

State, the Council on Environmental Quality, other interested Federal agencies, and, on request, to the public in the United States. Interested foreign governments also may be informed of the reviews and, subject to the "Limitations" (subsection E.6., of this enclosure) and controls on classified information, will be furnished copies of the documents on request. This provision for document distribution is not a requirement that distribution be made prior to taking the action that is the subject of the review.

6. *Limitations.* The requirements with respect to the preparation, content, and distribution of environmental reviews in the international context must remain flexible. The specific procedures must be determined on a case-by-case basis and may be modified where necessary to:

a. Enable the component to act promptly. Considerations such as national security and foreign government involvement may require prompt action that must take precedence in the environmental review process;

b. Avoid adverse impacts on relations between the United States and foreign governments and international organizations;

c. Avoid infringement or the appearance of infringement on the sovereign responsibilities of another government. The collection of information and the preparation and distribution of environmental documentation for actions in which another nation is involved or with respect to the environment and resources of another nation, unless done with proper regard to the sovereign authority of that nation, may be viewed by that nation as an interference in its internal affairs and its prerogative to evaluate requirements with respect to the environment; and

d. Ensure consideration of:

(1) Requirements of governmental confidentiality. This refers to the need to protect sensitive foreign affairs information and information received from another government with the understanding that it will be protected from disclosure regardless of its classification;

(2) National security requirements. This refers to the protection of classified information;

(3) Availability of meaningful information. Information on the environment of foreign nations may be unavailable, incomplete, or not susceptible to meaningful evaluation, and this may reduce or change substantially the normal content of the environmental review;

(4) The extent of the participation of the DoD component concerned and its ability to affect the decision made. The utility of the environmental analysis and the need for an in-depth review diminishes as the role of the Department of Defense and control over the decision lessens; and

(5) International commercial, commercial confidentiality, competitive, and export pro-

motion factors. This refers to the requirements to protect domestic and foreign trade secrets and confidential business information from disclosure. Export promotion factors includes the concept of not unnecessarily hindering United States exports.

7. *Classified Information.* Classified information will be safeguarded from disclosure in accordance with the DoD procedures (32 CFR 159) established for such information under Executive Order 12065. The requirements of that Executive Order take precedence over any requirement of disclosure in this part.

PART 189—MINERAL EXPLORATION AND EXTRACTION ON DoD LANDS

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AUTHORITY: 30 U.S.C. 21a, 22, 181 *et seq.*, 351 *et seq.*, 601 *et seq.*, 1001 *et seq.*, 1601 *et seq.* 40 U.S.C. 471. 43 U.S.C. 155 *et seq.*

SOURCE: 48 FR 48824, Oct. 21, 1983, unless otherwise noted. Redesignated at 56 FR 64481, Dec. 10, 1991.

§ 189.1 Purpose.

Under 30 U.S.C. 21a, 22, 181 *et seq.*, 351 *et seq.*, 601 *et seq.*, 1001 *et seq.*, and 1601 *et seq.*, 40 U.S.C. 471, and 43 U.S.C. 155 *et seq.*, this rule establishes policy, assigns responsibilities, and provides procedures for making DoD lands available for mineral exploration and extraction.

§ 189.2 Applicability and scope.

(a) This Directive applies to the Office of the Secretary of Defense and the Military Departments (including their National Guard and reserve components).

(b) It applies to DoD-controlled lands acquired or withdrawn from the public domain (including Army civil works lands) within the United States and its territories and possessions for which the mineral rights are owned by the United States, with the following exceptions:

(1) Mineral leasing of lands situated within incorporated cities, towns, and villages (30 U.S.C. 351 *et seq.* and 181 *et seq.*).

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(2) Mineral leasing of tidelands or submerged lands (30 U.S.C. 351).

(3) Certain hardrock minerals known as locatables (30 U.S.C. 22).

(4) A class of minerals composed of sand and gravel known as saleables (30 U.S.C. 601 *et seq.* and 41 CFR 101-47.302-2).

§ 189.3 Definitions.

(a) *Leasable minerals.* Minerals, such as oil and gas, that are owned by the United States and that have been authorized under statute as potential minerals for extraction under a mineral lease (30 U.S.C. *et seq.*, 181 *et seq.*, and 1001 *et seq.*

(b) *Locatable minerals.* Minerals, such as gold and silver, that are owned by the United States, that are on public domain lands, that are subject to discovery and claim, and that are not leasable or saleable (30 U.S.C. 22).

(c) *Mineral lease.* A grant of a right to explore for and extract leasable minerals. No surface occupancy, drilling, or other mineral extraction is permitted until an operations plan is approved by the DoI in consultation with the Military Department concerned.

(d) *Multiple-use principle.* The integrated management of all resources, each with the other, to achieve their optimum use and enjoyment while maintaining environmental and other qualities in balance.

(e) *Permit.* Temporary permission to conduct seismic or other geological and geophysical tests before requesting a mineral lease.

(f) *Saleable minerals.* Common variety minerals, such as sand, clay, and gravel, that are sold under certain statutory authorities (30 U.S.C. *et seq.* and 41 CFR 101-47.302-2

§ 189.4 Policy.

In accordance with established DoD policy to promote optimal use of real property under the multiple-use principle (DoD Directive 4700.1), DoD lands shall be made available for mineral exploration and extraction to the maximum extent possible consistent with military operations, national defense activities, and Army civil works activities.

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§ 189.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)* shall:

(1) Have primary responsibility for developing DoD policy for mineral exploration and extraction on DoD lands.

(2) Ensure that the Military Departments issue regulatory documents implementing this Directive.

(b) The *Secretaries of the Military Departments* shall:

(1) Review and approve or disapprove requests from the Department of the Interior (DoI), the Federal mineral leasing agency, to lease DoD lands under 43 U.S.C. 155 *et seq.* and DoD Directive 5160.63.

(2) Issue regulatory documents implementing this Directive to prescribe procedures relating to the issuance of permits and leases and the approval of plans of operations for mineral exploration and extraction.

(3) Formulate a system for maintaining records of land status to assist the DoI in mineral leasing. This system shall be established in accordance with DoD Directive 5000.11 and shall use existing standard data elements from DoD 5000.12-M, whenever possible.

§ 189.6 Procedures.

(a) If a Military Department cannot consent to exploration or extraction, it also may not approve testing or leasing. Exclusion of lands from exploration and extraction shall be justified and supported. Availability of lands is subject to certain conditions and stipulations that also shall be justified. Granting approval for leasing usually shall be construed as consent ultimately to allow drilling or other forms of mineral extraction. Accordingly, initial approval clearly shall indicate the conditions, if known, under which further exploration or extraction shall be allowed. For example, classified operations, ammunition and explosives operational storage requirements, and contaminated lands may restrict or exclude leasing or may require no surface disturbance stipulations (DoD 5154.4-S).

(b) The Military Departments may issue permits to parties interested in conducting seismic or other geophysical tests on DoD lands. In unusual

circumstances, the Military Departments may refer permit applications to the DoI for issuance. Permits are subject to the approval of, and conditions imposed by, the Military Department concerned. The issuing agency shall make any required environmental and cultural studies. For permits issued by the DoI, the Military Department concerned shall provide, upon request, environmental and cultural information held by the Department.

(c) *Leases.* The DoI receives and processes all mineral lease requests and then forwards such lease offers and title report requests to the Military Department concerned. The Military Department then shall decide whether and under what conditions its land may be made available for leasing.

(1) *Environmental and cultural considerations for leases.* As the lead agency, the DoI obtains all environmental and cultural documentation before deciding to lease. The responsibilities of the Military Department concerned, when acting as a cooperating agency, shall be limited to providing to the DoI, upon request, any available environmental and cultural information.

(2) *Title search.* The Military Department concerned shall furnish to the DoI available information for acquired lands. DoI title records shall be relied upon for withdrawn public domain lands, except that the Military Departments shall identify all outstanding interests, such as easements and licenses. When title information is incomplete, the Military Department shall so advise the DoI.

(3) *Plans of operations.* After the lease is executed, the lessee submits a plan of operations (Application for Permit to Drill for oil and gas or Mining Plan for other minerals) to the DoI for technical review and coordination with the Military Department concerned. As a cooperating agency, the Military Department shall supply appropriate stipulations; available environmental, endangered species, and cultural information; and concurrence with the plan. The DoI then formalizes the environmental considerations and approves the plan with the stipulations supplied by the Military Department. Stipulations shall be tied directly to the details of the proposed plan of operations,

and each stipulation shall be objectively justifiable.

(4) The DoI has the responsibility for the collection and disposition of proceeds derived from mineral leasing.

§ 189.7 Summary of mineral leasing authorities.

(a) 30 U.S.C. 351 *et seq.* authorizes leasing of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur within acquired DoD lands. 30 U.S.C. 181 *et seq.* authorizes leasing of coal, phosphate, sodium, oil, oil shale, native asphalt, solid or semi-solid bitumen, and bituminous rock or gas within DoD-withdrawn public domain lands under certain conditions and in certain places. Under the leasing statutes, the Secretary of the Interior is responsible for granting and administering such leases. 30 U.S.C. 101 *et seq.* authorizes the Secretary of the Interior to issue leases for development of geothermal steam and associated resources on public lands. This includes public lands withdrawn for use by the Military Departments.

(b) 30 U.S.C. 351 *et seq.* specifically provides for consent of the head of the executive department having jurisdiction over the lands containing the mineral deposit before leasing. For public domain lands withdrawn for use of the Department of Defense 43 U.S.C. 155 *et seq.* provides that there will be no disposition of or exploration for minerals on public domain lands when the Secretary of Defense, in consultation with the Secretary of the Interior, determines that such disposition or exploration is inconsistent with the military use of the land.

PART 190—NATURAL RESOURCES MANAGEMENT PROGRAM

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APPENDIX TO PART 190—INTEGRATED NATURAL RESOURCES MANAGEMENT

AUTHORITY: 16 U.S.C. 1531 *et seq.*, 16 U.S.C. 670 *et seq.*, 10 U.S.C. 2665, 10 U.S.C. 2667(d), 10 U.S.C. 2671 and 16 U.S.C. 460(l).