in coal leasing on lands within the National Forest System. Upon receipt of such notification from the Secretary of the Interior, the Secretary of Agriculture shall prepare a comprehensive land-use plan for such areas where such plans have not been previously prepared. The plan of the Secretary of Agriculture shall take into consideration the proposed coal development in these lands: *Provided*, That where the Secretary of the Interior finds that because of non-Federal interest in the surface or because the coal resources are insufficient to justify the preparation costs of a Federal comprehensive land-use plan, the lease sale can be held if the lands containing the coal deposits have been included in either a comprehen-

sive land-use plan prepared by the State within which the lands are located or a land use analysis prepared by the Secretary of the Interior.

(ii) In preparing such land-use plans, the Secretary of the Interior or, in the case of lands within the National Forest System, the Secretary of Agriculture, or in the case of a finding by the Secretary of the Interior that because of non-Federal interests in the surface or insufficient Federal coal, no Federal comprehensive land-use plans can be appropriately prepared, the responsible State entity shall consult with appropriate State agencies and local governments and the general public and shall provide an opportunity for public hearing on proposed plans prior to their adoption, if requested by any person having an interest which is, or may be, adversely affected by the adoption of such plans.

(iii) Leases covering lands the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior may be issued only upon consent of the other Federal agency and upon such conditions as it may prescribe with respect to the use and protection of the nonmineral interests in those lands.

(B) Each land-use plan prepared by the Secretary (or in the case of lands within the National Forest System, the Secretary of Agriculture pursuant to subparagraph (A)(i)) shall include an assessment of the amount of coal deposits in such land, identifying the amount of such coal which is recoverable by deep mining operations and the amount of such coal which is recoverable by surface mining operations.

(C) Prior to issuance of any coal lease, the Secretary shall consider effects which mining of the proposed lease might have on an impacted community or area, including, but not limited to, impacts on the environment, on agricultural and other economic activities, and on public services. Prior to issuance of a lease, the Secretary shall evaluate and compare the effects of recovering coal by deep mining, by surface mining, and by any other method to determine which method or methods or sequence of methods achieves the maximum economic recovery of the coal within the proposed leasing tract. This evaluation and comparison by the Secretary shall be in writing but shall not prohibit the issuance of a lease; however, no mining operating plan shall be approved which is not found to achieve the maximum economic recovery of the coal within the tract. Public hearings in the area shall be held by the Secretary prior to the lease sale.

(D) No lease sale shall be held until after the notice of the proposed offering for lease has been given once a week for three consecutive weeks in a newspaper of general circulation in the county in which the lands are situated in accordance with regulations prescribed by the Secretary.

(E) Each coal lease shall contain provisions requiring compliance with the Federal Water Pollution Control Act (33 U.S.C. 1151–1175) [33 U.S.C. 1251 et seq.] and the Clean Air Act [42 U.S.C. 7401 et seq.].

(4)(A) The Secretary shall not require a surety bond or any other financial assurance to guarantee payment of deferred bonus bid installments with respect to any coal lease issued on a cash bonus bid to a lessee or successor in interest having a history of a timely payment of noncontested coal royalties and advanced coal royalties in lieu of production (where applicable) and bonus bid installment payments.

(B) The Secretary may waive any requirement that a lessee provide a surety bond or other financial assurance to guarantee payment of deferred bonus bid installment with respect to any coal lease issued before August 8, 2005, only if the Secretary determines that the lessee has a history of making timely payments referred to in subparagraph (A).

(5) Notwithstanding any other provision of law, if the lessee under a coal lease fails to pay any installment of a deferred cash bonus bid within 10 days after the Secretary provides written notice that payment of the installment is past due—

(A) the lease shall automatically terminate; and

(B) any bonus payments already made to the United States with respect to the lease shall not be returned to the lessee or credited in any future lease sale.

(b) Exploration

(1) The Secretary may, under such regulations as he may prescribe, issue to any person an exploration license. No person may conduct coal exploration for commercial purposes for any coal on lands subject to this chapter without such an exploration license. Each exploration license shall be for a term of not more than two years and shall be subject to a reasonable fee. An exploration license shall confer no right to a lease under this chapter. The issuance of exploration licenses shall not preclude the Secretary from issuing coal leases at such times and locations and to such persons as he deems appropriate. No exploration license will be issued for any land on which a coal lease has been issued. A separate exploration license will be required for exploration in each State. An application for an exploration license shall identify general areas and probable methods of exploration. Each exploration license shall contain such reasonable conditions as the Secretary may require, including conditions to insure the protection of the environment, and shall be subject to all applicable Federal, State, and local laws and regulations. Upon violation of any such conditions or laws the Secretary may revoke the exploration license.

(2) A licensee may not cause substantial disturbance to the natural land surface. He may not remove any coal for sale but may remove a reasonable amount of coal from the lands subject to this chapter included under his license for analysis and study. A licensee must comply with all applicable rules and regulations of the Federal agency having jurisdiction over the surface of the lands subject to this chapter. Exploration licenses covering lands the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior may be issued only upon such conditions as it may prescribe with respect to the use and protection of the nonmineral interests in those lands.

(3) The licensee shall furnish to the Secretary copies of all data (including, but not limited to,

geological, geophyscal,[1] and core drilling analyses) obtained during such exploration. The Secretary shall maintain the confidentiality of all data so obtained until after the areas involved have been leased or until such time as he determines that making the data available to the public would not damage the competitive position of the licensee, whichever comes first.

(4) Any person who willfully conducts coal exploration for commercial purposes on lands subject to this chapter without an exploration license issued hereunder shall be subject to a fine of not more than $1,000 for each day of violation. All data collected by said person on any Federal lands as a result of such violation shall be made immediately available to the Secretary, who shall make the data available to the public as soon as it is practicable. No penalty under this subsection shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation.

(Feb. 25, 1920, ch. 85, § 2(a), (b), 41 Stat. 438; June 3, 1948, ch. 379, § 1, 62 Stat. 289; Pub. L. 86–252, § 2, Sept. 9, 1959, 73 Stat. 490; Pub. L. 88–526, § 2(a), (b), Aug. 31, 1964, 78 Stat. 710; Pub. L. 94–377, §§ 2–4, Aug. 4, 1976, 90 Stat. 1083, 1085; Pub. L. 95–554, § 2, Oct. 30, 1978, 92 Stat. 2073; Pub. L. 109–58, title IV, § 436, Aug. 8, 2005, 119 Stat. 762.)

REFERENCES IN TEXT

This section, referred to in subsec. (a)(1), is section 2 of act Feb. 25, 1920, as amended, which is comprised of subsecs. (a) to (d). Subsecs. (a) and (b) of section 2 comprise this section, subsec. (c) of section 2 comprises section 202 of this title, and subsec. (d) of section 2, as added by section 5(b) of Pub. L. 94–377, comprises section 202a of this title.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (a)(1), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended. Title V of the Federal Land Policy and Management Act of 1976 is classified generally to subchapter V (§ 1761 et seq.) of chapter 35 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (a)(3)(E), is act June 30, 1948, ch. 758, 62 Stat. 1155, formerly classified to chapter 23 (§ 1151 et seq.) of Title 33, Navigation and Navigable Waters, which was completely revised by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, and is classified generally to chapter 26 (§ 1251 et seq.) of Title 33. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Clean Air Act, referred to in subsec. (a)(3)(E), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

CODIFICATION

Section is comprised of subsecs. (a) and (b) of section 2 of act Feb. 25, 1920, as amended by section 1 of act June 3, 1948. Subsec. (c) of section 2 of act Feb. 25, 1920, is classified to section 202 of this title. Subsec. (d) of said section 2, as added by Pub. L. 94–377, § 5(b), Aug. 4, 1976, 90 Stat. 1086, is classified to section 202a of this title.

AMENDMENTS

2005—Subsec. (a)(4), (5). Pub. L. 109–58 added pars. (4) and (5).

1978—Subsec. (a)(1). Pub. L. 95–554 authorized negotiated fair market value sales of coal when exercising Federal land policy and management right-of-way permits.

1976—Subsec. (a). Pub. L. 94–377, § 2, designated existing provisions as par. (1), substituted provisions authorizing the division of any lands subject to this chapter which have been classified for coal leasing into tracts as the Secretary finds appropriate, in the public interest and will permit the mining of all economically extractable coal, such leases to be awarded by competitive bidding for provisions authorizing the division of classified or unclassified lands into tracts of forty acres, or multiples thereof, in such form as, in the Secretary's opinion will permit the most economical mining, such leases to be awarded by competitive bidding or by such other method adopted by general regulation, inserted provisions relating to deferred bonus payments leasing, leasing to public agencies, and to the fair market value of leases, struck out provision for notice of proposed offering for lease in a newspaper of general circulation prior to approval or issuance of a competitive lease of coal, and added pars. (2) and (3).

Subsec. (b). Pub. L. 94–377, § 4, designated existing provisions as par. (1), substituted provisions relating to the issuance, term and conditions of exploration licenses for provisions relating to the issuance of prospecting permits for a term of two years, for not exceeding 5125 acres, with an extension period of two years if the permittee has been unable, with the exercise of reasonable diligence to determine the existence or workability of coal deposits and desires further exploration, and added pars. (2) to (4).

1964—Subsec. (a). Pub. L. 88–526, § 2(a), removed limitation on a single competitive lease by striking out "but in no case exceeding two thousand five hundred and sixty acres in any one leasing tract," after "such tracts,".

Subsec. (b). Pub. L. 88–526, § 2(b), increased limitation on the area carried by a prospecting permit from 2,560 to 5,120 acres.

1959—Subsec. (a). Pub. L. 86–252 struck out "outside of the Territory of Alaska," after "United States,".

1948—Act June 3, 1948, amended section generally, dividing it into subsections (a) to (c) and making minor technical changes. Subsecs. (a) and (b) comprise this section and subsec. (c) is set out as section 202 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–58, title IV, § 438, Aug. 8, 2005, 119 Stat. 763, provided that: "The amendments made by this subtitle [subtitle D (§§ 431–438) of title IV of Pub. L. 109–58, amending this section and sections 202a, 203, and 207 of this title] apply with respect to any coal lease issued before, on, or after the date of the enactment of this Act [Aug. 8, 2005]."

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 99–190, § 101(d) [title III, § 320], Dec. 19, 1985, 99 Stat. 1224, 1266, provided that: "The provisions of section 2(a)(2)(A) of the Mineral Lands Leasing Act of 1920 (41 Stat. 437) [subsec. (a)(2)(A) of this section], as amended by section 3 of the Federal Coal Leasing Amendments Act of 1976 (90 Stat. 1083) [Pub. L. 94–377, see 1976 Amendment note above] shall not take effect until December 31, 1986."

SAVINGS PROVISION

Section 4 of Pub. L. 94–377 provided that the amendment made by that section is subject to valid existing rights.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior, referred to subsec. (a)(3)(D), to promulgate regulations under this chapter relating to fostering of competition for Federal leases transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Sec-

[1] So in original. Probably should be "geophysical,".

tion 7152(b) of Title 42 was repealed by Pub. L. 97–100, title II, § 201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

STUDY OF COAL LEASES BY DIRECTOR OF THE OFFICE OF TECHNOLOGY ASSESSMENT

Section 10 of Pub. L. 94–377 provided that the Director of the Office of Technology Assessment conduct a complete study of coal leases entered into by the United States under sections 201, 202, and 202a of this title, which study was to include an analysis of all mining activities, present and potential value of these leases, receipts to the Federal Government from these leases, and recommendations as to the feasibility of the use of deep mining technology in leased areas, with the results of his study to be submitted to Congress within one year after Aug. 4, 1976.

COAL MINING ON AREAS OF NATIONAL PARK, WILDLIFE, WILDERNESS PRESERVATION, TRAIL, SCENIC RIVERS, SYSTEMS NOT AUTHORIZED

Section 16 of Pub. L. 94–377 provided that: ''Nothing in this Act [see Short Title of 1976 Amendment note under section 181 of this title], or the Mineral Lands Leasing Act [this chapter] and the Mineral Leasing Act for Acquired Lands [section 351 et seq. of this title] which are amended by this Act, shall be construed as authorizing coal mining on any area of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, the National System of Trails, and the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act [section 1276(a) of Title 16, Conservation].''

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 201–1. Repealed. Pub. L. 94–377, § 5(a), Aug. 4, 1976, 90 Stat. 1086

Section, Pub. L. 88–526, § 2(c), (d), Aug. 31, 1964, 78 Stat. 710, permitted the entering into of contracts for collective prospecting, development or operation of coalfields by lessees for the purpose of conserving natural resources.

SAVINGS PROVISION

Section 5(a) of Pub. L. 94–377 provided that the repeal of this section is subject to valid existing rights.

§ 201a. Repealed. June 3, 1948, ch. 379, § 8, 62 Stat. 291

Section, act Mar. 9, 1928, ch. 159, § 1, 45 Stat. 251, related to extension of coal prospecting permits.

§ 201b. Omitted

CODIFICATION

Section, act Mar. 9, 1928, ch. 159, § 2, 45 Stat. 251, provided for extension of coal permits already expired for a period of two years from Mar. 9, 1928.

§ 202. Common carriers; limitations of lease or permit

No company or corporation operating a common-carrier railroad shall be given or hold a permit or lease under the provisions of this chapter for any coal deposits except for its own use for railroad purposes; and such limitations of use shall be expressed in all permits and leases issued to such companies or corporations; and no such company or corporation shall receive or hold under permit or lease more than ten thousand two hundred and forty acres in the aggregate nor more than one permit or lease for each two hundred miles of its railroad lines served or to be served from such coal deposits exclusive of spurs or switches and exclusive of branch lines built to connect the leased coal with the railroad, and also exclusive of parts of the railroad operated mainly by power produced otherwise than by steam.

Nothing in this section and section 201 of this title shall preclude such a railroad of less than two hundred miles in length from securing one permit or lease thereunder but no railroad shall hold a permit or lease for lands in any State in which it does not operate main or branch lines.

(Feb. 25, 1920, ch. 85, § 2(c), 41 Stat. 438; June 13, 1944, ch. 244, 58 Stat. 275; June 3, 1948, ch. 379, § 1, 62 Stat. 289.)

CODIFICATION

Section is comprised of subsec. (c) of section 2 of act Feb. 25, 1920, as amended by section 1 of act June 3, 1948. Subsecs. (a) and (b) of section 2 of act Feb. 25, 1920, are classified to section 201 of this title. Subsec. (d) of said section 2, as added by Pub. L. 94–377, § 5(b), Aug. 4, 1976, 90 Stat. 1086, is classified to section 202a of this title.

AMENDMENTS

1948—Act June 3, 1948, reenacted this section without change except to make it subsec. (c) of section 2 of act Feb. 25, 1920.

1944—Act June 13, 1944, inserted ''more than ten thousand two hundred and forty acres in the aggregate nor'' before ''more than one permit'', substituted ''railroad lines served or to be served from such coal deposits'' for ''railroad line within the State in which such property is situated,'', and prohibited a railroad from holding a permit or lease for lands in any State in which it did not operate main or branch lines.

§ 202a. Consolidation of coal leases into logical mining unit

(1) Approval by Secretary; public hearing; definition

The Secretary, upon determining that maximum economic recovery of the coal deposit or deposits is served thereby, may approve the consolidation of coal leases into a logical mining unit. Such consolidation may only take place after a public hearing, if requested by any person whose interest is or may be adversely affected. A logical mining unit is an area of land in which the coal resources can be developed in an efficient, economical, and orderly manner as a unit with due regard to conservation of coal reserves and other resources. A logical mining unit may consist of one or more Federal leaseholds, and may include intervening or adjacent lands in which the United States does not own the coal resources, but all the lands in a logical mining unit must be under the effective control of a single operator, be able to be developed and operated as a single operation and be contiguous.

(2) Mining plan; requirements

(A) After the Secretary has approved the establishment of a logical mining unit, any min-

ing plan approved for that unit must require such diligent development, operation, and production that the reserves of the entire unit will be mined within a period established by the Secretary which shall not be more than forty years.

(B) The Secretary may establish a period of more than 40 years if the Secretary determines that the longer period—

(i) will ensure the maximum economic recovery of a coal deposit; or

(ii) the longer period is in the interest of the orderly, efficient, or economic development of a coal resource.

(3) Conditions for approval

In approving a logical mining unit, the Secretary may provide, among other things, that (i) diligent development, continuous operation, and production on any Federal lease or non-Federal land in the logical mining unit shall be construed as occurring on all Federal leases in that logical mining unit, and (ii) the rentals and royalties for all Federal leases in a logical mining unit may be combined, and advanced royalties paid for any lease within a logical mining unit may be credited against such combined royalties.

(4) Amendment to lease

The Secretary may amend the provisions of any lease included in a logical mining unit so that mining under that lease will be consistent with the requirements imposed on that logical mining unit.

(5) Leases issued before date of enactment of this Act

Leases issued before the date of enactment of this Act may be included with the consent of all lessees in such logical mining unit, and, if so included, shall be subject to the provisions of this section.

(6) Lessee required to form unit

By regulation the Secretary may require a lessee under this chapter to form a logical mining unit, and may provide for determination of participating acreage within a unit.

(7) Required acreage

No logical mining unit shall be approved by the Secretary if the total acreage (both Federal and non-Federal) of the unit would exceed twenty-five thousand acres.

(8) Acreage limitations for coal leases not waived

Nothing in this section shall be construed to waive the acreage limitations for coal leases contained in section 184(a) of this title.

(Feb. 25, 1920, ch. 85, § 2(d), as added Pub. L. 94–377, § 5(b), Aug. 4, 1976, 90 Stat. 1086; amended Pub. L. 109–58, title IV, § 433, Aug. 8, 2005, 119 Stat. 761.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in par. (5), probably means the date of enactment of Pub. L. 94–377, which was approved Aug. 4, 1976.

This section, referred to in pars. (5) and (8), is section 2 of act Feb. 25, 1920, as amended, which is comprised of subsecs. (a) to (d). Subsecs. (a) and (b) of section 2 are classified to section 201 of this title, subsec. (c) of section 2 is classified to section 202 of this title, and subsec. (d) of section 2, as added by section 5(b) of Pub. L. 94–377, is classified to this section.

CODIFICATION

Section is comprised of subsec. (d) of section 2 of act Feb. 25, 1920, as added by Pub. L. 94–377. Subsecs. (a) and (b) of said section 2 are classified to section 201 of this title. Subsec. (c) of said section 2 is classified to section 202 of this title.

AMENDMENTS

2005—Par. (2). Pub. L. 109–58 designated existing provisions as subpar. (A) and added subpar. (B).

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–58 applicable with respect to any coal lease issued before, on, or after Aug. 8, 2005, see section 438 of Pub. L. 109–58, set out as a note under section 201 of this title.

§ 203. Additional lands or deposits

(a) In general

(1) Except as provided in paragraph (3), on a finding by the Secretary under paragraph (2), any person, association, or corporation holding a lease of coal lands or coal deposits under the provisions of this chapter may with the approval of the Secretary of the Interior,[1] secure modifications of the original coal lease by including additional coal lands or coal deposits contiguous or cornering to those embraced in the lease.

(2) A finding referred to in paragraph (1) is a finding by the Secretary that the modifications—

(A) would be in the interest of the United States;

(B) would not displace a competitive interest in the lands; and

(C) would not include lands or deposits that can be developed as part of another potential or existing operation.

(3) In no case shall the total area added by modifications to an existing coal lease under paragraph (1)—

(A) exceed 960 acres; or

(B) add acreage larger than that in the original lease.

(b) Terms and conditions

The Secretary shall prescribe terms and conditions which shall be consistent with this chapter and applicable to all of the acreage in such modified lease except that nothing in this section shall require the Secretary to apply the production or mining plan requirements of sections 202a(2) and 207(c) of this title.

(c) Royalties

The minimum royalty provisions of section 207(a) of this title shall not apply to any lands covered by this modified lease prior to a modification until the term of the original lease or extension thereof which became effective prior to the effective date of this Act has expired.

(Feb. 25, 1920, ch. 85, § 3, 41 Stat. 439; Pub. L. 94–377, § 13(b), Aug. 4, 1976, 90 Stat. 1090; Pub. L. 95–554, § 3, Oct. 30, 1978, 92 Stat. 2074; Pub. L. 109–58, title IV, § 432, Aug. 8, 2005, 119 Stat. 760.)

REFERENCES IN TEXT

Sections 202a(2) and 207(c) of this title, referred to in subsec. (b), was in the original "section 2(d)(2) and 7(c)

[1] So in original. The comma probably should not appear.

of this Act (30 U.S.C. 201(d)(2) and 207(c))'', and was translated as sections 202a(2) and 207(c) of this title to reflect the probable intent of Congress.

The effective date of this Act, referred to in subsec. (c), probably means the date of enactment of Pub. L. 95–554, which was approved Oct. 30, 1978.

AMENDMENTS

2005—Pub. L. 109–58 designated first sentence as par. (1) of subsec. (a), substituted ''Except as provided in paragraph (3), on a finding by the Secretary under paragraph (2), any person'' for ''Any person'' and ''secure modifications of the original coal lease by including additional coal lands or coal deposits contiguous or cornering to those embraced in the lease'' for ''upon a finding by him that it would be in the interest of the United States, secure modifications of the original coal lease by including additional coal lands or coal deposits contiguous or cornering to those embraced in such lease, but in no event shall the total area added by such modifications to an existing coal lease exceed one hundred sixty acres, or add acreage larger than that in the original lease'', added pars. (2) and (3), and designated second and third sentences as subsecs. (b) and (c), respectively.

1978—Pub. L. 95–554 authorized modification of leases to include coal lands or coal deposits cornering to those embraced in the leases and inserted provision respecting application of production or mining plan requirements of sections 202a(2) and 207(c) and minimum royalty provisions of section 207(a) of this title.

1976—Pub. L. 94–377 struck out the advantage to the lessee as one of the conditions for modification of the original lease, substituted provision prohibiting the addition of total area in excess of 160 acres or adding acreage larger than that in the original lease for provision limiting the total area embraced in such modified lease to an aggregate of 2560 acres, and inserted provision authorizing the Secretary to prescribe terms and conditions consistent with this chapter which shall be applicable to the total acreage in the modified lease.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–58 applicable with respect to any coal lease issued before, on, or after Aug. 8, 2005, see section 438 of Pub. L. 109–58, set out as a note under section 201 of this title.

SAVINGS PROVISION

Section 13(b) of Pub. L. 94–377 provided that the amendment made by that section is subject to valid existing rights.

§ 204. Repealed. Pub. L. 94–377, § 13(a), Aug. 4, 1976, 90 Stat. 1090

Section, act Feb. 25, 1920, ch. 85, § 4, 41 Stat. 439, provided for the leasing of an additional tract of land or coal deposit, not to exceed 2560 acres, upon a showing by a lessee that all workable deposits of coal would be exhausted, worked out, or removed within three years thereafter.

SAVINGS PROVISION

Section 13(a) of Pub. L. 94–377 provided that the repeal of this section is subject to valid existing rights.

§ 205. Consolidation of leases

If, in the judgment of the Secretary of the Interior, the public interest will be subserved thereby, lessees holding under lease areas not exceeding the maximum permitted under this chapter may consolidate their leases through the surrender of the original leases and the inclusion of such areas in a new lease of not to exceed two thousand five hundred and sixty acres of contiguous lands.

(Feb. 25, 1920, ch. 85, § 5, 41 Stat. 439.)

§ 206. Noncontiguous coal or phosphate tracts in single lease

Where coal or phosphate lands aggregating two thousand five hundred and sixty acres and subject to lease hereunder do not exist as contiguous areas, the Secretary of the Interior is authorized, if, in his opinion the interests of the public and of the lessee will be thereby subserved, to embrace in a single lease noncontiguous tracts which can be operated as a single mine or unit.

(Feb. 25, 1920, ch. 85, § 6, 41 Stat. 439.)

§ 207. Conditions of lease

(a) Term of lease; annual rentals; royalties; readjustment of conditions

A coal lease shall be for a term of twenty years and for so long thereafter as coal is produced annually in commercial quantities from that lease. Any lease which is not producing in commercial quantities at the end of ten years shall be terminated. The Secretary shall by regulation prescribe annual rentals on leases. A lease shall require payment of a royalty in such amount as the Secretary shall determine of not less than 12½ per centum of the value of coal as defined by regulation, except the Secretary may determine a lesser amount in the case of coal recovered by underground mining operations. The lease shall include such other terms and conditions as the Secretary shall determine. Such rentals and royalties and other terms and conditions of the lease will be subject to readjustment at the end of its primary term of twenty years and at the end of each ten-year period thereafter if the lease is extended.

(b) Diligent development and continued operation; suspension of condition on payment of advance royalties

(1) Each lease shall be subject to the conditions of diligent development and continued operation of the mine or mines, except where operations under the lease are interrupted by strikes, the elements, or casualties not attributable to the lessee.

(2) The Secretary of the Interior, upon determining that the public interest will be served thereby, may suspend the condition of continued operation upon the payment of advance royalties.

(3) Advance royalties described in paragraph (2) shall be no less than the production royalty which would otherwise be paid and shall be computed on a fixed reserve to production ratio (determined by the Secretary).

(4) Advance royalties described in paragraph (2) shall be computed—

(A) based on—

(i) the average price in the spot market for sales of comparable coal from the same region during the last month of each applicable continued operation year; or

(ii) in the absence of a spot market for comparable coal from the same region, by using a comparable method established by the Secretary of the Interior to capture the commercial value of coal; and

(B) based on commercial quantities, as defined by regulation by the Secretary of the Interior.

(5) The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed 20 years.

(6)[1] The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advance royalties paid under a lease described in paragraph (5) to the extent that the advance royalties have not been used to reduce production royalties for a prior year.

(6)[1] The Secretary may, upon six months' notification to the lessee cease to accept advance royalties in lieu of the requirement of continued operation.

(7) Nothing in this subsection shall be construed to affect the requirement contained in the second sentence of subsection (a) of this section relating to commencement of production at the end of ten years.

(c) Operation and reclamation plan

Prior to taking any action on a leasehold which might cause a significant disturbance of the environment, the lessee shall submit for the Secretary's approval an operation and reclamation plan. The Secretary shall approve or disapprove the plan or require that it be modified. Where the land involved is under the surface jurisdiction of another Federal agency, that other agency must consent to the terms of such approval.

(Feb. 25, 1920, ch. 85, § 7, 41 Stat. 439; Pub. L. 94–377, § 6, Aug. 4, 1976, 90 Stat. 1087; Pub. L. 109–58, title IV, §§ 434, 435, Aug. 8, 2005, 119 Stat. 761, 762.)

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–58, § 434, designated first to third and seventh and eighth sentences as pars. (1) to (3) and (6) and (7), respectively, substituted "Advance royalties described in paragraph (2)" for "Such advance royalties" in par. (3), added pars. (4), (5), and (6) related to amount of any production royalty paid, and struck out fourth to sixth sentences which read as follows: "The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed ten. The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advance royalties paid under such lease to the extent that such advance royalties have not been used to reduce production royalties for a prior year. No advance royalty paid during the initial twenty-year term of a lease shall be used to reduce a production royalty after the twentieth year of a lease."

Subsec. (c). Pub. L. 109–58, § 435, struck out "and not later than three years after a lease is issued," before "the lessee shall submit".

1976—Pub. L. 94–377 designated existing provisions as subsec. (a), substituted provisions limiting the lease term to 20 years and for so long thereafter as coal is produced annually in commercial quantities for provision authorizing leases for indeterminate periods upon condition of diligent development and continued operation except for strikes, the elements, or casualties not attributable to lessees; provisions for payment of royalties as determined by the Secretary of not less than 12½ per centum of coal value, except as reduced for coal from underground mining operations for provisions specifying royalties as stated in the lease, but not less than 5 cents per ton; provision for rentals as prescribed by regulation for provision setting rentals as fixed by the Secretary at not less than 25 cents per acre for the first year, 50 cents for the second, third, fourth and fifth years, and $1 for each year thereafter, and provision for readjustment of royalties and terms and conditions after primary period of twenty years and subsequent ten year intervals for provision for readjustment after twenty years unless otherwise provided by law, and added subsecs. (b) and (c).

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–58 applicable with respect to any coal lease issued before, on, or after Aug. 8, 2005, see section 438 of Pub. L. 109–58, set out as a note under section 201 of this title.

[1] So in original. Two pars. (6) have been enacted.

§ 208. Permits to take coal for local domestic needs without royalty payments; corporation exclusion; area to municipalities for household use without profit

In order to provide for the supply of strictly local domestic needs for fuel, the Secretary of the Interior may, under such rules and regulations as he may prescribe in advance, issue limited licenses or permits to individuals or associations of individuals to prospect for, mine, and take for their use but not for sale, coal from the public lands without payment of royalty for the coal mined or the land occupied, on such conditions not inconsistent with this chapter as in his opinion will safeguard the public interests. This privilege shall not extend to any corporations. In the case of municipal corporations the Secretary of the Interior may issue such limited license or permit, for not to exceed three hundred and twenty acres for a municipality of less than one hundred thousand population, and not to exceed one thousand two hundred and eighty acres for a municipality of not less than one hundred thousand and not more than one hundred and fifty thousand population; and not to exceed two thousand five hundred and sixty acres for a municipality of one hundred and fifty thousand population or more, the land to be selected within the State wherein the municipal applicant may be located, upon condition that such municipal corporations will mine the coal therein under proper conditions and dispose of the same without profit to residents of such municipality for household use: *Provided*, That the acquisition or holding of a lease under sections 181, 201, and 202 to 207 of this title shall be no bar to the holding of such tract or operation of such mine under said limited license.

(Feb. 25, 1920, ch. 85, § 8, 41 Stat. 440.)

§ 208–1. Exploratory program for evaluation of known recoverable coal resources

(a) Authorization; purpose

The Secretary is authorized and directed to conduct a comprehensive exploratory program designed to obtain sufficient data and information to evaluate the extent, location, and potential for developing the known recoverable coal resources within the coal lands subject to this chapter. This program shall be designed to obtain the resource information necessary for determining whether commercial quantities of

coal are present and the geographical extent of the coal fields and for estimating the amount of such coal which is recoverable by deep mining operations and the amount of such coal which is recoverable by surface mining operations in order to provide a basis for—

(1) developing a comprehensive land use plan pursuant to section 2;

(2) improving the information regarding the value of public resources and revenues which should be expected from leasing;

(3) increasing competition among producers of coal, or products derived from the conversion of coal, by providing data and information to all potential bidders equally and equitably;

(4) providing the public with information on the nature of the coal deposits and the associated stratum and the value of the public resources being offered for sale; and

(5) providing the basis for the assessment of the amount of coal deposits in those lands subject to this chapter under subparagraph (B) of section 201(a)(3) of this title.

(b) Seismic, geophysical, geochemical or stratigraphic drilling

The Secretary, through the United States Geological Survey, is authorized to conduct seismic, geophysical, geochemical, or stratigraphic drilling, or to contract for or purchase the results of such exploratory activities from commercial or other sources which may be needed to implement the provisions of this section.

(c) Exploratory drilling by party not under contract to United States; confidentiality of information prior to award of lease

Nothing in this section shall limit any person from conducting exploratory geophysical surveys including seismic, geophysical, chemical surveys to the extent permitted by section 201(b) of this title. The information obtained from the exploratory drilling carried out by a person not under contract with the United States Government for such drilling prior to award of a lease shall be provided the confidentiality pursuant to subsection (d) of this section.

(d) Availability to public of all data, information, maps, surveys; confidentiality of information purchased from commercial sources not under contract to United States prior to award of lease

The Secretary shall make available to the public by appropriate means all data, information, maps, interpretations, and surveys which are obtained directly by the Department of the Interior or under a service contract pursuant to subsection (b) of this section. The Secretary shall maintain a confidentiality of all proprietary data or information purchased from commercial sources while not under contract with the United States Government until after the areas involved have been leased.

(e) Information or data from Federal departments or agencies; confidentiality of proprietary information or data; utilization of Federal departments and agencies by agreement

All Federal departments or agencies are authorized and directed to provide the Secretary with any information or data that may be deemed necessary to assist the Secretary in implementing the exploratory program pursuant to this section. Proprietary information or data provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary is authorized and directed to utilize the existing capabilities and resources of other Federal departments and agencies by appropriate agreement.

(f) Publication of geological and geophysical maps and reports of lands offered for lease

The Secretary is directed to prepare, publish, and keep current a series of detailed geological, and geophysical maps of, and reports concerning, all coal lands to be offered for leasing under this chapter, based on data and information compiled pursuant to this section. Such maps and reports shall be prepared and revised at reasonable intervals beginning eighteen months after the date of enactment of this Act. Such maps and reports shall be made available on a continuing basis to any person on request.

(g) Implementation plan for coal lands exploration program; development and transmittal to Congress; contents

Within six months after the date of enactment of this Act, the Secretary shall develop and transmit to Congress an implementation plan for the coal lands exploration program authorized by this section, including procedures for making the data and information available to the public pursuant to subsection (d) of this section, and maps and reports pursuant to subsection (f) of this section. The implementation plan shall include a projected schedule of exploratory activities and identification of the regions and areas which will be explored under the coal lands exploration program during the first five years following the enactment of this section. In addition, the implementation plan shall include estimates of the appropriations and staffing required to implement the coal lands exploration program.

(h) Stratigraphic drilling; scope; statement of results

The stratigraphic drilling authorized in subsection (b) of this section shall be carried out in such a manner as to obtain information pertaining to all recoverable reserves. For the purpose of complying with subsection (a) of this section, the Secretary shall require all those authorized to conduct stratigraphic drilling pursuant to subsection (b) of this section to supply a statement of the results of test boring of core sampling including logs of the drill holes; the thickness of the coal seams found; an analysis of the chemical properties of such coal; and an analysis of the strata layers lying above all the seams of coal. All drilling activities shall be conducted using the best current technology and practices.

(Feb. 25, 1920, ch. 85, §8A, as added Pub. L. 94–377, §7, Aug. 4, 1976, 90 Stat. 1087.)

REFERENCES IN TEXT

Section 2, referred to in subsec. (a)(1), means section 2 of act Feb. 25, 1920, as amended, and is comprised of

subsecs. (a) to (d). Subsecs. (a) and (b) of section 2 are classified to section 201 of this title, subsec. (c) of section 2 is classified to section 202 of this title, and subsec. (d) of section 2, as added by section 5(b) of Pub. L. 94–377, is classified to section 202a of this title.

The date of enactment of this Act, referred to in subsecs. (f) and (g), probably means the date of enactment of Pub. L. 94–377, which was approved Aug. 4, 1976.

§ 208–2. Repealed. Pub. L. 104–66, title I, § 1091(e), Dec. 21, 1995, 109 Stat. 722

Section, act Feb. 25, 1920, ch. 85, § 8B, as added Aug. 4, 1976, Pub. L. 94–377, § 8, 90 Stat. 1089, related to reports to Congress on leasing and production of coal lands, contents, recommendations, and reports by Attorney General on competition in the coal industry and on effectiveness of antitrust laws.

§ 208a. Repealed. Pub. L. 97–468, title VI, § 615(a)(3), Jan. 14, 1983, 96 Stat. 2578

Section, act July 19, 1932, ch. 513, 47 Stat. 707, authorized general manager of Alaska Railroad to purchase coal annually for railroad from two or more operating companies in areas adjacent to railroad.

Section was formerly classified to section 445a of Title 48, Territories and Insular Possessions.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 97–468 became effective on date of transfer of Alaska Railroad to the State [Jan. 5, 1985], pursuant to section 1203 of Title 45, Railroads, see section 615(a) of Pub. L. 97–468.

§ 209. Suspension, waiver, or reduction of rents or royalties to promote development or operation; extension of lease on suspension of operations and production

The Secretary of the Interior, for the purpose of encouraging the greatest ultimate recovery of coal, oil, gas, oil shale[1] gilsonite (including all vein-type solid hydrocarbons),,[2] phosphate, sodium, potassium and sulfur, and in the interest of conservation of natural resources, is authorized to waive, suspend, or reduce the rental, or minimum royalty, or reduce the royalty on an entire leasehold, or on any tract or portion thereof segregated for royalty purposes, whenever in his judgment it is necessary to do so in order to promote development, or whenever in his judgment the leases cannot be successfully operated under the terms provided therein.[3] *Provided, however*, That in order to promote development and the maximum production of tar sand, at the request of the lessee, the Secretary shall review, prior to commencement of commercial operations, the royalty rates established in each combined hydrocarbon lease issued in special tar sand areas. For purposes of this section, the term ''tar sand'' means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either: (1) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise, or (2) contains a hydrocarbonaceous material and is produced by mining or quarrying. In the event the Secretary of the Interior, in the interest of conservation, shall direct or shall assent to the suspension of operations and production under any lease granted under the terms of this chapter, any payment of acreage rental or of minimum royalty prescribed by such lease likewise shall be suspended during such period of suspension of operations and production; and the term of such lease shall be extended by adding any such suspension period thereto. The provisions of this section shall apply to all oil and gas leases issued under this chapter, including those within an approved or prescribed plan for unit or cooperative development and operation. Nothing in this section shall be construed as granting to the Secretary the authority to waive, suspend, or reduce advance royalties.

(Feb. 25, 1920, ch. 85, § 39, as added Feb. 9, 1933, ch. 45, 47 Stat. 798; amended Aug. 8, 1946, ch. 916, § 10, 60 Stat. 957; June 3, 1948, ch. 379, § 7, 62 Stat. 291; Pub. L. 94–377, § 14, Aug. 4, 1976, 90 Stat. 1091; Pub. L. 97–78, § 1(3), (7), Nov. 16, 1981, 95 Stat. 1070, 1071.)

AMENDMENTS

1981—Pub. L. 97–78 inserted reference to gilsonite (including all vein-type solid hydrocarbons) and inserted proviso that, in order to promote development and the maximum production of tar sand, at the request of the lessee, the Secretary review, prior to commencement of commercial operations, the royalty rates established in each combined hydrocarbon lease issued in special tar sand areas, and that, for purposes of this section, ''tar sand'' means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise, or contains a hydrocarbonaceous material and is produced by mining or quarrying.

1976—Pub. L. 94–377 inserted sentence at end that nothing in this section shall be construed as granting to the Secretary authority to waive, suspend, or reduce advance royalties.

1948—Act June 3, 1948, extended applicability of section to oil shale, phosphate, sodium, potassium, and sulphur.

1946—Act Aug. 8, 1946, principally inserted first and third sentences relating to waiver, suspension or reduction of royalties or rentals, and applicability of section to cooperative or unit plans, respectively.

SAVINGS PROVISION

See note set out under section 181 of this title.

SUBCHAPTER III—PHOSPHATES

§ 211. Phosphate deposits

(a) Authorization to lease land; terms and conditions; acreage

The Secretary of the Interior is authorized to lease to any applicant qualified under this chapter, through advertisement, competitive bidding, or such other methods as he may by general regulations adopt, any phosphate deposits of the United States, and lands containing such deposits, including associated and related minerals, when in his judgment the public interest will be best served thereby. The lands shall be leased under such terms and conditions as are herein specified, in units reasonably compact in form of not to exceed two thousand five hundred and sixty acres.

(b) Prospecting permits; issuance; term; acreage; entitlement to lease

Where prospecting or exploratory work is necessary to determine the existence or workability

[1] So in original. Probably should be followed by a comma.

[2] So in original.

[3] So in original. The period probably should be a colon.

of phosphate deposits in any unclaimed, undeveloped area, the Secretary of the Interior is authorized to issue, to any applicant qualified under this chapter, a prospecting permit which shall give the exclusive right to prospect for phosphate deposits, including associated minerals, for a period of two years, for not more than two thousand five hundred and sixty acres; and if prior to the expiration of the permit the permittee shows to the Secretary that valuable deposits of phosphate have been discovered within the area covered by his permit, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit.

(c) Extension of term of permit

Any phosphate permit issued under this section may be extended by the Secretary for such an additional period, not in excess of four years, as he deems advisable, if he finds that the permittee has been unable, with reasonable diligence, to determine the existence or workability of phosphate deposits in the area covered by the permit and desires to prosecute further prospecting or exploration, or for other reasons warranting such an extension in the opinion of the Secretary.

(Feb. 25, 1920, ch. 85, §9, 41 Stat. 440; June 3, 1948, ch. 379, §2, 62 Stat. 290; Pub. L. 86–391, §1(a), Mar. 18, 1960, 74 Stat. 7.)

AMENDMENTS

1960—Pub. L. 86–391 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

1948—Act June 3, 1948, included provision limiting amount of land in lease.

§212. Surveys; royalties; time payable; annual rentals; term of leases; readjustment on renewals; minimum production; suspension of operation

Each lease shall describe the leased lands by the legal subdivisions of the public-land surveys. All leases shall be conditioned upon the payment to the United States of such royalties as may be specified in the lease, which shall be fixed by the Secretary of the Interior in advance of offering the same, at not less than 5 per centum of the gross value of the output of phosphates or phosphate rock and associated or related minerals. Royalties shall be due and payable as specified in the lease either monthly or quarterly on the last day of the month next following the month or quarter in which the minerals are sold or removed from the leased land. Each lease shall provide for the payment of a rental payable at the date of the lease and annually thereafter which shall be not less than 25 cents per acre for the first year, 50 cents per acre for the second and third years, respectively, and $1 per acre for each year thereafter, during the continuance of the lease. The rental paid for any year shall be credited against the royalties for that year. Leases shall be for a term of twenty years and so long thereafter as the lessee complies with the terms and conditions of the lease and upon the further condition that at the end of each twenty-year period succeeding the date of the lease such reasonable readjustment of the terms and conditions thereof may be made therein as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the expiration of such periods. Leases shall be conditioned upon a minimum annual production or the payment of a minimum royalty in lieu thereof, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. The Secretary of the Interior may permit suspension of operations under any such leases when marketing conditions are such that the leases cannot be operated except at a loss.

(Feb. 25, 1920, ch. 85, §10, 41 Stat. 440; June 3, 1948, ch. 379, §3, 62 Stat. 290.)

AMENDMENTS

1948—Act June 3, 1948, amended section generally, omitting provisions relating to amount of lands in lease, and inserting provisions regarding royalties.

§213. Royalties for use of deposits of silica, limestone, or other rock embraced in lease

Any lease to develop and extract phosphates, phosphate rock, and associated or related minerals under the provisions of sections 211 to 214 of this title shall provide that the lessee may use so much of any deposit of silica or limestone or other rock situated on any public lands embraced in the lease as may be utilized in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or from other lands upon payments of such royalty as may be determined by the Secretary of the Interior, which royalty may be stated in the lease or, as to the leases already issued, may be provided for in an attachment to the lease to be duly executed by the lessor and the lessee.

(Feb. 25, 1920, ch. 85, §11, 41 Stat. 440; June 3, 1948, ch. 379, §4, 62 Stat. 291.)

AMENDMENTS

1948—Act June 3, 1948, amended section generally, omitting provision relating to royalties and annual rents, and inserting provisions relating to use of deposits of silica, limestone or other rock embraced in the lease upon the payment of a suitable royalty.

§214. Use of surface of other public lands; acreage; forest lands exception

The holder of any lease or permit issued under the provisions of sections 211 to 214 of this title shall have the right to use so much of the surface of unappropriated and unentered public lands not a part of his lease or permit, not exceeding eighty acres in area, as may be determined by the Secretary to be necessary or convenient for the extraction, treatment, and removal of the mineral deposits, but this provision shall not be applicable to national forest lands.

(Feb. 25, 1920, ch. 85, §12, 41 Stat. 441; June 3, 1948, ch. 379, §5, 62 Stat. 291; Pub. L. 86–391, §1(b), Mar. 18, 1960, 74 Stat. 8.)

AMENDMENTS

1960—Pub. L. 86–391 substituted ''lease or permit'' for ''lease'' in two places.

1948—Act June 3, 1948, increased lands to be used from 40 to 80 acres, excepted national forest lands from its provisions, and substituted ''The holder of any lease issued under the provisions of sections 211 to 214 of this title'', ''public lands not a part of his lease'', and ''or

convenient for the extraction'' for ''Any qualified applicant to whom the Secretary of the Interior may grant a lease to develop and extract phosphates, or phosphate rock, under the provisions of this chapter'', ''lands'', and ''for the proper prospecting for or development, extraction'', respectively.

SUBCHAPTER IV—OIL AND GAS

§§ 221 to 222i. Omitted

CODIFICATION

Sections expired by their own terms. They provided as follows:

Section 221, acts Feb. 25, 1920, ch. 85, § 13, 41 Stat. 441; Aug. 21, 1935, ch. 599, § 1, 49 Stat. 674, provided for prospecting permits, their terms and conditions, extension, location of lands, marking land, notice of application for permits, permits in Alaska, exchanging permits for leases, and limited extensions to Dec. 31, 1938.

Section 222, act Jan. 11, 1922, ch. 28, 42 Stat. 356, authorized Secretary of the Interior to extend time for drilling not to exceed three years.

Section 222a, act Apr. 5, 1926, ch. 107, § 1, 44 Stat. 236, authorized a further extension of two years for drilling.

Section 222b, act Apr. 5, 1926, ch. 107, § 2, 44 Stat. 236, provided for extension of expired permits for a period of two years from Apr. 5, 1926.

Section 222c, act Mar. 9, 1928, ch. 168, § 1, 45 Stat. 252, authorized a two year extension for permits.

Section 222d, act Mar. 9, 1928, ch. 168, § 2, 45 Stat. 252, authorized a two year extension of permits already expired.

Section 222e, act Jan. 23, 1930, ch. 25, § 1, 46 Stat. 58, provided that permits issued or extended for three years might be further for three years.

Section 222f, act Jan. 23, 1930, ch. 25, § 2, 46 Stat. 59, provided for an extension of permits already expired for a period of three years from Jan. 23, 1930.

Section 222g, act June 30, 1932, ch. 319, § 1, 47 Stat. 445, provided for a further extension of three years.

Section 222h, act June 30, 1932, ch. 319, § 2, 47 Stat. 446, authorized an extension, for permits already expired, of three years from June 30, 1932.

Section 222i, acts Aug. 26, 1937, ch. 828, 50 Stat. 842; Aug. 11, 1939, ch. 716, 53 Stat. 1418, provided for final extension of prospecting permits, outstanding on Dec. 31, 1937, to Dec. 31, 1939.

COMPROMISE OF CLAIMS FOR ACCRUED RENTAL

Act July 29, 1942, ch. 534, § 2, 56 Stat. 726, authorized Secretary of the Interior to make a compromise settlement of any claim for accrued rental under a lease issued pursuant to the provisions of section 221 of this title, in any case in which he determined that it would be financially beneficial to the United States to make such a compromise settlement or in any case in which he determined that collection of the full amount of such accrued rental from the lessee was inadvisable because of the lessee's financial resources being limited.

§ 223. Leases; amount and survey of land; term of lease; royalties and annual rental

Upon establishing to the satisfaction of the Secretary of the Interior that valuable deposits of oil or gas have been discovered within the limits of the land embraced in any permit, the permittee shall be entitled to a lease for one-fourth of the land embraced in the prospecting permit: *Provided*, That the permittee shall be granted a lease for as much as one hundred and sixty acres of said lands, if there be that number of acres within the permit. The area to be selected by the permittee, shall be in reasonably compact form and, if surveyed, to be described by the legal subdivisions of the public-land surveys; if unsurveyed, to be surveyed by the Government at the expense of the applicant for lease in accordance with rules and regulations to be prescribed by the Secretary of the Interior, and the lands leased shall be conformed to and taken in accordance with the legal subdivisions of such surveys; deposits made to cover expense of surveys shall be deemed appropriated for that purpose, and any excess deposits may be repaid to the person or persons making such deposit or their legal representatives. Such leases shall be for a term of twenty years upon a royalty of 5 per centum in amount or value of the production and the annual payment in advance of a rental of $1 per acre, the rental paid for any one year to be credited against the royalties as they accrue for that year, and shall continue in force otherwise as prescribed in section 226 of this title for leases issued prior to August 21, 1935. The permittee shall also be entitled to a preference right to a lease for the remainder of the land in his prospecting permit at a royalty of not less than 12½ per centum in amount or value of the production nor more than the royalty rate prescribed by regulation in force on January 1, 1935, for secondary leases issued under this section, and under such other conditions as are fixed for oil or gas leases issued under section 226 of this title the royalty to be determined by competitive bidding or fixed by such other method as the Secretary may by regulations prescribe: *Provided further*, That the Secretary shall have the right to reject any or all bids.

(Feb. 25, 1920, ch. 85, § 14, 41 Stat. 442; Aug. 21, 1935, ch. 599, § 1, 49 Stat. 676.)

AMENDMENTS

1935—Act Aug. 21, 1935, inserted ''reasonably'' before ''compact form'' and substituted ''and shall continue in force otherwise as prescribed in section 226 of this title for leases issued prior to August 21, 1935'' and ''oil or gas leases issued under section 226 of this title'' for ''with the right of renewal as prescribed in section 226 of this title'' and ''oil or gas leases in this chapter'', respectively.

LIMITATION OF ROYALTY ON DISCOVERIES DURING WAR PERIOD

Act Dec. 24, 1942, ch. 812, 56 Stat. 1080, limiting royalty obligation of oil or gas lessee who drills well resulting in discovery of new deposit on public domain during the national emergency was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

OUTER CONTINENTAL SHELF; LEASES

Grant by Secretary of the Interior of oil, gas, and other mineral leases on submerged lands of outer Continental Shelf, see section 1331 et seq. of Title 43, Public Lands.

§ 223a. Repealed. Aug. 8, 1946, ch. 916, § 14, 60 Stat. 958

Section, act Aug. 21, 1935, ch. 599, § 2, 49 Stat. 679, related to new oil and gas leases in lieu of old.

SAVINGS PROVISION

See note set out under section 181 of this title.

§ 224. Payments for oil or gas taken prior to application for lease

Until the permittee shall apply for lease to the one quarter of the permit area heretofore provided for he shall pay to the United States 20 per

centum of the gross value of all oil or gas secured by him from the lands embraced within his permit and sold or otherwise disposed of or held by him for sale or other disposition.

(Feb. 25, 1920, ch. 85, § 15, 41 Stat. 442.)

§ 225. Condition of lease, forfeiture for violation

All leases of lands containing oil or gas, made or issued under the provisions of this chapter, shall be subject to the condition that the lessee will, in conducting his explorations and mining operations, use all reasonable precautions to prevent waste of oil or gas developed in the land, or the entrance of water through wells drilled by him to the oil sands or oil-bearing strata, to the destruction or injury of the oil deposits. Violations of the provisions of this section shall constitute grounds for the forfeiture of the lease, to be enforced as provided in this chapter.

(Feb. 25, 1920, ch. 85, § 16, 41 Stat. 443; Aug. 8, 1946, ch. 916, § 2, 60 Stat. 951.)

AMENDMENTS

1946—Act Aug. 8, 1946, omitted condition that no wells should be drilled within two hundred feet of boundaries of leased lands.

SAVINGS PROVISION

See note set out under section 181 of this title.

OUTER CONTINENTAL SHELF; TERMS AND CONDITIONS OF LEASES

Terms and conditions of mineral leases on submerged lands of outer Continental Shelf, see section 1337 of Title 43, Public Lands.

§ 226. Lease of oil and gas lands

(a) Authority of Secretary

All lands subject to disposition under this chapter which are known or believed to contain oil or gas deposits may be leased by the Secretary.

(b) Lands within known geologic structure of a producing oil or gas field; lands within special tar sand areas; competitive bidding; royalties

(1)(A) All lands to be leased which are not subject to leasing under paragraphs (2) and (3) of this subsection shall be leased as provided in this paragraph to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 2,560 acres, except in Alaska, where units shall be not more than 5,760 acres. Such units shall be as nearly compact as possible. Lease sales shall be conducted by oral bidding. Lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary. A lease shall be conditioned upon the payment of a royalty at a rate of not less than 12.5 percent in amount or value of the production removed or sold from the lease. The Secretary shall accept the highest bid from a responsible qualified bidder which is equal to or greater than the national minimum acceptable bid, without evaluation of the value of the lands proposed for lease. Leases shall be issued within 60 days following payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year. All bids for less than the national minimum acceptable bid shall be rejected. Lands for which no bids are received or for which the highest bid is less than the national minimum acceptable bid shall be offered promptly within 30 days for leasing under subsection (c) of this section and shall remain available for leasing for a period of 2 years after the competitive lease sale.

(B) The national minimum acceptable bid shall be $2 per acre for a period of 2 years from December 22, 1987. Thereafter, the Secretary, subject to paragraph (2)(B), may establish by regulation a higher national minimum acceptable bid for all leases based upon a finding that such action is necessary: (i) to enhance financial returns to the United States; and (ii) to promote more efficient management of oil and gas resources on Federal lands. Ninety days before the Secretary makes any change in the national minimum acceptable bid, the Secretary shall notify the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The proposal or promulgation of any regulation to establish a national minimum acceptable bid shall not be considered a major Federal action subject to the requirements of section 4332(2)(C) of title 42.

(2)(A)(i) If the lands to be leased are within a special tar sand area, they shall be leased to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 5,760 acres, which shall be as nearly compact as possible, upon the payment by the lessee of such bonus as may be accepted by the Secretary.

(ii) Royalty shall be 12½ per centum in amount or value of production removed or sold from the lease, subject to subsection (k)(1)(c)[1] of this section.

(iii) The Secretary may lease such additional lands in special tar sand areas as may be required in support of any operations necessary for the recovery of tar sands.

(iv) No lease issued under this paragraph shall be included in any chargeability limitation associated with oil and gas leases.

(B) For any area that contains any combination of tar sand and oil or gas (or both), the Secretary may issue under this chapter, separately—

(i) a lease for exploration for and extraction of tar sand; and

(ii) a lease for exploration for and development of oil and gas.

(C) A lease issued for tar sand shall be issued using the same bidding process, annual rental, and posting period as a lease issued for oil and gas, except that the minimum acceptable bid required for a lease issued for tar sand shall be $2 per acre.

(D) The Secretary may waive, suspend, or alter any requirement under section 183 of this title that a permittee under a permit authorizing prospecting for tar sand must exercise due

[1] So in original. Probably should be subsection ''(k)(1)(C)''.

diligence, to promote any resource covered by a combined hydrocarbon lease.

(3)(A) If the United States held a vested future interest in a mineral estate that, immediately prior to becoming a vested present interest, was subject to a lease under which oil or gas was being produced, or had a well capable of producing, in paying quantities at an annual average production volume per well per day of either not more than 15 barrels per day of oil or condensate, or not more than 60,000 cubic feet of gas, the holder of the lease may elect to continue the lease as a noncompetitive lease under subsection (c)(1) of this section.

(B) An election under this paragraph is effective—

(i) in the case of an interest which vested after January 1, 1990, and on or before October 24, 1992, if the election is made before the date that is 1 year after October 24, 1992;

(ii) in the case of an interest which vests within 1 year after October 24, 1992, if the election is made before the date that is 2 years after October 24, 1992; and

(iii) in any case other than those described in clause (i) or (ii), if the election is made prior to the interest becoming a vested present interest.

(C) Notwithstanding the consent requirement referenced in section 352 of this title, the Secretary shall issue a noncompetitive lease under subsection (c)(1) of this section to a holder who makes an election under subparagraph (A) and who is qualified to hold a lease under this chapter. Such lease shall be subject to all terms and conditions under this chapter that are applicable to leases issued under subsection (c)(1) of this section.

(D) A lease issued pursuant to this paragraph shall continue so long as oil or gas continues to be produced in paying quantities.

(E) This paragraph shall apply only to those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following).

(c) Lands subject to leasing under subsection (b); first qualified applicant

(1) If the lands to be leased are not leased under subsection (b)(1) of this section or are not subject to competitive leasing under subsection (b)(2) of this section, the person first making application for the lease who is qualified to hold a lease under this chapter shall be entitled to a lease of such lands without competitive bidding, upon payment of a non-refundable application fee of at least $75. A lease under this subsection shall be conditioned upon the payment of a royalty at a rate of 12.5 percent in amount or value of the production removed or sold from the lease. Leases shall be issued within 60 days of the date on which the Secretary identifies the first responsible qualified applicant.

(2)(A) Lands (i) which were posted for sale under subsection (b)(1) of this section but for which no bids were received or for which the highest bid was less than the national minimum acceptable bid and (ii) for which, at the end of the period referred to in subsection (b)(1) of this section no lease has been issued and no lease application is pending under paragraph (1) of this subsection, shall again be available for leasing only in accordance with subsection (b)(1) of this section.

(B) The land in any lease which is issued under paragraph (1) of this subsection or under subsection (b)(1) of this section which lease terminates, expires, is cancelled or is relinquished shall again be available for leasing only in accordance with subsection (b)(1) of this section.

(d) Annual rentals

All leases issued under this section, as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, shall be conditioned upon payment by the lessee of a rental of not less than $1.50 per acre per year for the first through fifth years of the lease and not less than $2 per acre per year for each year thereafter. A minimum royalty in lieu of rental of not less than the rental which otherwise would be required for that lease year shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.

(e) Primary terms

Competitive and noncompetitive leases issued under this section shall be for a primary term of 10 years: *Provided, however*, That competitive leases issued in special tar sand areas shall also be for a primary term of ten years. Each such lease shall continue so long after its primary term as oil or gas is produced in paying quantities. Any lease issued under this section for land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for two years and so long thereafter as oil or gas is produced in paying quantities.

(f) Notice of proposed action; posting of notice; terms and maps

At least 45 days before offering lands for lease under this section, and at least 30 days before approving applications for permits to drill under the provisions of a lease or substantially modifying the terms of any lease issued under this section, the Secretary shall provide notice of the proposed action. Such notice shall be posted in the appropriate local office of the leasing and land management agencies. Such notice shall include the terms or modified lease terms and maps or a narrative description of the affected lands. Where the inclusion of maps in such notice is not practicable, maps of the affected lands shall be made available to the public for review. Such maps shall show the location of all tracts to be leased, and of all leases already issued in the general area. The requirements of this subsection are in addition to any public notice required by other law.

(g) Regulation of surface-disturbing activities; approval of plan of operations; bond or surety; failure to comply with reclamation requirements as barring lease; opportunity to comply with requirements

The Secretary of the Interior, or for National Forest lands, the Secretary of Agriculture, shall

regulate all surface-disturbing activities conducted pursuant to any lease issued under this chapter, and shall determine reclamation and other actions as required in the interest of conservation of surface resources. No permit to drill on an oil and gas lease issued under this chapter may be granted without the analysis and approval by the Secretary concerned of a plan of operations covering proposed surface-disturbing activities within the lease area. The Secretary concerned shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface-disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. The Secretary shall not issue a lease or leases or approve the assignment of any lease or leases under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the Secretary of the Interior or Secretary of Agriculture, such entity has failed or refused to comply in any material respect with the reclamation requirements and other standards established under this section for any prior lease to which such requirements and standards applied. Prior to making such determination with respect to any such entity the concerned Secretary shall provide such entity with adequate notification and an opportunity to comply with such reclamation requirements and other standards and shall consider whether any administrative or judicial appeal is pending. Once the entity has complied with the reclamation requirement or other standard concerned an oil or gas lease may be issued to such entity under this chapter.

(h) National Forest System Lands

The Secretary of the Interior may not issue any lease on National Forest System Lands reserved from the public domain over the objection of the Secretary of Agriculture.

(i) Termination

No lease issued under this section which is subject to termination because of cessation of production shall be terminated for this cause so long as reworking or drilling operations which were commenced on the land prior to or within sixty days after cessation of production are conducted thereon with reasonable diligence, or so long as oil or gas is produced in paying quantities as a result of such operations. No lease issued under this section shall expire because operations or production is suspended under any order, or with the consent, of the Secretary. No lease issued under this section covering lands on which there is a well capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same unless the lessee is allowed a reasonable time, which shall be not less than sixty days after notice by registered or certified mail, within which to place such well in producing status or unless, after such status is established, production is discontinued on the leased premises without permission granted by the Secretary under the provisions of this chapter.

(j) Drainage agreements; primary term of lease, extension

Whenever it appears to the Secretary that lands owned by the United States are being drained of oil or gas by wells drilled on adjacent lands, he may negotiate agreements whereby the United States, or the United States and its lessees, shall be compensated for such drainage. Such agreements shall be made with the consent of the lessees, if any, affected thereby. If such agreement is entered into, the primary term of any lease for which compensatory royalty is being paid, or any extension of such primary term, shall be extended for the period during which such compensatory royalty is paid and for a period of one year from discontinuance of such payment and so long thereafter as oil or gas is produced in paying quantities.

(k) Mining claims; suspension of running time of lease

If, during the primary term or any extended term of any lease issued under this section, a verified statement is filed by any mining claimant pursuant to subsection (c) of section 527 of this title, whether such filing occur prior to September 2, 1960 or thereafter, asserting the existence of a conflicting unpatented mining claim or claims upon which diligent work is being prosecuted as to any lands covered by the lease, the running of time under such lease shall be suspended as to the lands involved from the first day of the month following the filing of such verified statement until a final decision is rendered in the matter.

(*l*) Exchange of leases; conditions

The Secretary of the Interior shall, upon timely application therefor, issue a new lease in exchange for any lease issued for a term of twenty years, or any renewal thereof, or any lease issued prior to August 8, 1946, in exchange for a twenty-year lease, such new lease to be for a primary term of five years and so long thereafter as oil or gas is produced in paying quantities and at a royalty rate of not less than 12½ per centum in amount or value of the production removed or sold from such leases, except that the royalty rate shall be 12½ per centum in amount or value of the production removed or sold from said leases as to (1) such leases, or such parts of the lands subject thereto and the deposits underlying the same, as are not believed to be within the productive limits of any producing oil or gas deposit, as such productive limits are found by the Secretary to have existed on August 8, 1946; and (2) any production on a lease from an oil or gas deposit which was discovered after May 27, 1941, by a well or wells drilled within the boundaries of the lease, and which is determined by the Secretary to be a new deposit; and (3) any production on or allocated to a lease pursuant to an approved cooperative or unit plan of development or operation from an oil or gas deposit which was discovered after May 27, 1941, on land committed to such plan, and which is determined by the Secretary to be

a new deposit, where such lease, or a lease for which it is exchanged, was included in such plan at the time of discovery or was included in a duly executed and filed application for the approval of such plan at the time of discovery.

(m) Cooperative or unit plan; authority of Secretary of the Interior to alter or modify; communitization or drilling agreements; term of lease, conditions; Secretary to approve operating, drilling or development contracts, and subsurface storage

For the purpose of more properly conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof (whether or not any part of said oil or gas pool, field, or like area, is then subject to any cooperative or unit plan of development or operation), lessees thereof and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of such pool, field, or like area, or any part thereof, whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest. The Secretary is thereunto authorized, in his discretion, with the consent of the holders of leases involved, to establish, alter, change, or revoke drilling, producing, rental, minimum royalty, and royalty requirements of such leases and to make such regulations with reference to such leases, with like consent on the part of the lessees, in connection with the institution and operation of any such cooperative or unit plan as he may deem necessary or proper to secure the proper protection of the public interest. The Secretary may provide that oil and gas leases hereafter issued under this chapter shall contain a provision requiring the lessee to operate under such a reasonable cooperative or unit plan, and he may prescribe such a plan under which such lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

Any plan authorized by the preceding paragraph which includes lands owned by the United States may, in the discretion of the Secretary, contain a provision whereby authority is vested in the Secretary of the Interior, or any such person, committee, or State or Federal officer or agency as may be designated in the plan, to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such plan. All leases operated under any such plan approved or prescribed by the Secretary shall be excepted in determining holdings or control under the provisions of any section of this chapter.

When separate tracts cannot be independently developed and operated in conformity with an established well-spacing or development program, any lease, or a portion thereof, may be pooled with other lands, whether or not owned by the United States, under a communitization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the Secretary of the Interior to be in the public interest, and operations or production pursuant to such an agreement shall be deemed to be operations or production as to each such lease committed thereto.

Any lease issued for a term of twenty years, or any renewal thereof, or any portion of such lease that has become the subject of a cooperative or unit plan of development or operation of a pool, field, or like area, which plan has the approval of the Secretary of the Interior, shall continue in force until the termination of such plan. Any other lease issued under any section of this chapter which has heretofore or may hereafter be committed to any such plan that contains a general provision for allocation of oil or gas shall continue in force and effect as to the land committed so long as the lease remains subject to the plan: *Provided*, That production is had in paying quantities under the plan prior to the expiration date of the term of such lease. Any lease heretofore or hereafter committed to any such plan embracing lands that are in part within and in part outside of the area covered by any such plan shall be segregated into separate leases as to the lands committed and the lands not committed as of the effective date of unitization: *Provided, however*, That any such lease as to the nonunitized portion shall continue in force and effect for the term thereof but for not less than two years from the date of such segregation and so long thereafter as oil or gas is produced in paying quantities. The minimum royalty or discovery rental under any lease that has become subject to any cooperative or unit plan of development or operation, or other plan that contains a general provision for allocation of oil or gas, shall be payable only with respect to the lands subject to such lease to which oil or gas shall be allocated under such plan. Any lease which shall be eliminated from any such approved or prescribed plan, or from any communitization or drilling agreement authorized by this section, and any lease which shall be in effect at the termination of any such approved or prescribed plan, or at the termination of any such communitization or drilling agreement, unless relinquished, shall continue in effect for the original term thereof, but for not less than two years, and so long thereafter as oil or gas is produced in paying quantities.

The Secretary of the Interior is hereby authorized, on such conditions as he may prescribe, to approve operating, drilling, or development contracts made by one or more lessees of oil or gas leases, with one or more persons, associations, or corporations whenever, in his discretion, the conservation of natural products or the public convenience or necessity may require it or the interests of the United States may be best subserved thereby. All leases operated under such approved operating, drilling, or development contracts, and interests thereunder, shall be excepted in determining holdings or control under the provisions of this chapter.

The Secretary of the Interior, to avoid waste or to promote conservation of natural resources, may authorize the subsurface storage of oil or gas, whether or not produced from federally owned lands, in lands leased or subject to lease under this chapter. Such authorization may provide for the payment of a storage fee or rental on such stored oil or gas or, in lieu of such fee

or rental, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced. Any lease on which storage is so authorized shall be extended at least for the period of storage and so long thereafter as oil or gas not previously produced is produced in paying quantities.

(n) Conversion of oil and gas leases and claims on hydrocarbon resources to combined hydrocarbon leases for primary term of 10 years; application

(1)(A) The owner of (1) an oil and gas lease issued prior to November 16, 1981, or (2) a valid claim to any hydrocarbon resources leasable under this section based on a mineral location made prior to January 21, 1926, and located within a special tar sand area shall be entitled to convert such lease or claim to a combined hydrocarbon lease for a primary term of ten years upon the filing of an application within two years from November 16, 1981, containing an acceptable plan of operations which assures reasonable protection of the environment and diligent development of those resources requiring enhanced recovery methods of development or mining. For purposes of conversion, no claim shall be deemed invalid solely because it was located as a placer location rather than a lode location or vice versa, notwithstanding any previous adjudication on that issue.

(B) The Secretary shall issue final regulations to implement this section within six months of November 16, 1981. If any oil and gas lease eligible for conversion under this section would otherwise expire after November 16, 1981, and before six months following the issuance of implementing regulations, the lessee may preserve his conversion right under such lease for a period ending six months after the issuance of implementing regulations by filing with the Secretary, before the expiration of the lease, a notice of intent to file an application for conversion. Upon submission of a complete plan of operations in substantial compliance with the regulations promulgated by the Secretary for the filing of such plans, the Secretary shall suspend the running of the term of any oil and gas lease proposed for conversion until the plan is finally approved or disapproved. The Secretary shall act upon a proposed plan of operations within fifteen months of its submittal.

(C) When an existing oil and gas lease is converted to a combined hydrocarbon lease, the royalty shall be that provided for in the original oil and gas lease and for a converted mining claim, 12½ per centum in amount or value of production removed or sold from the lease.

(2) Except as provided in this section, nothing in the Combined Hydrocarbon Leasing Act of 1981 shall be construed to diminish or increase the rights of any lessee under any oil and gas lease issued prior to November 16, 1981.

(*o*) Certain outstanding oil and gas deposits

(1) Prior to the commencement of surface-disturbing activities relating to the development of oil and gas deposits on lands described under paragraph (5), the Secretary of Agriculture shall require, pursuant to regulations promulgated by the Secretary, that such activities be subject to terms and conditions as provided under paragraph (2).

(2) The terms and conditions referred to in paragraph (1) shall require that reasonable advance notice be furnished to the Secretary of Agriculture at least 60 days prior to the commencement of surface disturbing activities.

(3) Advance notice under paragraph (2) shall include each of the following items of information:

(A) A designated field representative.

(B) A map showing the location and dimensions of all improvements, including but not limited to, well sites and road and pipeline accesses.

(C) A plan of operations, of an interim character if necessary, setting forth a schedule for construction and drilling.

(D) A plan of erosion and sedimentation control.

(E) Proof of ownership of mineral title.

Nothing in this subsection shall be construed to affect any authority of the State in which the lands concerned are located to impose any requirements with respect to such oil and gas operations.

(4) The person proposing to develop oil and gas deposits on lands described under paragraph (5) shall either—

(A) permit the Secretary to market merchantable timber owned by the United States on lands subject to such activities; or

(B) arrange to purchase merchantable timber on lands subject to such surface disturbing activities from the Secretary of Agriculture, or otherwise arrange for the disposition of such merchantable timber, upon such terms and upon such advance notice of the items referred to in subparagraphs (A) through (E) of paragraph (3) as the Secretary may accept.

(5)(A) The lands referred to in this subsection are those lands referenced in subparagraph (B) which are under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following), but does not have an interest in oil and gas deposits that may be present under such lands. This subsection does not apply to any such lands where, under the provisions of its acquisition of an interest in the lands, the United States is to acquire any oil and gas deposits that may be present under such lands in the future but such interest has not yet vested with the United States.

(B) This subsection shall only apply in the Allegheny National Forest.

(p) Deadlines for consideration of applications for permits

(1) In general

Not later than 10 days after the date on which the Secretary receives an application for any permit to drill, the Secretary shall—

(A) notify the applicant that the application is complete; or

(B) notify the applicant that information is missing and specify any information that is required to be submitted for the application to be complete.

(2) Issuance or deferral

Not later than 30 days after the applicant for a permit has submitted a complete application, the Secretary shall—

(A) issue the permit, if the requirements under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other applicable law have been completed within such timeframe; or

(B) defer the decision on the permit and provide to the applicant a notice—

(i) that specifies any steps that the applicant could take for the permit to be issued; and

(ii) a list of actions that need to be taken by the agency to complete compliance with applicable law together with timelines and deadlines for completing such actions.

(3) Requirements for deferred applications

(A) In general

If the Secretary provides notice under paragraph (2)(B), the applicant shall have a period of 2 years from the date of receipt of the notice in which to complete all requirements specified by the Secretary, including providing information needed for compliance with the National Environmental Policy Act of 1969.

(B) Issuance of decision on permit

If the applicant completes the requirements within the period specified in subparagraph (A), the Secretary shall issue a decision on the permit not later than 10 days after the date of completion of the requirements described in subparagraph (A), unless compliance with the National Environmental Policy Act of 1969 and other applicable law has not been completed within such timeframe.

(C) Denial of permit

If the applicant does not complete the requirements within the period specified in subparagraph (A) or if the applicant does not comply with applicable law, the Secretary shall deny the permit.

(Feb. 25, 1920, ch. 85, § 17, 41 Stat. 443; July 3, 1930, ch. 854, § 1, 46 Stat. 1007; Mar. 4, 1931, ch. 506, 46 Stat. 1523; Aug. 21, 1935, ch. 599, § 1, 49 Stat. 676; Aug. 8, 1946, ch. 916, § 3, 60 Stat. 951; July 29, 1954, ch. 644, § 1(1)–(3), 68 Stat. 583; Pub. L. 86–507, § 1(21), June 11, 1960, 74 Stat. 201; Pub. L. 86–705, § 2, Sept. 2, 1960, 74 Stat. 781; Pub. L. 97–78, § 1(6), (8), Nov. 16, 1981, 95 Stat. 1070, 1071; Pub. L. 100–203, title V, § 5102(a)–(d)(1), Dec. 22, 1987, 101 Stat. 1330–256, 1330–257; Pub. L. 102–486, title XXV, §§ 2507(a), 2508(a), 2509, Oct. 24, 1992, 106 Stat. 3107–3109; Pub. L. 103–437, § 11(a)(1), Nov. 2, 1994, 108 Stat. 4589; Pub. L. 104–66, title I, § 1081(a), Dec. 21, 1995, 109 Stat. 721; Pub. L. 109–58, title III, §§ 350(a), (b), 366, 369(j)(1), Aug. 8, 2005, 119 Stat. 711, 726, 730.)

REFERENCES IN TEXT

Act of March 1, 1911, referred to in subsecs. (b)(3)(E) and (*o*)(5)(A), is act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 552 of Title 16 and Tables.

The Federal Onshore Oil and Gas Leasing Reform Act of 1987, referred to in subsec. (d), is subtitle B (§§ 5101 to 5113) of title V of Pub. L. 100–203, Dec. 22, 1987, 101 Stat. 1330–256. For complete classification of this Act to the Code, see Short Title of 1987 Amendment note set out under section 181 of this title and Tables.

The Combined Hydrocarbon Leasing Act of 1981, referred to in subsec. (n)(2), is Pub. L. 97–78, Nov. 16, 1981, 95 Stat. 1070, which amended sections 181, 182, 184, 209, 226, 241, 351, and 352 of this title and enacted a provision set out as a note under section 181 of this title. For complete classification of this Act to the Code, see Short Title of 1981 Amendment note set out under section 181 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (p)(2)(A), (3)(A), (B), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2005—Subsec. (b)(1)(B). Pub. L. 109–58, § 350(b), inserted ", subject to paragraph (2)(B)," after "Thereafter, the Secretary".

Subsec. (b)(2). Pub. L. 109–58, § 350(a), designated existing provisions as subpar. (A) and added subpars. (B) to (D).

Subsec. (b)(2)(A). Pub. L. 109–58, § 369(j)(1), designated first sentence as cl. (i), substituted "5,760" for "five thousand one hundred and twenty", designated second and third sentences as cls. (ii) and (iii), respectively, and added cl. (iv).

Subsec. (p). Pub. L. 109–58, § 366, added subsec. (p).

1995—Subsec. (j). Pub. L. 104–66 struck out at end "The Secretary shall report to Congress at the beginning of each regular session all such agreements entered into during the previous year which involve unleased Government lands."

1994—Subsec. (b)(1)(B). Pub. L. 103–437 substituted "Natural Resources" for "Interior and Insular Affairs" before "of the United States House".

1992—Subsec. (b)(1)(A). Pub. L. 102–486, § 2507(a)(1), substituted "under paragraphs (2) and (3)" for "under paragraph (2)".

Subsec. (b)(3). Pub. L. 102–486, § 2507(a)(2), added par. (3).

Subsec. (e). Pub. L. 102–486, § 2509, substituted "Competitive and noncompetitive leases issued under this section shall be for a primary term of 10 years: *Provided, however*," for "Competitive leases issued under this section shall be for a primary term of five years and noncompetitive leases for a primary term of ten years: *Provided, however*,".

Subsec. (*o*). Pub. L. 102–486, § 2508(a), added subsec. (*o*).

1987—Subsec. (b)(1). Pub. L. 100–203, § 5102(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "If the lands to be leased are within any known geological structure of a producing oil or gas field, they shall be leased to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than six hundred and forty acres, which shall be as nearly compact in form as possible, upon the payment by the lessee of such bonus as may be accepted by the Secretary and of such royalty as may be fixed in the lease, which shall be not less than 12½ per centum in amount or value of the production removed or sold from the lease."

Subsec. (c). Pub. L. 100–203, § 5102(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "If the lands to be leased are not subject to leasing under subsection (b) of this section, the person first making application for the lease who is qualified to hold a lease under this chapter shall be entitled to a lease of such lands without competitive bidding. Such leases shall be conditioned upon the payment by the

lessee of a royalty of 12½ per centum in amount or value of the production removed or sold from the lease.''

Subsec. (d). Pub. L. 100–203, §5102(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''All leases issued under this section shall be conditioned upon payment by the lessee of a rental of not less than 50 cents per acre for each year of the lease. Each year's lease rental shall be paid in advance. A minimum royalty of $1 per acre in lieu of rental shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.''

Subsecs. (f) to (n). Pub. L. 100–203, §5102(d)(1), added subsecs. (f) to (h) and redesignated former subsecs. (f) to (k) as (i) to (n), respectively.

1981—Subsec. (b). Pub. L. 97–78, §1(6)(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 97–78, §1(6)(b), substituted ''subject to leasing under subsection (b) of this section'' for ''within any known geological structure of a producing oil or gas field''.

Subsec. (e). Pub. L. 97–78, §1(6)(c), inserted proviso that competitive leases in special tar sand areas be for a primary term of ten years.

Subsec. (k). Pub. L. 97–78, §1(8), added subsec. (k).

1960—Pub. L. 86–705 generally amended this section and sections 226d and 226e of this title, combining all three sections and subdividing provisions into subsections (a) to (j) of this section. Among other changes were: substitution of a fixed 10-year term for a renewable 5-year term for noncompetitive leases, the addition of subsec. (h) provisions with respect to the running of time against a lease during a contest of the claim, an increase in the minimum yearly rentals from 25 to 50 cents an acre, and striking out provisions that permitted a waiver of second-year and third-year rentals in certain situations.

Pub. L. 86–507 authorized notice of withdrawal to be given by certified mail.

1954—Act July 29, 1954, in second par., provided, that no lease shall terminate for nonproduction (1) if reworking or drilling operations are begun within 60 days after cessation of production, (2) if cessation of production is by order or with consent of the Secretary of the Interior, or (3) unless the lessee is given a reasonable time of at least 60 days to place a well, capable of producing paying quantities of oil or gas, on a producing status.

Act July 29, 1954, in third par., made sure that if a lessee seasonably applies for an extension of the initial five-year term of the lease he will be given such extension for either 5 years or 2 years, depending on whether or not the land is in a producing structure.

Act July 29, 1954, in fifth par., provided that the primary term of a lease which is effected by an agreement under which the United States received compensatory royalty remains in full force and effect for 1 year following discontinuance of compensatory royalty payments.

1946—Act Aug. 8, 1946, principally substituted, with respect to the leasing of lands not within a known geological structure of a producing oil or gas field, a royalty rate of 12½ per cent without further provision as to lease terms or quality of production; substituted a minimum royalty of $1 per acre per annum after discovery for the advance rental of not less than 25 cents per acre per annum required prior to discovery; provided that all leases shall be for a primary term of 5 years which shall continue thereafter for so long as oil or gas is produced in paying quantities, and that leases, with certain exceptions, shall be subject to one renewal for 5 years, and, if not subject to renewal, shall extend for an additional 2 years if diligent operations are in progress at the lease expiration date.

1935—Act Aug. 21, 1935, amended section generally.

1931—Act Mar. 4, 1931, amended section generally.

1930—Act July 3, 1930, amended section generally.

Effective Date of 1992 Amendment

Section 2507(b) of Pub. L. 102–486 provided that: ''The amendments made by subsection (a) [amending this section] apply with respect to those mineral estates in which the interest of the United States becomes a vested present interest after January 1, 1990.''

Regulations

Pub. L. 109–58, title III, §350(c), Aug. 8, 2005, 119 Stat. 711, provided that: ''Not later than 45 days after the date of enactment of this Act [Aug. 8, 2005], the Secretary [of the Interior] shall issue final regulations to implement this section [amending this section].''

Section 2508(b) of Pub. L. 102–486 provided that: ''Within 90 days after the enactment of this Act [Oct. 24, 1992] the Secretary of Agriculture shall promulgate regulations to implement the amendment made by subsection (a) [amending this section].''

Section 5107 of Pub. L. 100–203 provided that:

''(a) Regulations.—The Secretary shall issue final regulations to implement this subtitle [subtitle B (§§5101–5113) of title V of Pub. L. 100–203, see Short Title of 1987 Amendment note set out under section 181 of this title] within 180 days after the enactment of this subtitle [Dec. 22, 1987]. The regulations shall be effective when published in the Federal Register.

''(b) Treatment Under Other Law.—The proposal or promulgation of such regulations shall not be considered a major Federal action subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 [42 U.S.C. 4332(2)(C)].

''(c) Test Sale.—The Secretary may hold one or more lease sales conducted in accordance with the amendments made by this subtitle before promulgation of regulations referred to in subsection (a). Sale procedures for such sale shall be established in the notice of sale.''

Savings Provision

Section 8 of Pub. L. 86–705 provided that: ''No amendment made by this Act [see Short Title of 1960 Amendment note set out under section 181 of this title] shall affect any valid right in existence on the effective date [Sept. 2, 1960] of the Mineral Leasing Act Revision of 1960.''

See note set out under section 181 of this title.

Transfer of Functions

Functions of Secretary of the Interior, referred to in subsec. (j), to promulgate regulations under this chapter relating to establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97–100, title II, §201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

Pending Applications, Offers, and Bids

Section 5106 of Pub. L. 100–203 provided that:

''(a) Notwithstanding any other provision of this subtitle [subtitle B (§§5101–5113) of title V of Pub. L. 100–203, see Short Title of 1987 Amendment note set out under section 181 of this title] and except as provided in subsection (b) of this section, all noncompetitive oil and gas lease applications and offers and competitive oil and gas bids pending on the date of enactment of this subtitle [Dec. 22, 1987] shall be processed, and leases shall be issued under the provisions of the Act of February 25, 1920 [this chapter], as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law.

''(b) No noncompetitive lease applications or offers pending on the date of enactment of this subtitle for lands within the Shawnee National Forest, Illinois; the Ouachita National Forest, Arkansas; Fort Chaffee, Arkansas; or Eglin Air Force Base, Florida; shall be proc-

essed until these lands are posted for competitive bidding in accordance with section 5102 of this subtitle [amending this section and section 188 of this title]. If any such tract does not receive a bid equal to or greater than the national minimum acceptable bid from a responsible qualified bidder then the noncompetitive applications or offers pending for such a tract shall be reinstated and noncompetitive leases issued under the Act of February 25, 1920, as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law. If competitive leases are issued for any such tract, then the pending noncompetitive application or offer shall be rejected.

''(c) Except as provided in subsections (a) and (b) of this section, all oil and gas leasing pursuant to the Act of February 25, 1920, after the date of enactment of this subtitle shall be conducted in accordance with the provisions of this subtitle.''

REPORT TO CONGRESS

Section 5110 of Pub. L. 100–203 provided that: ''The Secretary shall submit annually for 5 years after enactment of this subtitle [Dec. 22, 1987] to the Congress a report containing appropriate information to facilitate congressional monitoring of this subtitle [subtitle B (§§ 5101–5113) of title V of Pub. L. 100–203, see Short Title of 1987 Amendment note set out under section 181 of this title]. Such report shall include, but not be limited to—

''(1) the number of acres leased, and the number of leases issued, competitively and noncompetitively;

''(2) the amount of revenue received from bonus bids, filing fees, rentals, and royalties;

''(3) the amount of production from competitive and noncompetitive leases; and

''(4) such other data and information as will facilitate—

''(A) an assessment of the onshore oil and gas leasing system, and

''(B) a comparison of the system as revised by this subtitle with the system in operation prior to the enactment of this subtitle.''

LAND USE STUDY

Section 5111 of Pub. L. 100–203 provided that: ''The National Academy of Sciences and the Comptroller General of the United States shall conduct a study of the manner in which oil and gas resources are considered in the land use plans developed by the Secretary of the Interior in accordance with provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) [Pub. L. 94–579, see Short Title note under 43 U.S.C. 1701] and the Secretary of Agriculture in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476) [Pub. L. 93–378, 16 U.S.C. 1600 et seq.], as amended by the National Forest Management Act of 1976 (90 Stat. 2949) [Pub. L. 94–588, see Short Title of 1976 Amendment note under 16 U.S.C. 1600], and recommend any improvements that may be necessary to ensure that—

''(1) potential oil and gas resources are adequately addressed in planning documents;

''(2) the social, economic, and environmental consequences of exploration and development of oil and gas resources are determined; and

''(3) any stipulations to be applied to oil and gas leases are clearly identified.''

REINSTATEMENT AND EXTENSION OF CERTAIN TEN-YEAR OIL AND GAS LEASES

Act July 14, 1952, ch. 742, 66 Stat. 630, provided: ''That any lease issued for a ten-year term in exchange for an oil and gas prospecting permit pursuant to sections 13 and 17 of the Act entitled 'An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain', approved February 25, 1920, as amended by the Act of August 21, 1935 (49 Stat. 674) [sections 221 and 226, respectively, of this title], and prior to amendment by the Act of August 8, 1946 [act Aug. 8, 1946, ch. 916, § 3, 60 Stat. 951], and upon which drilling operations were being diligently prosecuted on the expiration date of such lease, prior to the effective date of this Act [July 14, 1952], is hereby reinstated effective from the expiration date of the lease and shall continue in effect for a period of two years after the effective date of this Act and so long thereafter as oil or gas is produced in paying quantities, if, within ninety days after the enactment of this Act, payment is made, under the terms of such lease as reinstated and extended, of any sums due the United States for prior years. This Act shall not be applicable to any lands which, subsequent to such expiration and prior to the enactment of this Act, have been withdrawn from leasing, leased, or otherwise disposed of.''

OUTER CONTINENTAL SHELF; LEASES

Grant by Secretary of the Interior of oil, gas, and other mineral leases on submerged lands of outer Continental Shelf, see section 1331 et seq. of Title 43, Public Lands.

§ 226–1. Extension of noncompetitive oil or gas lease issued before September 2, 1960

(a) Lands not withdrawn from leasing

Upon the expiration of the initial five-year term of any noncompetitive oil or gas lease which was issued prior to September 2, 1960, and which has been maintained in accordance with applicable statutory requirements and regulations, the record titleholder thereof shall be entitled to a single extension of the lease, unless then otherwise provided by law, for such lands covered by it as are not, on the expiration date of the lease, withdrawn from leasing. A withdrawal, however, shall not affect the right to an extension if actual drilling operations on such lands were commenced prior to the effective date of the withdrawal and were being diligently prosecuted on the expiration date of the lease. No withdrawal shall be effective within the meaning of this section until ninety days after notice thereof has been sent by registered or certified mail to each lessee to be affected by such withdrawal.

(b) Known and unknown geologic structures of producing fields

As to lands not within the known geologic structure of a producing oil or gas field, a noncompetitive oil or gas lease to which this section is applicable shall be extended for a period of five years and so long thereafter as oil or gas is produced in paying quantities. As to lands within the known geologic structure of a producing oil or gas field, a noncompetitive lease to which this section is applicable shall be extended for a period of two years and so long thereafter as oil or gas is produced in paying quantities.

(c) Application requirement

Any noncompetitive oil or gas lease extended under this section shall be subject to the rules and regulations in force at the expiration of the initial five-year term of the lease. No extension shall be granted, however, unless within a period of ninety days prior to the expiration date of the lease an application therefor is filed by the record titleholder or an assignee whose assignment has been filed for approval or an operator whose operating agreement has been filed for approval.

(d) Commencement of actual drilling operations

Any lease issued prior to September 2, 1960, which has been maintained in accordance with applicable statutory requirements and regulations and which pertains to land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for two years and so long thereafter as oil or gas is produced in paying quantities.

(Pub. L. 86–705, § 4, Sept. 2, 1960, 74 Stat. 789.)

CODIFICATION

Section was enacted as part of Mineral Leasing Act Revision of 1960, and not as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

§ 226–2. Limitations for filing oil and gas contests

No action contesting a decision of the Secretary involving any oil and gas lease shall be maintained unless such action is commenced or taken within ninety days after the final decision of the Secretary relating to such matter. No such action contesting such a decision of the Secretary rendered prior to September 2, 1960 shall be maintained unless the same be commenced or taken within ninety days after September 2, 1960.

(Feb. 25, 1920, ch. 85, § 42, as added Pub. L. 86–705, § 5, Sept. 2, 1960, 74 Stat. 790.)

§ 226–3. Lands not subject to oil and gas leasing

(a) Prohibition

The Secretary shall not issue any lease under this chapter or under the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.] on any of the following Federal lands:

(1) Lands recommended for wilderness allocation by the surface managing agency.

(2) Lands within Bureau of Land Management wilderness study areas.

(3) Lands designated by Congress as wilderness study areas, except where oil and gas leasing is specifically allowed to continue by the statute designating the study area.

(4) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96–119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or have been released to uses other than wilderness by an act of Congress.

(b) Exploration

In the case of any area of National Forest or public lands subject to this section, nothing in this section shall affect any authority of the Secretary of the Interior (or for National Forest Lands reserved from the public domain, the Secretary of Agriculture) to issue permits for exploration for oil and gas, coal, oil shale, phosphate, potassium, sulphur, gilsonite or geothermal resources by means not requiring construction of roads or improvement of existing roads if such activity is conducted in a manner compatible with the preservation of the wilderness environment.

(Feb. 25, 1920, ch. 85, § 43, as added Pub. L. 100–203, title V, § 5112, Dec. 22, 1987, 101 Stat. 1330–262; amended Pub. L. 100–443, § 5(c), Sept. 22, 1988, 102 Stat. 1768.)

REFERENCES IN TEXT

The Geothermal Steam Act of 1970, referred to in subsec. (a), is Pub. L. 91–581, Dec. 24, 1970, 84 Stat. 1566, which is classified principally to chapter 23 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–443, § 5(c)(1), inserted ''or under the Geothermal Steam Act of 1970'' after ''under this chapter'' and directed that ''oil and gas'' be stricken which was executed by striking those words where they appeared after ''not issue any'' in introductory provisions, but not where they appeared in par. (3) as the probable intent of Congress.

Subsec. (b). Pub. L. 100–443, § 5(c)(2), inserted '', coal, oil shale, phosphate, potassium, sulphur, gilsonite or geothermal resources'' after ''oil and gas''.

§§ 226a, 226b. Repealed. Aug. 8, 1946, ch. 916, § 14, 60 Stat. 958

Section 226a, act July 8, 1940, ch. 548, 54 Stat. 742, related to lease of lands not within known productive field. See section 226 of this title.

Section 226b, acts July 29, 1942, ch. 534, § 1, 56 Stat. 726; Dec. 22, 1943, ch. 376, 57 Stat. 608; Sept. 27, 1944, ch. 429, 58 Stat. 755; Nov. 30, 1945, ch. 495, 59 Stat. 587, related to preference right to new oil and gas lease upon expiration of five-year non-competitive oil and gas lease. See section 226 of this title.

SAVINGS PROVISION

See note set out under section 181 of this title.

§ 226c. Reduction of royalties under existing leases

From and after August 8, 1946, the royalty obligation to the United States under all leases requiring payment of royalty in excess of 12½ per centum, except leases issued or to be issued upon competitive bidding, is reduced to 12½ per centum in amount or value of production removed or sold from said leases as to (1) such leases, or such part of the lands subject thereto, and the deposits underlying the same, as are not believed to be within the productive limits of any oil or gas deposit, as such productive limits are found by the Secretary to exist on August 8, 1946, and (2) any production on a lease from an oil or gas deposit which was discovered after May 27, 1941, by a well or wells drilled within the boundaries of the lease, and which is determined by the Secretary to be a new deposit; and (3) any production on or allocated to a lease pursuant to an approved unit or cooperative agreement from an oil or gas deposit which was discovered after May 27, 1941, on land committed to such agreement, and which is determined by the Secretary to be a new deposit, where such lease was included in such agreement at the time of discovery, or was included in a duly executed and filed application for the approval of such agreement at the time of discovery.

(Aug. 8, 1946, ch. 916, § 12, 60 Stat. 957.)

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

SAVINGS PROVISION

See note set out under section 181 of this title.

OUTER CONTINENTAL SHELF; REFUNDS ON MINERAL-LEASE PAYMENTS

Refunds of excess payments with respect to oil, gas, and other leases on submerged lands of outer Continental Shelf, see section 1339 of Title 43, Public Lands.

§§ 226d, 226e. Omitted

CODIFICATION

Sections were completely amended by Pub. L. 86–705, § 2, Sept. 2, 1960, 74 Stat. 781, and included in section 17 of Mineral Leasing Act of Feb. 25, 1920, classified to section 226 of this title.

Section 226d, act Feb. 25, 1920, ch. 85, § 17a, as added Aug. 8, 1946, ch. 916, § 4, 60 Stat. 952, provided for the exchange of leases and fixed royalty rates for new leases.

Section 226e, act Feb. 25, 1920, ch. 85, § 17b, as added Aug. 8, 1946, ch. 916, § 5, 60 Stat. 952; amended July 29, 1954, ch. 644, § 1(4), (5), 68 Stat. 585, permitted establishment of cooperative or unit plans, setting up procedures for regulating production, approving contracts and preventing waste.

§ 227. Omitted

CODIFICATION

Section, acts Feb. 25, 1920, ch. 85, § 18, 41 Stat. 443; Feb. 25, 1928, ch. 104, 45 Stat. 148, authorized the United States to issue leases for a period of twenty years to persons who relinquished all rights claimed or possessed prior to July 3, 1910 under preexisting placer mining law provided relinquishment was filed in the General Land Office within six months after Feb. 25, 1920.

§ 228. Prospecting permits and leases to persons of lands not withdrawn; terms and conditions of; fraud of claimants

Any person who on October 1, 1919, was a bona fide occupant or claimant of oil or gas lands under a claim initiated while such lands were not withdrawn from oil or gas location and entry, and who had previously performed all acts under then existing laws necessary to valid locations thereof except to make discovery, and upon which discovery had not been made prior to February 25, 1920, and who has performed work or expended on or for the benefit of such locations an amount equal in the aggregate of $250 for each location if application therefor shall be made within six months from February 25, 1920, shall be entitled to prospecting permits thereon upon the same terms and conditions, and limitations as to acreage, as other permits provided for in this chapter, or where any such person has made such discovery, prior to said February 25, 1920, he shall be entitled to a lease thereon under such terms as the Secretary of the Interior may prescribe unless otherwise provided for in section 227[1] of this title: *Provided*, That where such prospecting permit is granted upon land within any known geologic structure of a producing oil or gas field, the royalty to be fixed in any lease thereafter granted thereon or any portion thereof shall be not less than 12½ per-centum of all the oil or gas produced except oil or gas used for production purposes on the claim, or unavoidably lost: *Provided*, *however*, That the provisions of this section shall not apply to lands reserved for the use of the Navy. No claimant for a permit or lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith shall be entitled to any of the benefits of this section.

All permits or leases hereunder shall inure to the benefit of the claimant and all persons claiming through or under him by lease, contract, or otherwise, as their interests may appear.

(Feb. 25, 1920, ch. 85, § 19, 41 Stat. 445.)

REFERENCES IN TEXT

Section 227 of this title, referred to in text, was omitted from the Code.

§ 229. Preference right to permits or leases of claimants of lands bona fide entered as agricultural land; terms and conditions

In the case of lands bona fide entered as agricultural, and not withdrawn or classified as mineral at the time of entry, but not including lands claimed under any railroad grant, the entryman or patentee, or assigns, where assignment was made prior to January 1, 1918, if the entry has been patented with the mineral right reserved, shall be entitled to a preference right to a permit and to a lease, as herein provided, in case of discovery; and within an area not greater than a township such entryman and patentees, or assigns holding restricted patents may combine their holdings, not to exceed two thousand five hundred and sixty acres for the purpose of making joint application. Leases executed under this section and embracing only lands so entered shall provide for the payment of a royalty of not less than 12½ per centum as to such areas within the permit as may not be included within the discovery lease to which the permittee is entitled under section 223 of this title.

(Feb. 25, 1920, ch. 85, § 20, 41 Stat. 445.)

§ 229a. Water struck while drilling for oil and gas

(a) Acquisition; condition in lease

All prospecting permits and leases for oil or gas made or issued under the provisions of this chapter shall be subject to the condition that in case the permittee or lessee strikes water while drilling instead of oil or gas, the Secretary of the Interior may, when such water is of such quality and quantity as to be valuable and usable at a reasonable cost for agricultural, domestic, or other purposes, purchase the casing in the well at the reasonable value thereof to be fixed under rules and regulations to be prescribed by the Secretary.

(b) Prior leases

In cases where water wells producing such water have heretofore been or may hereafter be drilled upon lands embraced in any prospecting permit or lease heretofore issued under this chapter, the Secretary may in like manner purchase the casing in such wells.

(c) Disposition

The Secretary may make such purchase and may lease or operate such wells for the purpose of producing water and of using the same on the

[1] See References in Text note below.

public lands or of disposing of such water for beneficial use on other lands, and where such wells have heretofore been plugged or abandoned or where such wells have been drilled prior to the issuance of any permit or lease by persons not in privity with the permittee or lessee, the Secretary may develop the same for the purposes of this section: *Provided*, That owners or occupants of lands adjacent to those upon which such water wells may be developed shall have a preference right to make beneficial use of such water.

(d) Revolving fund

The Secretary may use so much of any funds available for the plugging of wells, as he may find necessary to start the program provided for by this section, and thereafter he may use the proceeds from the sale or other disposition of such water as a revolving fund for the continuation of such program, and such proceeds are hereby appropriated for such purpose.

(e) Operations under lease not restricted

Nothing in this section shall be construed to restrict operations under any oil or gas lease or permit under any other provision of this chapter.

(Feb. 25, 1920, ch. 85, § 40, as added June 16, 1934, ch. 557, 48 Stat. 977; amended Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–579 struck out proviso relating to reservation of land as a water hole under section 300 of title 43.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 704(a) of Pub. L. 94–579 provided that the amendment made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Amendment by Pub. L. 94–579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94–579, set out as a note under section 1701 of Title 43, Public Lands.

§§ 230 to 233. Repealed. June 22, 1948, ch. 605, § 3, 62 Stat. 576

Section 230, act Mar. 4, 1923, ch. 249, § 1, 42 Stat. 1448, authorized permits and leases for certain United States citizens and corporations in Oklahoma.

Section 231, act Mar. 4, 1923, ch. 249, § 2, 42 Stat. 1448, required applications for permits and leases to be made not later than sixty days after Mar. 4, 1923.

Section 232, act Mar. 4, 1923, ch. 249, § 3, 42 Stat. 1448, limited amount of land any one person or corporation could be granted.

Section 233, act Mar. 4, 1923, ch. 249, § 4, 42 Stat. 1448, provided for payment of royalties to United States.

SAVINGS PROVISION

Section 3 of act June 22, 1948, provided that the repeal of these sections is subject to existing valid rights.

§ 233a. Permits or leases of certain lands in Oklahoma; retention of royalties

The Secretary of the Interior is directed to retain in his custody until otherwise directed by law the 12½ per centum and other royalties heretofore or hereafter received by him in pursuance of section 233[1] of this title.

(Mar. 4, 1925, ch. 550, § 2, 43 Stat. 1302.)

REFERENCES IN TEXT

Section 233 of this title, referred to in text, was repealed by act June 22, 1948, ch. 605, § 3, 62 Stat. 576.

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

§§ 234 to 236. Repealed. June 22, 1948, ch. 605, § 3, 62 Stat. 576

Section 234, act Mar. 4, 1923, ch. 249, § 5, 42 Stat. 1449, provided for application of other laws to leases and permits granted under sections 230 to 233 and 234 to 236 of this title, and for disposition of lands and deposits remaining unappropriated and undisposed of.

Section 235, act Mar. 4, 1923, ch. 249, § 6, 42 Stat. 1449, prohibited interference with certain lands in possession of receivers appointed by the Supreme Court.

Section 236, act Mar. 4, 1923, ch. 249, § 7, 42 Stat. 1450, authorized promulgation of rules and regulations necessary to accomplish purposes of sections 230 to 233 and 234 to 236 of this title.

SAVINGS PROVISION

Section 3 of act June 22, 1948, provided that the repeal of these sections is subject to existing valid rights.

§ 236a. Lands in naval petroleum reserves and naval oil-shale reserves; effect of other laws

Nothing in sections 185, 221,[1] 223, 223a,[1] and 226 of this title and this section shall be construed as affecting any lands within the borders of the naval petroleum reserves and naval oil-shale reserves or agreements concerning operations thereunder or in relation to the same, but the Secretary of the Navy is hereby authorized, with the consent of the President, to enter into agreements such as those provided for under sections 184 and 226 of this title, which agreement shall not, unless expressed therein, operate to extend the terms of any lease affected thereby.

(Aug. 21, 1935, ch. 599, § 3, 49 Stat. 679.)

REFERENCES IN TEXT

Section 221 of this title, referred to in text, was omitted from the Code.

Section 223a of this title, referred to in text, was repealed by act Aug. 8, 1946, ch. 916, § 14, 60 Stat. 958.

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

§ 236b. Existing leases within naval petroleum reserves not affected

Nothing in this act shall be construed as affecting existing leases within the borders of the naval petroleum reserves, or agreements concerning operations thereunder or in relation thereto.

(Aug. 8, 1946, ch. 916, § 13, 60 Stat. 958; Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 675.)

REFERENCES IN TEXT

This act, referred to in text, is act Aug. 8, 1946, ch. 916, 60 Stat. 950, as amended, which is classified gener-

[1] See References in Text note below.

[1] See References in Text note below.

ally to sections 181, 184, 187a, 187b, 188, 193, 209, 225, 226, 226c to 226e, 236b, and 285 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

AMENDMENTS

1956—Act Aug. 10, 1956, repealed the portion of this section after ''thereto'' which authorized the Secretary of the Navy, with the consent of the President, to enter into agreements such as those provided for in section 236e of this title, which agreements, should not, unless expressed therein, operate to extend the term of any lease affected thereby.

§ 237. Omitted

CODIFICATION

Section, Pub. L. 95–372, title VI, § 602, Sept. 18, 1978, 92 Stat. 694, which required the Secretary of the Interior to submit annual reports to Congress on delinquent royalty accounts under leases issued under any Act regulating development of oil and gas on Federal lands, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 111 of House Document No. 103–7.

SUBCHAPTER V—OIL SHALE

§ 241. Leases of lands

(a) In general

(1) The Secretary of the Interior is hereby authorized to lease to any person or corporation qualified under this chapter any deposits of oil shale, and gilsonite (including all vein-type solid hydrocarbons) belonging to the United States and the surface of so much of the public lands containing such deposits, or land adjacent thereto, as may be required for the extraction and reduction of the leased minerals, under such rules and regulations, not inconsistent with this chapter, as he may prescribe.

(2) No lease hereunder shall exceed 5,760 acres of land, to be described by the legal subdivisions of the public-land surveys, or if unsurveyed, to be surveyed by the United States, at the expense of the applicant, in accordance with regulations to be prescribed by the Secretary of the Interior.

(3) Leases may be for indeterminate periods, upon such conditions as may be imposed by the Secretary of the Interior, including covenants relative to methods of mining, prevention of waste, and productive development.

(4) For the privilege of mining, extracting, and disposing of the oil or other minerals covered by a lease under this section the lessee shall pay to the United States such royalties as shall be specified in the lease and an annual rental, payable at the beginning of each year, at the rate of $2.00 per acre per annum, for the lands included in the lease, the rental paid for any one year to be credited against the royalties accruing for that year; such royalties to be subject to readjustment at the end of each twenty-year period by the Secretary of the Interior. For the purpose of encouraging the production of petroleum products from shales the Secretary may, in his discretion, waive the payment of any royalty and rental during the first five years of any lease. Any person having a valid claim to such minerals under existing laws on January 1, 1919, shall, upon the relinquishment of such claim, be entitled to a lease under the provisions of this section for such area of the land relinquished as shall not exceed the maximum area authorized by this section to be leased to an individual or corporation. No claimant for a lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section. No one person, association, or corporation shall acquire or hold more than 50,000 acres of oil shale leases in any one State. For gilsonite (including all vein-type solid hydrocarbons) no person, association, or corporation shall acquire or hold more than seven thousand six hundred eighty acres in any one State without respect to the number of leases.

(5) No lease issued under this section shall be included in any chargeability limitation associated with oil and gas leases.

(b) Offer for lease; deposits other than oil shale; questioned validity because of location; preference rights

If an offer for a lease under the provisions of this section for deposits other than oil shale is based upon a mineral location, the validity of which might be questioned because the claim was based on a placer location rather than on a lode location, or vice versa, the offeror shall have a preference right to a lease if the offer is filed not more than one year after September 2, 1960.

(c)[1] Multiple use principal leases; gilsonite including all vein-type solid hydrocarbons

With respect to gilsonite (including all vein-type solid hydrocarbons) a lease under the multiple use principle may issue notwithstanding the existence of an outstanding lease issued under any other provision of this chapter.

(c)[1] Offsite leases

(1) The Secretary may within the State of Colorado lease to the holder of the Federal oil shale lease known as Federal Prototype Tract C–a additional lands necessary for the disposal of oil shale wastes and the materials removed from mined lands, and for the building of plants, reduction works, and other facilities connected with oil shale operations (which lease shall be referred to hereinafter as an ''offsite lease''). The Secretary may only issue one offsite lease not to exceed six thousand four hundred acres. An offsite lease may not serve more than one Federal oil shale lease and may not be transferred except in conjunction with the transfer of the Federal oil shale lease that it serves.

(2) The Secretary may issue one offsite lease of not more than three hundred and twenty acres to any person, association or corporation which has the right to develop oil shale on non-Federal lands. An offsite lease serving non-Federal oil shale land may not serve more than one oil shale operation and may not be transferred except in conjunction with the transfer of the non-Federal oil shale land that it serves. Not

[1] Two subsecs. (c) have been enacted.

more than two offsite leases may be issued under this paragraph.

(3) An offsite lease shall include no rights to any mineral deposits.

(4) The Secretary may issue offsite leases after consideration of the need for such lands, impacts on the environment and other resource values, and upon a determination that the public interest will be served thereby.

(5) An offsite lease for lands the surface of which is under the jurisdiction of a Federal agency other than the Department of the Interior shall be issued only with the consent of that other Federal agency and shall be subject to such terms and conditions as it may prescribe.

(6) An offsite lease shall be for such periods of time and shall include such lands, subject to the acreage limitations contained in this subsection, as the Secretary determines to be necessary to achieve the purposes for which the lease is issued, and shall contain such provisions as he determines are needed for protection of environmental and other resource values.

(7) An offsite lease shall provide for the payment of an annual rental which shall reflect the fair market value of the rights granted and which shall be subject to such revisions as the Secretary, in his discretion, determines may be needed from time to time to continue to reflect the fair market value.

(8) An offsite lease may, at the option of the lessee, include provisions for payments in any year which payments shall be credited against any portion of the annual rental for a subsequent year to the extent that such payment is payable by the Secretary of the Treasury under section 191 of this title to the State within the boundaries of which the leased lands are located. Such funds shall be paid by the Secretary of the Treasury to the appropriate State in accordance with section 191 of this title, and such funds shall be distributed by the State only to those counties, municipalities, or jurisdictional subdivisions impacted by oil shale development and/or where the lease is sited.

(9) An offsite lease shall remain subject to leasing under the other provisions of this chapter where such leasing would not be incompatible with the offsite lease.

(d) Considerations governing issuance of offsite lease

In recognition of the unique character of oil shale development:

(1) In determining whether to offer or issue an offsite lease under subsection (c) of this section, the Secretary shall consult with the Governor and appropriate State, local, and tribal officials of the State where the lands to be leased are located, and of any additional State likely to be affected significantly by the social, economic, or environmental effects of development under such lease, in order to coordinate Federal and State planning processes, minimize duplication of permits, avoid delays, and anticipate and mitigate likely impacts of development.

(2) The Secretary may issue an offsite lease under subsection (d)[2] after consideration of (A) the need for leasing, (B) impacts on the environment and other resource values, (C) socioeconomic factors, and (D) information from consultations with the Governors of the affected States.

(3) Before determining whether to offer an offsite lease under subsection (c) of this section, the Secretary shall seek the recommendation of the Governor of the State in which the lands to be leased are located as to whether or not to lease such lands, what alternative actions are available, and what special conditions could be added to the proposed lease to mitigate impacts. The Secretary shall accept the recommendations of the Governor if he determines that they provide for a reasonable balance between the national interest and the State's interests. The Secretary shall communicate to the Governor, in writing, and publish in the Federal Register the reasons for his determination to accept or reject such Governor's recommendations.

(Feb. 25, 1920, ch. 85, §21, 41 Stat. 445; Pub. L. 86–705, §7, Sept. 2, 1960, 74 Stat. 790; Pub. L. 97–78, §1(1), Nov. 16, 1981, 95 Stat. 1070; Pub. L. 97–394, title III, §318, Dec. 30, 1982, 96 Stat. 1999; Pub. L. 109–58, title III, §369(j)(2), Aug. 8, 2005, 119 Stat. 731.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–58 designated first to third sentences as pars. (1) to (3), respectively, substituted ''5,760'' for ''five thousand one hundred and twenty'' in par. (2), designated fourth to eighth sentences as par. (4) and substituted ''rate of $2.00 per acre'' for ''rate of 50 cents per acre'', ''No one person'' for ''Not more than one lease shall be granted under this section to any one person'', and ''shall acquire or hold more than 50,000 acres of oil shale leases in any one State. For'' for ''except that with respect to leases for'', and added par. (5).

1982—Subsecs. (c), (d). Pub. L. 97–394 added subsecs. (c) and (d).

1981—Subsec. (a). Pub. L. 97–78 substituted ''and gilsonite (including all vein-type solid hydrocarbons)'' and ''gilsonite (including all vein-type solid hydrocarbons)'' for ''native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried)''.

Subsec. (c). Pub. L. 97–78 substituted ''gilsonite (including all vein-type solid hydrocarbons)'' for ''native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried)''.

1960—Pub. L. 86–705 designated existing provisions as subsec. (a) and added subsecs. (b) and (c). Other changes included addition of native asphalt, solid and semisolid bitumen, and bituminous rock within the scope of the section, and insertion of the limitation upon such holdings.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior to promulgate regulations under this chapter relating to establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97–100, title II, §201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

[2] So in original. Probably should be subsection ''(c)''.

§ 242. Oil shale claims

(a) Notice

Notwithstanding any other provision of law, within 60 days from October 24, 1992, the Secretary of the Interior shall provide notice to each holder of an unpatented oil shale mining claim of the requirements of this Act. Such notice shall be made by registered mail and by publication in a newspaper of general circulation in the areas in which such claims are located.

(b) Full patent

The holder of a valid oil shale mining claim who has filed a patent application and received first half final certificate for patent by October 24, 1992, may obtain a patent pursuant to the general mining laws of the United States.

(c) Patent

(1) Notwithstanding any other provision of law, the holder of a valid oil shale mining claim who has filed a patent application which has been accepted for processing by the Department of the Interior by October 24, 1992, but has not received first half final certificate for patent by October 24, 1992, may receive only a patent limited to the oil shale and associated minerals, upon payment of $2.50 per acre. Title to the surface and to all other minerals, including, but not limited to, oil, gas, and coal, shall remain in the United States. Patents issued pursuant to this subsection shall provide for surface use to the same extent as is provided under applicable law prior to October 24, 1992, with respect to oil shale mining claims, subject to the requirements of subsection (f) of this section.

(2) Maintenance of claims referred to in this subsection prior to patent issuance shall be in accordance with the requirements of applicable law prior to October 24, 1992.

(3) Any holder of a valid oil shale mining claim referred to in this subsection may maintain such claim in accordance with the requirements set forth in subsection (e)(2) of this section in lieu of receiving a patent under this section.

(4) Notwithstanding any other provision of law, any person referred to in paragraph (1) who obtains compensation from the United States as a result of the application of this section being declared to be a taking of property within the meaning of the Fifth Amendment to the United States Constitution, may obtain a full patent upon tender to the Secretary of the amount of such compensation, not including interest, and upon the receipt of such amount, the Secretary shall convey to such person a patent in the form and manner provided under the general mining laws of the United States. Such tender may only be made within 3 years of obtaining such compensation.

(d) Election

(1) Notwithstanding any other provision of law, within 180 days from the date of which the Secretary provided notice under subsection (a) of this section, a holder of a valid oil shale mining claim for which a patent application was not filed and accepted for processing by the Department of the Interior prior to October 24, 1992, shall file with the Secretary a notice of election to—

(A) proceed to limited patent as provided in subsection (e)(1) of this section; or

(B) maintain the unpatented claim as provided for in subsection (e)(2) of this section.

(2) Failure to file the notice of election as required by paragraph (1) shall be deemed conclusively to constitute an abandonment of the claim by operation of law.

(3) Any claim holder who elects to proceed under paragraph (1)(A) must apply for a patent within 2 years from the date of election or notify the Secretary in writing prior to expiration of the 2-year period of a decision to maintain such claim as provided in paragraph (1)(B) or such claim shall be deemed conclusively to have been abandoned by operation of law.

(4) The provisions of this subsection shall be in addition to the requirements of section 1744 of title 43.

(e) Effect of election

(1) Notwithstanding any other provisions of law, a claim holder subject to the election requirements of subsection (d) of this section who elects to receive a limited patent shall receive title only to the oil shale associated minerals, upon payment of fair market value for the oil shale and associated minerals. Title to the surface and to all other minerals, including, but not limited to oil, gas, and coal, shall remain in the United States. Patents issued pursuant to this subsection shall provide for surface use to the same extent as is provided under applicable law prior to October 24, 1992, with respect to oil shale mining claims, subject to the requirements of subsection (f) of this section.

(2) Notwithstanding any other provision of law, a claim holder referred to in subsection (c) of this section or a claim holder subject to the election requirements of subsection (d) of this section who maintains or elects to maintain an unpatented claim shall maintain such claim by complying with the general mining laws of the United States, and with the provisions of this section, except that the claim holder shall no longer be required to perform annual labor, and instead shall pay to the Secretary $550 per claim per year for deposit as miscellaneous receipts in the general fund of the Treasury, commencing with calendar year 1993. Such fee shall accompany the filing made by the claim holder with the Bureau of Land Management pursuant to section 1744(a)(2) of title 43.

(f) Reclamation

In addition to other applicable requirements, any person who holds a limited patent or maintains a claim pursuant to this section shall be required to carry out reclamation as prescribed by the Secretary and to furnish a bond or other appropriate financial guarantee in an amount sufficient to ensure adequate reclamation of the lands to be disturbed by any aspect of the proposed mining activities.

(g) Reaffirmation of requirements

Without comment on the adequacy of current or former standards for determining validity of oil shale claims, Congress reaffirms the requirements of law that a patent may issue only to

persons who hold valid claims and the need for careful review of any applications.

(h) Issuance of patents

Notwithstanding any other provision of law, with respect to any oil shale mining claim located under the general mining laws of the United States, no patent for such claim shall be issued except as provided by this section.

(Pub. L. 102–486, title XXV, § 2511, Oct. 24, 1992, 106 Stat. 3109.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2776, known as the Energy Policy Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of Title 42, The Public Health and Welfare, and Tables.

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

SUBCHAPTER VI—ALASKA OIL PROVISO

§ 251. Leases to claimants of withdrawn lands; terms and conditions; acreage; annual rentals and royalties; fraud of claimants

Any bona fide occupant or claimant of oil or gas bearing lands in the Territory of Alaska, who, or whose predecessors in interest, prior to withdrawal had complied otherwise with the requirements of the mining laws, but had made no discovery of oil or gas in wells and who prior to withdrawal had made substantial improvements for the discovery of oil or gas on or for each location or had prior to February 25, 1920 expended not less than $250 in improvements on or for each location shall be entitled, upon relinquishment or surrender to the United States within one year from February 25, 1920, or within six months after final denial or withdrawal of application for patent, to a lease or leases, under this chapter covering such lands, not exceeding five leases in number and not exceeding an aggregate of one thousand two hundred and eighty acres in each: *Provided*, That the annual lease rentals for lands in the Territory of Alaska not within any known geological structure of a producing oil or gas field and the royalty payments from production of oil or gas sold or removed from such lands shall be identical with those prescribed for such leases covering similar lands in the States of the United States, except that leases which may issue pursuant to applications or offers to lease such lands, which applications or offers were filed prior to and were pending on May 3, 1958, shall require the payment of 25 cents per acre as lease rental for the first year of such leases; but the aforesaid exception shall not apply in any way to royalties to be required under leases which may issue pursuant to offers or applications filed prior to May 3, 1958.

The Secretary of the Interior shall neither prescribe nor approve any cooperative or unit plan of development or operation nor any operating, drilling, or development contract establishing different royalty or rental rates for Alaska lands than for similar lands within the States of the United States.

No claimant for a lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section.

(Feb. 25, 1920, ch. 85, § 22, 41 Stat. 446; Pub. L. 85–505, § 10, July 3, 1958, 72 Stat. 324.)

AMENDMENTS

1958—Pub. L. 85–505 struck out provisions which related to prospecting permits, provided that the annual lease rentals and royalty payments shall be identical with those prescribed for leases covering similar lands in the States of the United States, permitted a payment of 25 cents per acre as lease rental for the first year of the lease in those leases issued pursuant to applications or offers filed prior to and pending on May 3, 1958, and prohibited the Secretary from prescribing or approving any cooperative or unit plan of development or operation or any operating, drilling, or development contract establishing different royalty or rental rates for Alaska lands than for similar lands within the States of the United States.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

SUBCHAPTER VII—SODIUM

§ 261. Prospecting permits; lands included; acreage

The Secretary of the Interior is hereby authorized, under such rules and regulations as he may prescribe, to grant to any qualified applicant a prospecting permit which shall give the exclusive right to prospect for chlorides, sulphates, carbonates, borates, silicates, or nitrates of sodium, in lands belonging to the United States for a period of not exceeding two years: *Provided*, That the area to be included in such a permit shall not exceed two thousand five hundred and sixty acres of land in reasonably compact form.

(Feb. 25, 1920, ch. 85, § 23, 41 Stat. 447; Dec. 11, 1928, ch. 19, 45 Stat. 1019.)

AMENDMENTS

1928—Act Dec. 11, 1928, struck out ''and directed'' after ''authorized'', ''dissolved in and soluble in water, and accumulated by concentration, in lands belonging to the United States for a period not exceeding two years,'' after ''nitrates of sodium'', and last proviso which read ''*Provided further*, That the provisions of this section shall not apply to lands in San Bernardino County, California.''

§ 262. Leases to permittees; survey of lands; royalties and annual rentals

Upon showing to the satisfaction of the Secretary of the Interior that valuable deposits of one of the substances enumerated in section 261 of this title have been discovered by the permittee within the area covered by his permit and that such land is chiefly valuable therefor, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit at a royalty of not less than 2 per centum of the quantity or gross value of the output of

sodium compounds and other related products at the point of shipment to market; the lands in such lease to be taken in compact form by legal subdivisions of the public land surveys or, if the land be not surveyed, by survey executed at the cost of the permittee in accordance with regulations prescribed by the Secretary of the Interior. Lands known to contain valuable deposits of one of the substances enumerated in section 261 of this title and not covered by permits or leases shall be subject to lease by the Secretary of the Interior through advertisement, competitive bidding, or such other methods as he may by general regulations adopt and in such areas as he shall fix, not exceeding two thousand five hundred and sixty acres. All leases under this section shall be conditioned upon the payment by the lessee of such royalty as may be fixed in the lease, not less than 2 per centum of the quantity or gross value of the output of sodium compounds and other related products at the point of shipment to market, and the payment in advance of a rental of 25 cents per acre for the first calendar year or fraction thereof, 50 cents per acre for the second, third, fourth, and fifth calendar years respectively; and $1 per acre per annum thereafter during the continuance of the lease, such rental for any one year to be credited against royalties accruing for that year. Leases under this section shall be for a period of twenty years, with preferential right in the lessee to renew for successive periods of ten years upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the expiration of such period: *Provided*, That nothing in this chapter shall prohibit the mining and sale of sodium compounds under potassium leases issued pursuant to subchapter VII [§ 141 et seq.] of chapter 3 of this title and subchapter IX of this chapter, nor the mining and sale of potassium compounds as a byproduct from sodium leases taken under this section: *Provided further*, That on application by any lessee the Secretary of the Interior is authorized to modify the rental and royalty provisions stipulated in any existing sodium lease to conform to the provisions of this section.

(Feb. 25, 1920, ch. 85, § 24, 41 Stat. 447; Dec. 11, 1928, ch. 19, 45 Stat. 1019.)

REFERENCES IN TEXT

Subchapter VII [§ 141 et seq.] of chapter 3 of this title, referred to in text, was repealed by act Feb. 7, 1927, ch. 66, § 6, 44 Stat. 1058.

Subchapter IX of this chapter, referred to in text, was in the original ''act February 7, 1927 (Forty-fourth Statutes at Large, page 1057)'' meaning act Feb. 7, 1927, ch. 66, 44 Stat. 1057, as amended, which enacted subchapter IX (§ 281 et seq.) of this chapter, amended sections 181 and 193 of this title, and repealed subchapter VII (§ 141 et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1928—Act Dec. 11, 1928, amended section generally.

SODA ASH ROYALTY REDUCTION

Pub. L. 109–338, title I, Oct. 12, 2006, 120 Stat. 1786, provided that:

''SEC. 101. SHORT TITLE.

''This title may be cited as the 'Soda Ash Royalty Reduction Act of 2006'.

''SEC. 102. REDUCTION IN ROYALTY RATE ON SODA ASH.

''Notwithstanding section 102(a)(9) of the Federal Land Policy [and] Management Act of 1976 (43 U.S.C. 1701(a)(9)), section 24 of the Mineral Leasing Act (30 U.S.C. 262), and the terms of any lease under that Act [30 U.S.C. 181 et seq.], the royalty rate on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market from Federal land in the 5-year period beginning on the date of enactment of this Act [Oct. 12, 2006] shall be 2 percent.

''SEC. 103. STUDY.

''After the end of the 4-year period beginning on the date of enactment of this Act [Oct. 12, 2006], and before the end of the 5-year period beginning on that date, the Secretary of the Interior shall report to Congress on the effects of the royalty reduction under this title, including—

''(1) the amount of sodium compounds and related products at the point of shipment to market from Federal land during that 4-year period;

''(2) the number of jobs that have been created or maintained during the royalty reduction period;

''(3) the total amount of royalty paid to the United States on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market produced during that 4-year period, and the portion of such royalty paid to States; and

''(4) a recommendation of whether the reduced royalty rate should apply after the end of the 5-year period beginning on the date of enactment of this Act.''

§ 263. Permits to use or lease of nonmineral lands for camp sites, and other purposes; annual rentals; acreage

In addition to areas of such mineral land which may be included in any such prospecting permits or leases, the Secretary of the Interior, in his discretion, may grant to a permittee or lessee of lands containing sodium deposits, and subject to the payment of an annual rental of not less than 25 cents per acre, the exclusive right to use, during the life of the permit or lease, a tract of unoccupied nonmineral public land, not exceeding forty acres in area, for camp sites, refining works, and other purposes connected with and necessary to the proper development and use of the deposits covered by the permit or lease.

(Feb. 25, 1920, ch. 85, § 25, 41 Stat. 447.)

SUBCHAPTER VIII—SULPHUR

§ 271. Prospecting permits; lands included; acreage

The Secretary of the Interior is hereby authorized and directed, under such rules and regulations as he may prescribe, to grant to any qualified applicant a prospecting permit which shall give the exclusive right to prospect for sulphur in lands belonging to the United States located in the States of Louisiana and New Mexico for a period of not exceeding two years: *Provided*, That the area to be included in such a permit shall be not exceeding six hundred and forty acres of land in reasonably compact form.

(Apr. 17, 1926, ch. 158, § 1, 44 Stat. 301; July 16, 1932, ch. 498, 47 Stat. 701.)

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

AMENDMENTS

1932—Act July 16, 1932, substituted ''States of Louisiana and New Mexico'' for ''State of Louisiana''.

§272. Leases to permittees; privileges extended to oil and gas permittees

Upon showing to the satisfaction of the Secretary of the Interior that valuable deposits of sulphur have been discovered by the permittee within the area covered by his permit, and that the land is chiefly valuable therefor, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit, at a royalty of 5 per centum of the quantity or gross value of the output of sulphur at the point of shipment to market, such lease to be taken in compact form by legal subdivisions of the public-land surveys; or if the land be not surveyed, by survey executed at the cost of the permittee in accordance with regulations prescribed by the Secretary of the Interior: *Provided*, That where any person having been granted an oil and gas permit makes a discovery of sulphur in lands covered by said permit, he shall have the same privilege of leasing not to exceed six hundred and forty acres of said land under the same terms and conditions as are given a sulphur permittee under the provisions of this section.

(Apr. 17, 1926, ch. 158, §2, 44 Stat. 301.)

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

§273. Lease of lands not covered by permits or leases; acreage; rental

Lands known to contain valuable deposits of sulphur and not covered by permits or leases shall be held subject to lease by the Secretary of the Interior through advertisement, competitive bidding, or such other methods as he may by general regulations adopt and in such areas as he shall fix, not exceeding six hundred and forty acres; all leases to be conditioned upon the payment by the lessee of such royalty as may be fixed in the lease and the payment in advance of a rental of 50 cents per acre per annum, the rental paid for any one year to be credited against the royalties accruing for that year.

(Apr. 17, 1926, ch. 158, §3, 44 Stat. 301.)

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

§274. Lands containing coal or other minerals

Prospecting permits or leases may be issued in the discretion of the Secretary of the Interior under the provisions of this subchapter for deposits of sulphur in public lands also containing coal or other minerals on condition that such other deposits be reserved to the United States for disposal under applicable laws.

(Apr. 17, 1926, ch. 158, §4, 44 Stat. 302.)

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

§275. Laws applicable

The general provisions of sections 181 to 184, 185 to 188, 189 to 192, 193, and 194[1] of this title, are made applicable to permits and leases under this subchapter, sections 181 and 193 of this title being amended to include deposits of sulphur, and section 184 of this title being amended so as to prohibit any person, association, or corporation from taking or holding more than three sulphur permits or leases in any one State during the life of such permits or leases.

(Apr. 17, 1926, ch. 158, §5, 44 Stat. 302.)

REFERENCES IN TEXT

Section 194 of this title, referred to in text, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 644.

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

§276. Application of subchapter to Louisiana and New Mexico only

The provisions of this subchapter shall apply only to the States of Louisiana and New Mexico.

(Apr. 17, 1926, ch. 158, §6, 44 Stat. 302; July 16, 1932, ch. 498, 47 Stat. 701.)

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

AMENDMENTS

1932—Act July 16, 1932, substituted ''States of Louisiana and New Mexico'' for ''State of Louisiana''.

SUBCHAPTER IX—POTASH

§281. Prospecting permits for chlorides, sulphates, carbonates, borates, silicates, or nitrates of potassium; authorization; acreage; lands affected

The Secretary of the Interior is hereby authorized, under such rules and regulations as he may prescribe, to grant to any qualified applicant a prospecting permit which shall give the exclusive right to prospect for chlorides, sulphates, carbonates, borates, silicates, or nitrates of potassium in lands belonging to the United States for a period of not exceeding two years: *Provided*, That the area to be included in such a permit shall not exceed two thousand five hundred and sixty acres of land in reasonably compact form: *Provided further*, That the prospecting provisions of this subchapter shall not apply to lands and deposits in or adjacent to Searles Lake, California, which lands may be leased by the Secretary of the Interior under the terms and provisions of this subchapter.

(Feb. 7, 1927, ch. 66, §1, 44 Stat. 1057.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this Act'', meaning act Feb. 7, 1927, ch. 66, 44 Stat. 1057, as amended, which enacted this subchapter, amended sections 181 and 193 of this title, and repealed

[1] See References in Text note below.

subchapter VII (§141 et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

§ 282. Leases to permittees of lands showing valuable deposits; royalty

Upon showing to the satisfaction of the Secretary of the Interior that valuable deposits of one of the substances enumerated in this subchapter has been discovered by the permittee within the area covered by his permit, and that such land is chiefly valuable therefor, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit, at a royalty of not less than 2 per centum of the quantity or gross value of the output of potassium compounds and other related products, except sodium, at the point of shipment to market, such lease to be taken in compact form by legal subdivisions of the public land surveys, or if the land be not surveyed, by survey executed at the cost of the permittee in accordance with regulations prescribed by the Secretary of the Interior.

(Feb. 7, 1927, ch. 66, § 2, 44 Stat. 1057.)

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

§ 283. Lands containing valuable deposits not covered by permits or leases; authority to lease; acreage; conditions; renewals; exemptions from rentals and royalties; suspension of operations

Lands known to contain valuable deposits enumerated in this subchapter and not covered by permits or leases shall be held subject to lease by the Secretary of the Interior through advertisement, competitive bidding, or such other methods as he may by general regulations adopt, and in such areas as he shall fix, not exceeding two thousand five hundred and sixty acres; all leases to be conditioned upon the payment by the lessee of such royalty as may be fixed in the lease, not less than 2 per centum of the quantity or gross value of the output of potassium compounds and other related products, except sodium, at the point of shipment to market, and the payment in advance of a rental of 25 cents per acre for the first calendar year or fraction thereof; 50 cents per acre for the second, third, fourth, and fifth years, respectively; and $1 per acre per annum thereafter during the continuance of the lease, such rental for any year being credited against royalties accruing for that year. Any lease issued under this subchapter shall be for a term of twenty years and so long thereafter as the lessee complies with the terms and conditions of the lease and upon the further condition that at the end of each twenty-year period succeeding the date of the lease such reasonable adjustment of the terms and conditions thereof may be made therein as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the expiration of such periods. Leases shall be conditioned upon a minimum annual production or the payment of a minimum royalty in lieu thereof, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. The Secretary of the Interior may permit suspension of operations under any such leases when marketing conditions are such that the leases cannot be operated except at a loss. The Secretary upon application by the lessee prior to the expiration of any existing lease in good standing shall amend such lease to provide for the same tenure and to contain the same conditions, including adjustment at the end of each twenty-year period succeeding the date of said lease, as provided for in this subchapter. In the discretion of the Secretary of the Interior the area involved in any lease resulting from a prospecting permit may be exempt from any rental in excess of 25 cents per acre for twenty years succeeding its issue, and the production of potassium compounds under such a lease may be exempt from any royalty in excess of the minimum prescribed in this subchapter for the same period.

(Feb. 7, 1927, ch. 66, § 3, 44 Stat. 1057; June 3, 1948, ch. 379, § 9, 62 Stat. 292.)

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

AMENDMENTS

1948—Act June 3, 1948, increased renewal term from ten to twenty years, provided for reasonable adjustment of terms, provided minimum conditions, and permitted suspension of operations under certain conditions.

§ 284. Lands containing coal or other minerals in addition to potassium deposits; issuance of prospecting permits and leases; covenants in potassium leases

Prospecting permits or leases may be issued under the provisions of this subchapter for deposits of potassium in public lands, also containing deposits of coal or other minerals, on condition that such other deposits be reserved to the United States for disposal under appropriate laws: *Provided*, That if the interests of the Government and of the lessee will be subserved thereby, potassium leases may include covenants providing for the development by the lessee of chlorides, sulphates, carbonates, borates, silicates, or nitrates of sodium, magnesium, aluminum, or calcium, associated with the potassium deposits leased, on terms and conditions not inconsistent with the sodium provisions of subchapter VII of this chapter: *Provided further*, That where valuable deposits of mineral now subject to disposition under the general mining laws are found in fissure veins on any of the lands subject to permit or lease under this subchapter, the valuable minerals so found shall continue subject to disposition under the said general mining laws notwithstanding the presence of potash therein.

(Feb. 7, 1927, ch. 66, § 4, 44 Stat. 1058.)

REFERENCES IN TEXT

The sodium provisions of subchapter VII of this chapter, referred to in text, was in the original ''the sodium provisions of the Act of February 25, 1920 (Forty-first Statutes at Large, page 437)'', which means sections 23 to 25 of act Feb. 25, 1920, ch. 85, 41 Stat. 447, which are classified to subchapter VII (§ 261 et seq.) of this chapter.

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

§ 285. Laws applicable

The general provisions of sections 182 to 184, 185 to 188, 189 to 192, 193, and 194[1] of this title, are made applicable to permits and leases under this subchapter.

(Feb. 7, 1927, ch. 66, § 5, 44 Stat. 1058; Aug. 8, 1946, ch. 916, § 11, 60 Stat. 957.)

REFERENCES IN TEXT

Section 194 of this title, referred to in text, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 644.

CODIFICATION

Provision of this section that section 193 of this title was amended to include deposits of potassium was omitted from this section as executed to section 193 of this title.

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

AMENDMENTS

1946—Act Aug. 8, 1946, struck out reference to section 181 of this title.

SAVINGS PROVISION

See note set out under section 181 of this title.

§ 286. Disposition of royalties and rents from potassium leases

All money received from royalties and rentals from any lease issued or renewed under the provisions of subchapter VII of chapter 3 of this title, shall be paid into, reserved, and appropriated as follows: 52½ per centum to the Reclamation Fund, 10 per centum to the Treasury of the United States as miscellaneous receipts, and 37½ per centum shall be paid by the Secretary of the Treasury, after the expiration of each fiscal year, to the State within the boundaries of which the leased lands or deposits are or were located, such money to be used by such State or subdivision thereof for the construction and maintenance of public roads or for the support of schools or other public educational institutions, as the legislature of the State may direct.

(Feb. 7, 1927, ch. 66, § 6, 44 Stat. 1058; June 1, 1948, ch. 356, 62 Stat. 279.)

REFERENCES IN TEXT

Subchapter VII of chapter 3, referred to in text, was in the original ''the Act entitled 'An Act to authorize exploration for and disposition of potassium' approved October 2, 1917'', meaning act Oct. 2, 1917, ch. 62, 40 Stat. 297, which was classified to subchapter VII (§ 141 et seq.) of chapter 3 of this title and which was repealed by act Feb. 7, 1927, ch. 66, § 6, 44 Stat. 1058.

[1] See References in Text note below.

CODIFICATION

Section is composed of the second sentence of section 6 of act Feb. 7, 1927, as added by act June 1, 1948. The first sentence of section 6 repealed former sections 141 to 152 of this title and did not affect pending applications for permits or leases filed prior to Jan. 1, 1926, or valid claims existent on Feb. 7, 1927, and thereafter maintained in compliance with the laws under which initiated, which claims could be perfected under such laws, including discovery.

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

§ 287. Extension of prospecting permits

Any prospecting permit issued under this subchapter may be extended by the Secretary of the Interior for a period not exceeding two years, upon a showing of satisfactory cause.

(Feb. 7, 1927, ch. 66, § 7, as added May 7, 1932, ch. 174, 47 Stat. 151.)

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

CHAPTER 4—LEASE OF GOLD, SILVER, OR QUICKSILVER DEPOSITS WHEN TITLE CONFIRMED BY COURT OF PRIVATE LAND CLAIMS

Sec.
291. Lease of gold, silver, or quicksilver deposits on lands title to which confirmed by Court of Private Land Claims.
292. Royalties and rentals; disposition.
293. Duties of Secretary of the Interior.

§ 291. Lease of gold, silver, or quicksilver deposits on lands title to which confirmed by Court of Private Land Claims

All gold, silver, or quicksilver deposits, or mines or minerals of the same on lands embraced within any land claim confirmed or hereafter confirmed by decree of the Court of Private Land Claims, and which did not convey the mineral rights to the grantee by the terms of the grant, and to which such grantee has not become otherwise entitled in law or in equity, may be leased by the Secretary of the Interior to the grantee, or to those claiming through or under him, for a period of twenty years, with the preferential right in the lessee to renew the same for successive periods of ten years, upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the time of the expiration of such periods.

(June 8, 1926, ch. 503, § 1, 44 Stat. 710.)

§ 292. Royalties and rentals; disposition

For the privilege of mining or extracting the gold, silver, or quicksilver deposits in the land covered by such lease, the lessee shall pay to the United States a royalty, which shall not be less than 5 per centum nor more than 12½ per centum of the net value of the output of the gold, silver, or quicksilver at the mine, due and payable at the end of each month succeeding that of the extraction of the minerals from the mine. All moneys received from royalties and rentals