

## §213.41

conditions violated, and after a hearing, if the lessee shall so request within 30 days after issuance of the notice, to declare such lease null and void, and the lessor shall then be entitled and authorized to take immediate possession of the land.

(b) On the following conditions, the lessee may, on approval of the Secretary of the Interior, surrender a lease or any part of it:

(1) That he make application for cancellation to the Area Director having jurisdiction over the land.

(2) That he pay a surrender fee of \$1 at the time the application is made.

(3) That he pay all royalties and rentals due to the date of such application.

(4) That he make a satisfactory showing that full provision has been made for conservation and protection of the property and that all wells, drilled on the portion of the lease surrendered, have been properly abandoned.

(5) If the lease has been recorded, that he file, with his application, a recorded release of the acreage covered by the application.

(6) If the application is for the cancellation of the entire lease or the entire undivided portion, that he surrender the lease: *Provided*, That where the application is made by an assignee to whom no copy of the lease was delivered, he will be required to surrender only his copy of assignment.

(7) If the lease (or portion being surrendered or canceled) is owned in undivided interests by more than one party, then all parties shall join in the application for cancellation.

(8) That all required fees and papers must be in the mail or received on or before the date upon which rents and royalties become due, in order for the lessee and his surety to be relieved from liability for the payment of such royalties and rentals.

(9) If there has been a contest respecting a lease or leases, the approved, the disapproved, or the canceled parts thereof will be held in the office of the Area Director for 5 days after the Department's decision has been promulgated, by mail or delivery, and will not be delivered, if within that period a motion for review and reconsideration be filed, until such motion is passed upon by the Department.

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(10) In the event oil or gas is being drained from the leased premises by wells not covered by a lease; the lease, or any part of it, may be surrendered, only on such terms and conditions as the Secretary of the Interior may determine to be reasonable and equitable.

(c) No part of any advance rental shall be refunded to the lessee nor shall he be relieved, by reason of any subsequent surrender or cancellation of the lease, from the obligation to pay said advance rental when it becomes due.

(d) For proper method of terminating departmental leases covering lands from which restrictions have been removed see section 3 of the act of May 27, 1908 (35 Stat. 312).

### REMOVAL OF RESTRICTIONS

#### §213.41 Leases executed but not approved before restrictions removed from land.

Leases executed before the removal of restrictions against alienation on land from all of which restrictions against alienation shall be removed after such execution, if such leases contain specific provisions for approval by the Secretary of the Interior, whether now filed with the Department or presented for consideration hereafter, will be considered and acted upon by this Department as heretofore but only for the purpose of approving or disapproving the instrument.

#### §213.42 Operations after removal of restrictions from leased lands.

(a) Oil and gas leases heretofore approved and leases for other minerals now or hereafter in force on land from all of which restrictions against alienation have been or shall be removed, even if such leases contain provision authorizing supervision by this Department, shall after such removal of restrictions against alienation, be operated entirely free from such supervision, and the authority and power delegated to the Secretary of the Interior in said leases shall cease and all payments required to be made to the Area Director shall thereafter be made to the lessor or the then owner of the land, and changes in regulations thereafter made by the Secretary of the Interior shall not apply to such leased

land from which said restrictions are removed.

(b) In the event restrictions are removed from a part of the land included in any lease to which this section applies the entire lease shall continue subject to the supervision of the Secretary of the Interior, and all royalties thereunder shall be paid to the Area Director until such time as the lessor and lessee shall furnish the Secretary of the Interior satisfactory information that adequate arrangements have been made to account for the oil, gas or mineral upon the restricted land separately from that upon the unrestricted. Thereafter the restricted land only shall be subject to the supervision of the Secretary of the Interior: *Provided*, That the unrestricted portion shall be relieved from such supervision as in the lease or regulations provided.

#### § 213.43 Relinquishment of Government supervision.

All oil and gas leases hereafter executed shall contain the following relinquishment of supervision clause and terms operative after such relinquishment, or other provisions similar in substance:

Relinquishment of supervision by the Secretary of the Interior.—Should the Secretary of the Interior, at any time during the life of this instrument, relinquish supervision as to all or part of the acreage covered hereby, such relinquishment shall not bind lessee until said Secretary shall have given 30 days' written notice. Until said requirements are fulfilled, lessee shall continue to make all payments due hereunder as heretofore in section 3(c). After notice of relinquishment has been received by lessee, as herein provided this lease shall be subject to the following further conditions:

(a) All rentals and royalties thereafter accruing shall be paid in the following manner: Rentals and royalties shall be paid to lessor or his successors in title, or to a trustee appointed under the provision of section 9 hereof. Rentals and royalties shall be paid directly to lessor, his successors in title, or to said trustee as the case may be.

(b) If, at the time supervision is relinquished by the Secretary of the Interior, lessee shall have made all payments then due hereunder, and shall have fully performed all obligations on its part to be performed up to the time of such relinquishment, then the bond given to secure the performance hereof, on file in the Indian Office, shall be of no further force or effect.

(c) Should such relinquishment affect only part of the acreage, then lessee may continue to drill and operate the land covered hereby as an entirety: *Provided*, That lessee shall pay in the manner prescribed by section 3(c), for the benefit of lessor such proportion of all rentals and royalties due hereunder as the acreage retained under the supervision of the Secretary of the Interior bears to the entire acreage of the lease, the remainder of such rentals and royalties to be paid directly to lessor or his successors in title or said trustee as the case may be, as provided in subdivision (a) of this section.

Division of fee. It is covenanted and agreed that should the fee of said land be divided into separate parcels, held by different owners, or should the rental or royalty interests hereunder be so divided in ownership, after the execution of this lease and after the Secretary of the Interior relinquishes supervision hereof, the obligations of lessee hereunder shall not be added to or changed in any manner whatsoever save as specifically provided by the terms of this lease. Notwithstanding such separate ownership, lessee may continue to drill and operate said premises as an entirety: *Provided*, That each separate owner shall receive such proportion of all rentals and royalties accruing after the vesting of his title as the acreage of the fee, or rental or royalty interest, bears to the entire acreage covered by the lease; or to the entire rental and royalty interest as the case may be: *Provided further*, That, if, at any time after departmental supervision hereof is relinquished, in whole or in part, there shall be four or more parties entitled to rentals or royalties hereunder, whether said parties are so entitled by virtue of undivided interests or by virtue of ownership of separate parcels of the land covered hereby, lessee at his election may withhold the payment of further rentals or royalties (except as to the portion due the Indian lessor while under restriction), until all of said parties shall agree upon and designate in writing and in a recordable instrument a trustee to receive all payments due hereunder on behalf of said parties and their respective successors in title. Payments to said trustee shall constitute lawful payments hereunder, and the sole risk of an improper or unlawful distribution of said funds by said trustee shall rest upon the parties naming said trustee and their respective successors in title. (The above provisions are copied from oil and gas mining lease Form 5-154h,<sup>1</sup> revised April 24, 1935.)

<sup>1</sup>For information relative to obtaining Form 5-154h, see § 211.30.