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§ 214.23 Plat of mine location.

Lessees are required, when so requested, to file a plat of their leases showing exact locations of all mines, proposed locations, power houses, etc.

§ 214.24 Forms.

Applications, leases, and other papers must be upon forms prepared by the department, and the superintendent of the Osage Indian school, Pawhuska, Okla., will furnish prospective lessees with such forms at a cost of \$1 per set.

Form M. Application for mining lease, including financial showing.

Form N. Lease (except lead and zinc).

Form O. Bond.

Form P. Authority of officers to execute papers.

Form Q. Assignment.

Form R. Lease for lead and zinc.

Form S. Collective bond.

§ 214.25 Forfeiture of lease.

On the failure of any lessee or assignee to comply with any regulation or any obligation in the lease or assignment, the Secretary of the Interior may cancel and annul such lease without resorting to the courts and without any further proceeding: *Provided*, That the party or parties charged with such violation shall be first given not less than 30 days' notice to show cause why such lease should not be canceled and annulled or other order made with reference thereto.

§ 214.26 Fine; notice and hearing.

Violation of any of the terms or conditions of any lease or of the regulations pertaining thereto shall subject the lease to cancellation by the Secretary of the Interior, or the lessee to a fine of not exceeding \$500 per day for each and every day the terms of the lease or of the regulations are violated, or the orders of the superintendent in reference thereto are not complied with, or to both such fine and cancellation in the discretion of the Secretary of the Interior: *Provided*, That the lessee shall be entitled to notice and hearing with respect to the terms of the lease or of the regulations violated, which hearing shall be held by the superintendent, whose findings shall be conclusive unless an appeal be taken to the Secretary of the Interior within 30

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days after notice of the superintendent's decision, and the decision of the Secretary of the Interior upon appeal shall be conclusive.

§ 214.27 Changes in regulations.

The regulations in this part are subject to change or alteration at any time by the Secretary of the Interior.

§ 214.28 Location of sites for mines and buildings.

In event of disagreement between two or more mineral lessees regarding sites for the location of wells, mines, buildings, plants, etc., the same shall be determined by the superintendent after investigation and after due consideration of prior right of any lessee by reason of date of approval of lease.

§ 214.29 Prospecting; abandonment of mines.

All prospecting or mining operations or the abandonment of a well or mine shall be subject to the approval of the superintendent, and any disagreement between lessees of mineral leases regarding operations likely to result in injury to either lessee shall be determined by the superintendent, whose decision shall be final, unless an appeal is filed with the Secretary of the Interior within 30 days after notice of such decision.

§ 214.30 Lessees must appoint local representative.

Before actual drilling or development operations are commenced on leased lands, the lessee or assignee shall appoint a local or resident representative within the State, on whom the superintendent or other authorized representative of the department may serve notice or otherwise communicate with in securing compliance with the regulations in this part and shall notify the superintendent of the name and post office address of the representative so appointed.

PART 215—LEAD AND ZINC MINING OPERATIONS AND LEASES, QUAPAW AGENCY

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215.0 Definitions.

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- 215.23 Cooperation between superintendent and district mining supervisor.
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- 215.25 Other minerals and deep-lying lead and zinc minerals.

AUTHORITY: Sec. 26, 41 Stat. 1248; 50 Stat. 68.

SOURCE: 22 FR 10608, Dec. 24, 1957, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§215.0 Definitions.

The following expressions, wherever used in the regulations in this part or leases thereunder, shall have the meaning designated in this section:

(a) *Superintendent*. The term "superintendent" shall mean any person in charge of the Quapaw Indian Agency, or having supervision under the direction of the Secretary of the Interior of the Indian restricted and trust allotted lands thereunder.

(b) *Allottee*. The term "allottee" shall mean any Indian to whom land has been allotted, or any Indian owner of land or interest therein as an heir or devisee.

(c) *Incompetent Indian*. The term "incompetent Indian" or "incompetent" shall mean any Indian who has been declared by the Secretary of the Interior to be incompetent to improve or manage his restricted or trust lands properly or with benefit to himself. The

term shall also include any Indian who is a minor and any Indian who is a legal incompetent under the laws of the State. The term shall also apply to any Indian who is in fact incompetent, and the question of whether an Indian is competent or incompetent at the time of making a lease of his restricted or trust Indian lands is one for the Secretary of the Interior to determine.

(d) *Lessee*. The term "lessee," except where otherwise modified or limited in the regulations in this part, shall mean any person, firm, or corporation, their legal representatives, heirs, or assigns, to whom a lead and zinc mining lease has been made by or on behalf of Indians under the provisions of the regulations in this part.

(e) *Lessor*. The term "lessor," except where otherwise modified or limited in the regulations in this part, shall mean any Indian owning or having any interest in restricted or trust allotted any inherited lands under the supervision of the Quapaw Indian Agency, by or for whom a lease has been executed pursuant to the regulations in this part.

(f) *Leased lands*. The terms "leased lands," "leased premises," or "leased tract" shall mean any leased restricted or trust lands within and under jurisdiction of the Quapaw Indian Agency allotted to or inherited by an Indian.

(g) *Mining operations*. The term "mining operation" or "operations," except where otherwise modified or limited in the regulations in this part or in leases thereunder shall mean actual drilling, mining, or construction on the leased lands.

§215.1 No operations until lease approved.

No operations under any lease executed under the regulations in this part shall be permitted upon any restricted or trust lands allotted to or inherited by an Indian until such lease covering such tract shall be approved by the Secretary of the Interior.

§215.2 Local representative of lessee.

Before actual drilling or development operations are commenced on the leased lands the lessee shall appoint a local or resident representative within Ottawa County, Oklahoma, on whom the superintendent may serve notice or

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otherwise communicate with in securing compliance with the regulations, and shall notify the superintendent of the name and post office address of the representative so appointed. In the event of the incapacity or absence from the county of Ottawa of such designated local or resident representative, the lessee shall appoint some person to serve in his stead, and in the absence of such representative or of notice of the appointment of a substitute any employee of the lessee upon the leased premises, or the contractor, or other person in charge of mining operations thereon shall be considered the representative of the lessee for the purpose of service of orders or notices as provided in this part, and service upon any employee, contractor, or other person shall be deemed service on the lessee. Wherever a notice is provided for in the regulations in this part or in the lease from it shall be deemed sufficient if notice has been mailed to the last known address of the lessee or his local or resident representatives, and time shall begin to run with the day next ensuing after the mailing, or from date of delivery of personal notice.

§215.3 Manner and time of royalty payments.

All royalties belonging to the lessor shall be paid to the superintendent of the Quapaw Agency at Miami, Okla., or such other official as the Secretary of the Interior may designate, for the benefit of the lessor, not later than 15 days from the 1st of each month for ore and concentrates sold during the preceding month.

§215.4 Leases to be sold at public auction.

Except as otherwise provided in the regulations in this part, no lead and zinc mining lease under this part of restricted or trust allotted and inherited Indian lands within and under the Quapaw Indian Agency shall be made except to the highest responsible bidder at public auction.

§215.5 Royalty rates.

(a) In leases offered for sale at public auction under the regulations in this part the royalty to be paid by the lessee shall be stipulated at a fixed per-

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cent of the gross proceeds of all lead and zinc ores and concentrates extracted from the leased premises, the royalty to be computed and based upon each sale of ore or concentrates separately, the rate of royalty to be determined and fixed by the Secretary of the Interior in the case of each lease prior to the offering of such lease for sale. Subject to the right of the Secretary of the Interior to reject any and all bids, leases offered for sale at public auction shall be awarded in each case to the responsible bidder submitting the highest bonus offer.

(b) In leases not offered for sale at public auction but otherwise made and entered into under the provisions of the regulations in this part the royalty stipulated and fixed therein shall be such as may be determined by the Secretary of the Interior or as may be agreed upon in each case, subject to the approval of the Secretary of the Interior.

(c) It shall be further provided, however, that said sale-price basis for the determination of the rates and amount of royalty shall not be less than the highest and best obtainable market price of the lead and zinc ores and concentrates at the usual and customary place of disposing of such ores and concentrates at the time of sale: *Provided, however,* That the right is reserved to the Secretary of the Interior to determine and declare such market price if it is deemed necessary for him to do so for the protection of the interests of the Indian lessor: *And provided further,* That the right is reserved to the Secretary of the Interior on behalf of the Indian lessors to reserve at any time it shall be deemed to be to the best interests of the Indian lessors and upon due notice to the lessee, the royalty share of the gross production of the ore and concentrates and upon such notice that the royalty share of such production shall be stored and not sold, the lessee shall be required to store, free of charge to the Indian lessors in the ore bins of said lessee, said royalty shares of the gross production of ore and concentrates, provided that the lessee may not be required to store ore or concentrates for the lessor in amounts

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greater than one-third of his bin capacity or for a period longer than 6 months.

§215.6 Applications for leases; consent of Indian owners.

(a) Applications or requests by the Indian owners of restricted or trust land, or by others, that such land be leased or offered for lease for lead and zinc mining purposes should be addressed to the Secretary of the Interior and submitted through the superintendent of the Quapaw Indian Agency. Upon receipt of such applications or requests, the superintendent shall give consideration thereto and forward the same to the Commissioner of Indian Affairs with his report and recommendation.

(b) In no instance will a new lease be executed and delivered (or advertised for sale to the highest bidder) unless the Indian owner thereof, if an adult who has not been specifically found by the Secretary of the Interior to be personally incompetent to transact ordinary business affairs, has agreed to the terms of said lease or the terms under which said lease is advertised for lease, except in cases where the land is owned by several co-tenants, and, in such cases, no such lease shall be given or advertised for sale unless the co-owners or a majority in interest, if adults, and not specifically declared incompetent, have first consented thereto: *Provided*, That in the event the majority in interest is owned by minors, or adults specifically found to be incompetent, then and in that event, the Secretary of the Interior reserves the right to lease the entire tract if, in his opinion, such leasing will inure to the best interest of the restricted Indian owners.

§215.7 Advertisement of sale of leases.

Upon authority being granted by the Secretary of the Interior to the superintendent to offer for sale at public auction a lead and zinc mining lease of any tract or tracts of restricted or trust allotted and inherited Indian lands, the superintendent shall cause a notice to be published once a week for at least 4 weeks in some designated newspaper of general circulation in the county in which the land is located, setting forth that upon a certain day,

which shall be not less than 30 days from the first publication of such notice and at a place to be named in the notice, the superintendent or other duly authorized representatives of the Secretary of the Interior will offer for sale at public auction a lead and zinc mining lease of such lands to the highest and best bidder, subject to the rules and regulations prescribed by the Secretary of the Interior, notice to be in such form as may be prescribed by the Secretary of the Interior.

§215.8 Submission of bids.

At the time of public auction bidders may submit their bids in person or by authorized agents, but in the latter case the bids must be accompanied by power of attorney duly executed by the real party or person in interest. Sealed bids may be submitted by mail or otherwise to the superintendent at his office at Miami, Okla., or delivered to him at the place set for the sale at any time prior to the hour fixed for offering the lease for sale. At the time and place of the public auction and before receiving the public bids the officer in charge shall announce the amounts and terms of all sealed bids received by him and the names of the bidders. The persons present, including those, if any, who may have theretofore submitted sealed bids, shall then be allowed to offer public bids. Bids must contain the offer of the stipulated and fixed royalty (see §215.5 as to royalty) and, in addition thereto, the offer of a bonus payable as follows: 25 percent at time of sale and the balance before or at time of execution of the lease contract. Bidders shall be required to submit with their bids a draft or certified check payable to the order of the superintendent covering the advance rental for the first year on the proposed leasehold and 25 percent of the amount of the bonus offered. The superintendent shall, in each case, determine the highest and best bid, said determination, however, to be subject to the approval of the Secretary of the Interior. Upon approval by the Secretary of the Interior of the award, the successful bidder shall, within 30 days from notice thereof, enter into and execute the lease contract in accordance with said bid and the regulations in this part. The

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lease so executed shall be subject to the approval of the Secretary of the Interior and may be accepted or rejected by him when submitted for his approval. The right is reserved to the Secretary of the Interior, in the event of the rejection of such lease, to authorize and instruct the superintendent to accept the offer of some competitive bidder or to readvertise the land for lease. The report of the superintendent to the Commissioner of Indian Affairs relative to the auction sale shall contain full information as to all bids received for the lease rights on the land. If any person or party fails or refuses to execute a lease after being declared the highest bidder or after being awarded such lease, the amount tendered with his bid shall be forfeited to the superintendent for the benefit of the owner of the land.

§215.9 Execution of leases.

Whenever a lease award to a proposed lessee has been approved by the Secretary of the Interior, as provided in §§215.7 and 215.8, the lease contract shall be executed by the Indian owner of the land, if he be an adult and not incompetent as defined in §215.0(c). Before any lease is entered into by the Indian owners or is approved by the Secretary of the Interior, all the adult and competent owners or co-owners of the tract of land which it is proposed to lease, shall be furnished by the Bureau such geological reports as may be available or that can be secured from the representative of the Geological Survey showing the estimated mineral reserves on said property, the estimated reasonable value of such property for mining purposes, and such other data as might reasonably be necessary to fully advise the owners of said property of the then present status and mining value of their lands. If the Quapaw or other Indian owner of the land is a minor, or is otherwise incompetent as defined in the regulations in this part, the lease contract shall be executed by the superintendent for and on behalf of such minor or such incompetent. The leases executed, either by the Indian owner of the land or by the superintendent in his behalf, shall be subject to the approval of the Secretary of the Interior

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and shall be effective only upon such approval.

[22 FR 10608, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982; 48 FR 13414, Mar. 31, 1983]

§215.10 Renewal of leases on developed lands.

(a) In cases where the lands have heretofore been leased, and lead and zinc ores have been discovered hereon, and it shall appear to the Secretary of the Interior to be advisable and to the best interests of the Indian owners of the lands that the terms of the existing lease or leases be extended or that a new lease or leases for an additional period of time, or that a new lease or leases to take effect upon the expiration of present valid leases, should, upon application therefor, be granted to either the present lessees or to parties holding under assignments, subleases, or mining contracts, from such present lessees, or to parties who have expended capital in lead and zinc mining operation and development of the land under such leases, assignments, subleases, or mining contracts, a new lease or leases or contract of extension or existing lease or leases as may be authorized by the Secretary of the Interior may be entered into with the proper party or parties as may be determined by said Secretary of the Interior, and such new lease or leases or contract of extension of existing lease or leases shall be executed subject to the regulations in this part by and between the Indian owner of the land, if an adult and not incompetent as defined in §215.0 (c), and said proper party or parties. If the Quapaw or other Indian owner of the land is a minor or an otherwise incompetent as defined in §215.0 (c), the superintendent shall execute the new lease or leases or contract of extension of existing lease or leases for and on behalf of said Indian minor or incompetent. Said new leases or contracts of extension of old leases, whether executed by the Indian owner of the land or by the superintendent for and in his behalf, shall be subject to the approval of the Secretary of the Interior and shall become effective only upon such approval. No offering for sale at public auction or advertisement of sale

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will be necessary in reference to contracts of extension of leases, or to leases entered into under this section, as above provided, but such lease or contract shall be upon such terms as to bonus and royalty as may be determined and fixed in each case by the Secretary of the Interior under the provisions of §215.5. The approval by the Secretary of the Interior of new leases or of the contracts of extension of old leases shall be conclusive as to the validity of said leases, or contracts of extension of leases, the manner and method of negotiating the same, and the execution thereof. If, however, in any case where lands have heretofore been leased and lead and zinc ores have been discovered thereon, it shall appear to the Secretary of the Interior that the extension of the existing lease or leases or the granting of new leases to the present lessees, or to the persons or parties holding under said lessees by assignment, sublease, or mining contract, would not be to the best interests of the Indian owners of the land, the Secretary of the Interior may, at the expiration, cancellation, or forfeiture of the existing lease, cause the mining lease rights on said land to be offered for sale at public auction to the highest bidder. If the lead and zinc mining lease on said land be offered for sale at public auction, the same procedure shall be followed as provided in §§215.7 through 215.9.

(b) Applications under the provision of this section for a lease or extension of lease or for the approval of such lease or extension of lease will not be received or considered prior to the period of 1 year next preceding the date of the expiration of such valid existing lease or leases as may be on the land covered by such application.

(c) Applications under the provisions of this section for a lease or extension of lease or for the approval of such lease or extension of lease shall be filed with the superintendent of the Quapaw Agency at any time within the period of 1 year next preceding the date of the expiration of such valid existing lease or leases as may be on the land covered by such application, and if the records of or papers in the office of said superintendent or the records of the county court of Ottawa County, Okla., indi-

cate that there are any prior existing leases, subleases, assignments of leases or mining contracts covering any of the land applied for, the superintendent shall notify all persons having or claiming any rights or interest in or under said prior existing leases, subleases, assignments of leases, or mining contract concerning said application for lease or extension of lease, and that they will be allowed 10 days in which to file with the superintendent any objection they may have to the allowance of the application or to the approval of the new lease or extension of existing lease. If objection or protest is made by any owner of the land or by any person claiming rights or interests in or under existing lease, sublease, assignment of lease, or mining contract, a reasonable time, not exceeding 20 days, shall be allowed them in which to file their statement or brief in support of their protest or objection, and a reasonable further time not exceeding 10 days shall be allowed the applicant for new lease or for extension of existing lease to reply in support of the application. In case of contest, hearings may be had if deemed necessary by the Secretary of the Interior or his representative. The application and papers in each case shall be forwarded by the superintendent of the Quapaw Indian Agency to the Commissioner of Indian Affairs with his report and recommendation in regard thereto.

§215.11 New leases where prior leases have been forfeited or abandoned.

In cases where the lands have heretofore been leased and lead and zinc ores have been discovered but the mines and mining operations have been abandoned and the leases have been canceled or forfeited or have expired, special arrangements in the matter of the leasing and mining of said lands may be made provided the consent thereto of the Secretary of the Interior be first obtained. Applications containing special offers as to the terms and conditions may be considered by the Secretary of the Interior and the leasing of said lands may be made upon such special terms and conditions as the Secretary of the Interior may in each case deem to be for the best interests of the Indian owners of the land.

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If, however, in any case, it shall appear to the Secretary of the Interior that the granting of such lease would not be to the best interest of the Indian owners of the land, the Secretary of the Interior may cause the mining lease rights on said land to be offered for sale at public auction to the highest bidder. If the lead and zinc mining lease on said land be offered for sale at public auction, the same procedure shall be followed as provided in §§215.7 through 215.9.

§215.12 Advertising costs.

All advertising costs, publication fees, expenses incurred for abstracts of lease title, and other expenses incurred in connection with the advertising and sale of leases and in connection with the execution of lease contracts shall be borne by the lessee. In the event a lease of the land is offered to the highest bidder and he fails or refuses to execute such lease when duly notified and as required by or under the regulations in this part, and no other bid is accepted, such costs, fees, and expenses shall be paid from such money as he may have paid with his bid. If no bid is tendered after a tract is advertised, or if all bids are refused, said items of expenses shall be charged to the Indian owner of the land and be paid by him or be paid by the superintendent from any funds held by such superintendent to the credit of such Indian owner of the land.

§215.13 Bond.

Every mineral lease made and entered into under the regulations in this part, by an Indian or by the superintendent as his representative or in his behalf, must be accompanied by a surety bond, executed by the lessee and by a responsible surety company or two or more satisfactory sureties, guaranteeing the payment of all deferred installments of bonus and the payment of all specified royalties and rentals and the performance of all covenants and agreements undertaken by the lessee. Such bonds, unless authorized by the Secretary of the Interior or his authorized representative, with the consent of the Indian landowner, shall be not less than the following amounts:

For less than 80 acres—\$2,500

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For 80 acres and less than 120 acres—3,500
For 120 acres or more—5,000

Provided, however, That the lessee may, in lieu of such surety bond and upon execution of a proper penal bond to the United States in the sum prescribed and a proper power of attorney to the Secretary of the Interior, submit therewith United States bonds or notes in the aggregate sum prescribed as security for the carrying out of the terms, conditions, and provisions of the lease: *Provided further,* That a lessee may file in lieu of such individual lease bonds, one bond in a sum to be fixed by the Secretary of the Interior covering all leases to which he is or may become a party. The right is specifically reserved to the Secretary of the Interior to require an increase of the amount of any bond above the sum named in any particular case where he deems it necessary to require such increased bond.

[26 FR 164, Jan. 10, 1961. Redesignated at 47 FR 13327, Mar. 30, 1982]

§215.14 Payments to be made to superintendent.

No bonus, rents, royalties, nor other payments accruing under any mineral lease executed in accordance with or subject to the regulations in this part and approved by the Secretary of the Interior shall be paid direct to the Indian lessor; but all such bonus, rents, royalties, and other payments accruing under any such lease shall be paid to the superintendent for the benefit of the Indian lessors, to be deposited by that officer to the credit of the superintendent in some bank designated for the deposit of individual Indian moneys.

§215.15 Leases to be accompanied by Form D.

Lead and zinc leases should be accompanied, when filed, with application for approval (Form D)¹ made under oath, and said application shall set forth the information therein required.

¹For further information concerning forms, see §215.19.

§ 215.16 Requirements of corporate lessees.

(a) When the lessee is a corporation, its first application must be accompanied by a sworn statement of its proper officers showing:

(1) The total number of shares of the capital stock actually issued and, specifically, the amount of cash paid into the treasury on each share sold; or, if paid in property, state kind, quantity, and value of the same paid per share.

(2) Of the stock sold how much per share remains unpaid and subject to assessment.

(3) How much cash the company has in its treasury and elsewhere and from what source it was received.

(4) What property, exclusive of cash, is owned by the company and its value.

(5) What the total indebtedness of the company is, and, specifically, the nature of its obligations.

(b) Subsequent applications of the corporation should show briefly the aggregate amounts of assets and liabilities.

§ 215.17 Additional information required.

Corporations, with their first application, must file one certified copy of articles of incorporation and, if a foreign corporation, evidence showing compliance with local corporation laws; also a list showing officers and stockholders, with post-office addresses and number of shares held by each. Statements of any changes of officers or any changes or additions of stockholders must be furnished to the Indian superintendent on January 1 of each year and at any time when requested. The right is reserved to the Secretary of the Interior to require of individual stockholders affidavits setting forth in what companies or with what persons or firms they are interested in lead and zinc mining leases, or land under the jurisdiction of the Quapaw Indian Agency, and whether they hold such stock for themselves or in trust. Evidence must also be given in a single affidavit (Form I) by the Secretary of the company or by the president of said company, showing authority of the officers of the company to execute the lease, bond, and other papers.

§ 215.18 Term of leases.

The term of lead and zinc mining leases executed pursuant to acts of Congress and under the regulations in this part shall be for such period of time as may be determined in each case by the Secretary of the Interior, but in no case shall a lease be made to extend beyond the restriction or trust period on the lands covered by such lease.

§ 215.19 Forms.²

Application, leases, and other papers must be upon forms prescribed by the Secretary of the Interior. Except as may be otherwise provided and required by the Secretary of the Interior, the leases and other papers required under the regulations in this part shall be in conformity with the forms designated, respectively, as follows:

Form A. Lease of Quapaw Indian land.

Form B. For lease of Indian land other than Quapaw.

Form C. Application by Indian.

Form D. Application for approval of lease.

Form E. Affidavit of lessor (or of superintendent acting for him) and affidavit of lessee.

Form F. Surety bond.

Form G. Affidavit of surety on personal bond.

Form H. Certificate as to sufficiency of surety on personal bond.

Form I. Affidavit as to authority of officers of corporation to execute lease and other papers.

Form J. Penal bond (in lieu of surety bond), and accompanying power of attorney.

Form K. Assignment of lead and zinc lease.

§ 215.20 Assignment.

Leases granted or approved under the regulations in this part may be assigned and the leased premises may be subleased or sublet, but only with the consent and authority of the Secretary of the Interior and subject to his approval as to the terms and conditions of such assignments, sublease, and subletting contracts and not otherwise, and provided also that the proposed assignees, sublessee, or sublettee shall be qualified to hold such lease under the regulations in this part and shall furnish such bond as may be required by

²Forms may be obtained from the Commissioner of Indian Affairs, Washington, D.C.

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the Secretary of the Interior, such bond to be with responsible surety to the satisfaction of the Secretary of the Interior and conditioned for the faithful performance of the covenants and conditions of the lease. Upon the filing with the Indian agent of such assignment, financial statement, and bond, the said agent shall at once give notice in writing to all restricted Indian owners of said land, advising them of said proposed assignment, and that if they have any bona fide objections to same, such objections must be filed in writing within 10 days from the date of said notice.

§215.21 Payment of gross production tax on lead and zinc.

The superintendent of the Quapaw Indian Agency is hereby authorized and directed to pay at the appropriate times, from the respective individual Indian funds held under his supervision, such gross production tax due the State on production of lead and zinc from restricted lands under his jurisdiction as may be properly assessed under provisions of law against the royalty interests of the respective Indian owners in the mineral produced from their lands.

§215.22 Operations.

(a) All shafts shall be securely cribbed to a point at least 8 inches above the immediate surrounding surface and cribbing shall be maintained in good condition during the life of the mining lease: *Provided, however,* That at any time shafts may be permanently sealed by a reinforced concrete slab after first obtaining the written approval of the duly authorized representative of the Department of the Interior. The slab shall be so placed as to prevent caving of the ground around the shaft collar.

(b) All shafts, prior to the expiration, surrender, or upon cancellation of the mining lease or abandonment of the property, shall be permanently sealed so as to prevent the caving of the ground around the shaft collar: *Provided, however,* That this requirement may be waived after first obtaining the written consent of the duly authorized representative of the Department of the Interior.

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(c) All shaft entrances not permanently sealed shall be so fenced, boxed, or covered as to prevent persons or animals from falling into the mine when the shaft is not in actual use, and such fencing, boxing, or covering shall be maintained in good condition during the life of the mining lease.

(d) All shafts where hoisting is done shall be boxed or fenced on three sides and the fourth side equipped with a gate which shall be kept closed when access to the shaft is not necessary.

(e) All churn drill holes shall be securely plugged to the surface unless used for ventilation or other mining purposes, in which case they shall be cased or otherwise prevented from caving or becoming a hazard to persons or animals. If cased, the casing shall extend 4 feet above the collar of the hole.

§215.23 Cooperation between superintendent and district mining supervisor.

(a) The district mining supervisor of the Miami field office, Geological Survey, directly or through his assistants, shall receive from lessees for the superintendent, all notices, reports, drill logs, maps, and records, and all other information relating to mining operations required by said regulations to be submitted by lessees, and shall maintain a file thereof for the superintendent.

(b) The files of the Geological Survey supervisor relating to lead and zinc leases of Quapaw Indian lands shall be at all times available for inspection and use by authorized employees of the Bureau of Indian Affairs, and the employees of the Geological Survey assigned to work relating to Indian lands shall furnish to authorized employees of the Bureau of Indian Affairs such information and technical advice as may be necessary or appropriate to the most efficient cooperation in the conduct of the work assigned to the two bureaus. Likewise, similar facilities and service shall be provided for the benefit of the authorized employees of the Geological Survey by the Bureau of Indian Affairs.

(c) No orders of any kind will be issued by Geological Survey representatives to any Indian, but such representatives shall have full authority

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to issue and amend orders to operators relative to production and operations: i.e., the supervision of all operations, including safety and efficiency, health and sanitation, and prevention of material or economic waste, such orders to be prepared with the advice of the local representative of the Bureau of Indian Affairs.

CROSS REFERENCE: For regulations of the Geological Survey, see 30 CFR chapter II.

§ 215.23a Suspension of operations and production on leases for minerals other than oil and gas.

The provisions of § 212.15a of this subchapter are applicable to leases under this part.

[24 FR 9511, Nov. 26, 1959. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 215.24 Books and accounts.

(a) The lessee shall maintain books in which shall be kept a correct account of all ore and rock mined on the tract, of all ore put through the mill, of all lead and zinc concentrates produced, and of all ore and concentrates sold and to whom sold, the weight, assay value, moisture content, base price, dates, penalties, and price received, and the percentage of lead and zinc recovered. A correct statement of the same for each month shall be furnished the office of the district mining supervisor pursuant to § 215.23 not later than 15 days after the first of each month for the preceding month, together with a certificate from the smelter showing the unit price paid for the mineral purchased and the amount of ore and concentrates purchased during the month from said land.

(b) An audit of the lessee's accounts and books shall be made semiannually, or at such other times as may be directed by the Secretary of the Interior, by certified public accountants, approved by the Secretary, and at the expense of the lessee. The lessee shall furnish free of cost a copy of such semiannual or other audit, through the office of the district mining supervisor pursuant to § 215.23, within 30 days after the completion of each auditing.

§ 215.25 Other minerals and deep-lying lead and zinc minerals.

Except as provided in § 215.6(b), leases on Quapaw Indian lands, for mining minerals other than lead and zinc and for lead and zinc and associated minerals below the horizon of the rock stratum known as the Reed Springs Formation, shall be made pursuant to the provisions of part 212 of this subchapter.

[26 FR 1910, Mar. 4, 1961. Redesignated at 47 FR 13327, Mar. 30, 1982]

PART 216—SURFACE EXPLORATION, MINING, AND RECLAMATION OF LANDS

Subpart A—General Provisions

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AUTHORITY: 34 Stat. 539, 35 Stat. 312; 25 U.S.C. 355 NT; 35 Stat. 781; 25 U.S.C. 396; sec. 1, 49 Stat. 1250; 25 U.S.C. 473a; 49 Stat. 1967, 25 U.S.C. 501, 502; 52 Stat. 347, 25 U.S.C. 396a-f; 5 U.S.C. 301.

Subpart A—General Provisions

SOURCE: 34 FR 813, Jan. 18, 1969, unless otherwise noted. Redesignated at 42 FR 63394, Dec. 16, 1977; and further redesignated at 47 FR 13327, Mar. 30, 1982.

§ 216.1 Purpose.

It is the policy of this Department to encourage the development of the mineral resources underlying Indian lands where mining is authorized. However, interest of the Indian owners and the public at large requires that, with respect to the exploration for, and the