

thereof as hereinafter defined. It does not include school-section lands non-mineral in character, those not known to be mineral in character at time of grant, but afterwards found to contain mineral deposits, such lands not being excepted from the grants theretofore made (*Wyoming et al. v. United States*, 255 U.S. 489-500, 501, 65 L. ed. 742-748), nor does it include lands in numbered school sections in lieu of or as indemnity for which lands were conveyed to the States first above named, or to the State of Florida with respect to school-section lands coming within the purview of the Act of September 22, 1922, prior to January 25, 1927.

(d) Determinations made prior to January 25, 1927, by the Secretary of the Interior or the Commissioner of the General Land Office to the effect that lands in school sections were excepted from school-land grants because of their known mineral character do not, of themselves, prevent or affect in any way the vesting of title in the States pursuant to the provisions of the statute making the additional grant.

(e) Subsection (a) of section 1 of the Act provides:

That the grant of numbered mineral sections under this Act shall be of the same effect as prior grants for the numbered non-mineral sections, and title to such numbered mineral sections shall vest in the States at the time and in the manner and be subject to all the rights of adverse parties recognized by existing law in the grants of numbered nonmineral sections.

#### § 2623.0-7 Cross reference.

For national forests and national parks, see § 1821.7-2 of this chapter. For naval petroleum reserves, see § 3102.2-2 of this chapter.

#### § 2623.0-8 Lands subject to selection.

(a) *Lands included in grant.* (1) Section 2 of the Act of January 25, 1927 (44 Stat. 1027; 43 U.S.C. 871) reads as follows:

SEC. 2. That nothing herein contained is intended or shall be held or construed to increase, diminish, or affect the rights of States under grants other than for the support of common or public schools by numbered school sections in place, and this Act shall not apply to indemnity of lieu selections or exchanges or the right hereafter to select indemnity for numbered school sec-

tions in place lost to the State under the provisions of this or other Acts, and all existing laws governing such grants and indemnity or lieu selections and exchanges are hereby continued in full force and effect.

(2) The only grants affected in any way by the provisions of the Act of January 25, 1927, are those of numbered sections of land in place made to the States for the support of common or public schools. The adjudication of claims to land asserted under other grants, for indemnity or lieu lands and exchanges of lands, will proceed as theretofore, being governed by the provisions of existing laws applicable thereto. The States will be afforded full opportunity, however, if the facts and conditions are such as to authorize such action, either to assign new base in support of or to withdraw pending unapproved indemnity school land selections in support of which mineral school-section lands have been tendered as base.

(b) *Lands excluded from grant.* (1) Subsection (c) of section 1 of the Act of January 25, 1927, provides:

That any lands included within the limits of existing reservations of or by the United States, or specifically reserved for water-power purposes, or included in any pending suit or proceedings in the courts of the United States, or subject to or included in any valid application, claim, or right initiated or held under any of the existing laws of the United States, unless or until such application, claim, or right is relinquished or canceled, and all lands in the Territory of Alaska are excluded from the provisions of this act.

(2) School-section lands included within the limits of existing reservations of or by the United States, specifically reserved for waterpower purposes, or included in any suit or proceedings in the courts of the United States, prior to January 25, 1927, and all lands in Alaska are excluded from the provisions of the Act. (§ 2623.4)

(3) The words *existing reservation* as used in subsection (c) are construed generally and subject to specific determination in particular cases if the need therefor shall arise, as including Indian and military reservations, naval and petroleum reserves, national parks, national forests, stock driveways, reservations established under the Act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141-

## § 2623.1

143), as amended by the Act of August 24, 1912 (37 Stat. 497; 43 U.S.C. 142), and all forms of Executive withdrawal recognized and construed by the Department of the Interior as reservations, existent prior to January 25, 1927.

### § 2623.1 Effective date of grant.

Grants to the States of school lands in place (the numbered sections), of the character and status subject thereto, as a rule, are effective and operate to vest title upon the date of the approval of the statute making the grant or the date of the admission of the State into the Union, as to lands then surveyed, and as to the lands thereafter surveyed upon the date of the acceptance of the survey thereof by the Director of the Bureau of Land Management. (United States v. Morrison, 240 U.S. 192, 60 L. ed. 599; United States v. Sweet, 245 U.S. 563, 62 L. ed. 473; Wyoming et al. v. United States, supra.) It is held, therefore, that the grant made by the first paragraph of section 1 of the Act of January 25, 1927, subject to the provision therein with respect to indemnity or lieu lands, to the provisions of subsections (b) and (c) of said section 1 and following the plain provisions of subsection (a) thereof is effective upon the date of the approval of the Act (January 25, 1927) as to lands then surveyed and the survey thereof accepted by the Director of the Bureau of Land Management and as to the unsurveyed school sections in the State of Florida granted to that State by the Act of September 22, 1922. The grant, as to other lands thereafter surveyed, subject to the same provisions is effective upon the acceptance of the survey thereof as above indicated.

### § 2623.2 Claims protected.

(a) Valid applications, claims, or rights protected by the provisions of subsection (c) of section 1 of the Act of January 25, 1927, include applications, entries, selections, locations, permits, leases, and other forms of filing, initiated or held pursuant to existing laws of the United States prior to January 25, 1927, embracing known mineral school-section lands then surveyed and otherwise within the terms of the additional grant, and as to lands thereafter surveyed, valid applications, claims, or

## 43 CFR Ch. II (10-1-12 Edition)

rights so initiated or held prior to the date of the acceptance of the survey. The additional grant to the State will attach upon the effective date of the relinquishment or cancellation of any claim, so asserted, in the absence of any other valid existing claim for the land and if same be then surveyed. Should the validity of any such claim be questioned by the State, proceedings with respect thereto by protest, contest, hearing, etc., will be had in the form and manner prescribed by existing rules governing such cases. This procedure will be followed in the matter of all protests, contests, or claims filed by individuals, associations, or corporations against the States affecting school-section lands.

### § 2623.3 States not permitted to dispose of lands except with reservation of minerals.

(a) Subsection (b) of section 1 of the Act of January 25, 1927, provides:

That the additional grant made by this Act is upon the express condition that all sales, grants, deeds, or patents for any of the lands so granted shall be subject to and contain a reservation to the State of all the coal and other minerals in the lands so sold, granted, deeded, or patented, together with the right to prospect for, mine, and remove the same. The coal and other mineral deposits in such lands shall be subject to lease by the State as the State legislature may direct, the proceeds of rentals and royalties therefrom to be utilized for the support or in aid of the common or public schools: *Provided*, That any lands or minerals disposed of contrary to the provisions of this Act shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States district court for the district in which the property or some part thereof is located.

(b) The lands granted to the States by the Act of January 25, 1927, and the mineral deposits therein are to be disposed of by the States in the manner prescribed in subsection (b) thereof, provision being made for judicial forfeiture in case of disposal of any of the lands or minerals contrary to the provisions of the act.

### § 2623.4 Grant of mineral school sections effective upon restoration of land from reservation.

(a) By the Act of January 25, 1927 (44 Stat. 1026; 43 U.S.C. 870, 871), which