

§ 226.69

(c) For failure to mark wells or tank batteries as required by § 226.58, \$50 per day for each well or tank battery.

(d) For failure to construct and maintain pits as required by § 226.44(b)–(d), \$50 for each day after operations are commenced on any well until compliance is met.

(e) For failure to comply with § 226.60 regarding control of wells, \$100 per day.

(f) For failure to notify Superintendent before drilling, redrilling, deepening, plugging, or abandoning any well, as required by §§ 226.34(b)–(c) and 226.49, \$200 per day.

(g) For failure to properly care for and dispose of deleterious fluids as provided in § 226.44(e), \$500 per day until compliance is met.

(h) For failure to file plugging reports as required by § 226.53(d) and for failure to file reports as required by § 226.26, \$50 per day for each violation until compliance is met.

(i) For failure to perform or start an operation within 5 calendar days after ordered by the Superintendent in writing under authority provided in this part, if said operation is thereafter performed by or through the Superintendent, the actual cost of performance thereof, plus 25 percent.

Subpart G—Appeals and Notices

§ 226.69 Who can file an appeal?

Any person, firm or corporation aggrieved by any decision or order issued by or under the authority of the Superintendent, by virtue of the regulations in this part, may appeal pursuant to 25 CFR part 2.

§ 226.70 Are the notices by the Superintendent binding?

Notices and orders issued by the Superintendent to the representative are binding on the lessee. The Superintendent may in his/her discretion increase the time allowed in his/her orders and notices.

§ 226.71 Information collection.

The collections of information in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 1076–0180. Response is required to obtain or retain a benefit.

25 CFR Ch. I (4–1–16 Edition)

A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

PART 227—LEASING OF CERTAIN LANDS IN WIND RIVER INDIAN RESERVATION, WYOMING, FOR OIL AND GAS MINING

Sec.

227.1 Definitions.

HOW TO ACQUIRE LEASES

227.2 Applications for leases.

227.3 Leases to citizens of the United States except Government employees.

227.4 Sale of oil and gas leases.

227.5 Terms of leases, procedure for renewal and execution.

227.6 Corporations and corporate information.

227.7 Additional information from applicant.

227.8 Bonds.

227.9 Acreage limitation: Leases on non-contiguous tracts.

227.10 Minerals other than oil and gas.

227.11 Bureau of Land Management to be furnished copy of lease.

227.12 Mineral reserves in nonmineral entries.

227.13 Vested rights to be respected.

227.14 Government reserves right to purchase oil and gas.

RENTS AND ROYALTIES

227.15 Manner of payment.

227.16 Crediting advance annual payments.

227.17 Rates of rents and royalties.

227.18 Free use of gas by lessor.

227.19 Division orders.

OPERATIONS

227.20 Permission to start operations.

227.21 Restrictions on operations.

227.22 Diligence and prevention of waste.

227.23 Wells.

227.24 Penalties.

227.25 Inspection of premises, books and accounts.

227.26 Assignments and overriding royalties.

227.27 Stipulations.

227.28 Cancellations.

227.29 Fees.

227.30 Forms.

AUTHORITY: Sec. 1, 39 Stat. 519, unless otherwise noted.

SOURCE: 22 FR 10622, Dec. 24, 1957, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 227.1 Definitions.

(a) The term "superintendent" in this part refers to the superintendent or other officers of the Bureau of Indian Affairs or of the Government who may have jurisdiction over the Shoshone or Wind River Reservation.

(b) The term "supervisor" in this part refers to a representative of the Secretary of the Interior, under direction of the Director of the U.S. Geological Survey, authorized and empowered to supervise and direct operations under oil and gas mining leases, to furnish scientific and technical information and advice, to ascertain and record the amount and value of production, and to determine and record rentals and royalties due and paid.

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

HOW TO ACQUIRE LEASES

§ 227.2 Applications for leases.

Applications for leases should be made to the superintendent.

§ 227.3 Leases to citizens of the United States except Government employees.

Leases will be made only to persons who are citizens of the United States or have declared their intention to become so, or corporations which are organized under the laws of the United States or one of the States or Territories: *Provided*, That no lease, assignment thereof, or interest therein will be approved to any employee or employees of the United States Government, whether connected with the Bureau or otherwise, and no employee of the Interior Department shall be permitted to acquire any interest in such leases by ownership of stock in corporations having leases or in any other manner.

(R.S. 2078; 25 U.S.C. 68)

§ 227.4 Sale of oil and gas leases.

(a) At such times and in such manner as he may deem appropriate, after being authorized by the Joint Business Council of the Shoshone and Arapahoe Tribes or its authorized representative, the superintendent shall publish no-

tices at least thirty days prior to the sale, unless a shorter period is authorized by the Secretary of the Interior or his authorized representative, that oil and gas leases on specific tracts, each of which shall be in a reasonably compact body, will be offered to the highest responsible bidder for a bonus consideration, in addition to stipulated rentals and royalties. Each bid must be accompanied by a cashier's check, certified check, or postal money order, payable to the payee designated in the invitation to bid, in an amount not less than 25 percent of the bonus bid. Within 30 days after notification of being the successful bidder, said bidder must remit the balance of the bonus, the first year's rental, and his share of the advertising costs, and shall file with the superintendent the lease in completed form. The superintendent may for good and sufficient reasons, extend the time for completion and submission of the lease form, but no extension shall be granted for remitting the balance of monies due. If the successful bidder fails to pay the full consideration within said period, or fails to file the completed lease within said period or extension thereof, or if the lease is disapproved through no fault of the lessor or the Department of the Interior, 25 percent of the bonus bid will be forfeited for the use and benefit of the Shoshone and Arapahoe Tribes.

(b) All notices or advertisements of sales of oil and gas leases shall reserve to the Secretary of the Interior the right to reject all bids when in his judgment the interests of the Indians will be best served by so doing, and that if no satisfactory bid is received, or if the accepted bidder fails to complete the lease, or if the Secretary of the Interior shall determine that it is unwise in the interests of the Indians to accept the highest bid, the Secretary may readvertise such lease for sale, or if deemed advisable, with the consent of the tribal council or other governing tribal authorities, a lease may be made by private negotiations. The successful bidder or bidders will be required to pay his or their share of the advertising costs. Amounts received from unsuccessful bidders will be returned; but when no bid is accepted on a tract, the costs of advertising will be

§ 227.5

assessed against the applicant who requested that said tract be advertised.

[22 FR 10622, Dec. 24, 1957, as amended at 25 FR 7185, July 29, 1960. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 227.5 Terms of leases, procedure for renewal and execution.

(a) Leases shall be for a period of twenty years with the preferential right in the lessee to renew the same for successive periods of ten years each upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior or his authorized representative, unless otherwise provided by law at the expiration of any such period. Applications for renewal of leases shall be filed with the superintendent within ninety days prior to the date of expiration of the lease. One copy of the application for renewal shall be filed by the applicant with the Joint Business Council of the Shoshone and Arapahoe Tribes and no lease shall be renewed unless the Joint Business Council or its authorized representative is afforded an opportunity to present the Council's views to the Secretary of the Interior or his authorized representative.

(b) The Secretary of the Interior or his authorized representative may execute oil and gas leases with the consent of the Joint Business Council or its authorized representative, and may execute renewals of leases after consultation with the Joint Business Council or its authorized representative.

[25 FR 7185, July 29, 1960. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 227.6 Corporations and corporate information.

(a) If the applicant for a lease is a corporation, it shall file evidence of authority of its officers to execute papers; and with its first application it shall also file a certified copy of its articles of incorporation, and, if foreign to the state in which the lands are located, evidence showing compliance with the corporation laws thereof. Statements of changes in officers and stockholders shall be furnished by a corporation lessee to the superintendent January 1 of each year, and at such other times as may be requested.

25 CFR Ch. I (4-1-16 Edition)

(b) Whenever deemed advisable in any case the superintendent may require a corporation applicant or lessee to file:

(1) List of officers, principal stockholders, and directors, with post-office addresses and number of shares held by each.

(2) A sworn statement of the proper officer showing:

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

(ii) Of the stock sold, how much remains unpaid and subject to assessment.

(iii) The amount of cash the company has in its treasury and elsewhere.

(iv) The property, exclusive of cash owned by the company and its value.

(v) The total indebtedness of the company and the nature of its obligations.

(vi) Whether the applicant or any person controlling, controlled by or under common control with the applicant has filed any registration statement, application for registration, prospectus or offering sheet with the Securities and Exchange Commission pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934 or said Commission's rules and regulations under said acts; if so, under what provision of said acts or rules and regulations; and what disposition of any such statement, application, prospectus or offering sheet has been made.

(c) Affidavits of individual stockholders, setting forth in what corporations, or with what persons, firms, or associations such individual stockholders are interested in mining leases on restricted lands within the state, and whether they hold such interest for themselves or in trust.

CROSS REFERENCE: For rules and regulations of the Securities and Exchange Commission, see 17 CFR chapter II.

§ 227.7 Additional information from applicant.

The superintendent may, either before or after approval of a lease, call for any additional information desired to carry out the regulations in this

part. If a lessee shall fail to furnish the papers necessary to put his lease and bond in proper form for consideration, the superintendent shall forward such lease for disapproval.

§ 227.8 Bonds.

The provisions of §211.6 of this chapter, or as hereafter amended, are applicable to leases under this part.

§ 227.9 Acreage limitation: Leases on noncontiguous tracts.

No person, firm, or corporation will be allowed to lease for oil and gas more than 10,240 acres in the aggregate. The land contained in the lease shall be described by legal subdivisions, and leases may be executed to cover only adjoining or contiguous subdivisions. In case a lessee is a successful bidder for two or more tracts of land which are not contiguous, separate leases shall be executed.

§ 227.10 Minerals other than oil and gas.

Unreserved, unwithdrawn, and unallotted lands which have not been leased for oil and gas under the act of August 21, 1916 (39 Stat. 519) and which are not chiefly valuable therefor, are subject to mineral application or mineral entry, for minerals other than oil and gas, under the supervision of the Bureau of Land Management.

§ 227.11 Bureau of Land Management to be furnished copy of lease.

The Bureau of Land Management shall be furnished with a copy of each lease signed by the Secretary of the Interior.

§ 227.12 Mineral reserves in nonmineral entries.

Where lands have been leased under authority of said act of August 21, 1916 (39 Stat. 519), and nonmineral entry is subsequently lawfully made for such lands with a view to obtaining a restricted patent therefor, all such subsequently allowed nonmineral entries shall be with the mineral reservation prescribed by the act of July 17, 1914 (38 Stat. 509).

§ 227.13 Vested rights to be respected.

All drilling and other oil and natural gas developments and mining operations, work, and improvements, and all other acts and things necessary to be done, in connection with the exploration for mining and production of oil and natural gas from the leased premises, under the terms and conditions of a lease shall be performed with due regard to the rights, statutory and otherwise, of others, if any, who may have or who may acquire a lawful claim or estate to the leased premises, separate and distinct from the oil and gas or other mineral therein contained. See act of July 17, 1914 (38 Stat. 509).

§ 227.14 Government reserves right to purchase oil and gas.

In time of war or other public emergency any of the executive departments of the United States Government shall have the option to purchase at the posted market price on the date of sale all or any part of the minerals produced under any lease.

RENTS AND ROYALTIES

§ 227.15 Manner of payment.

All payments due the lessor shall be made to the superintendent for the benefit of the Shoshone Indian Tribe, in accordance with the act of August 21, 1916 (39 Stat. 519), and no credit will be given any lessee for payments made otherwise. Payments of rentals and royalties except the first year's rental, which shall be paid to the superintendent as prescribed in §227.4 shall be transmitted to the superintendent through the supervisor. All such payments shall be accompanied by a statement, in triplicate, by the lessee, showing the specific items of royalty or rental that the remittance is intended to cover, and payment of royalties on production shall be made not later than the last day of the calendar month following the production for which such payment is to be made.

§ 227.16 Crediting advance annual payments.

In the event of discovery of minerals in paying quantities all advance rents and advance royalties shall be allowed as credit on stipulated royalties as

§ 227.17

they accrue for the year for which such advance payments have been made. No refund of any such advance payment made under any lease will be allowed in the event the royalty on production for the year is not sufficient to equal such advance payment; nor will any part of the moneys so paid be refunded to the lessee because of any subsequent surrender or cancellation of the lease.

§ 227.17 Rates of rents and royalties.

(a) The lessee shall pay, beginning with the date of execution of leases by the Secretary of the Interior, a rental of \$1.25 per acre per annum in advance during the continuance thereof, together with a royalty of 12½ percent of the value or amount of all oil, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and saved from the land leased, save and except oil and/or gas used by the lessee for development and operation purposes on the lease, which oil or gas shall be royalty free. A higher rate of royalty may be fixed by the Secretary of the Interior or his authorized representative, prior to the advertisement of land for oil and gas leases. During the period of supervision, "value" for the purposes of the lease may, in the discretion of the Secretary of the Interior, be calculated on the basis of the highest price paid or offered (whether calculated on the basis of short or actual volume) at the time of production for the major portion of the oil of the same gravity, and gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and sold from the field where the leased lands are situated, and the actual volume of the marketable product less the content of foreign substances as determined by the supervisor. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary of the Interior, be deemed mere evidence of or conclusive evidence of such value. When paid in value, such royalties shall be due and payable monthly at such time as the lease provides; when royalty on oil produced is paid in kind, such royalty oil shall be delivered in tanks provided by the lessee on the premises where produced without cost to the lessor unless otherwise agreed to by the parties

25 CFR Ch. I (4-1-16 Edition)

thereto, at such time as may be required by the lessor. The lessee shall not be required to hold such royalty oil in storage longer than 30 days after the end of the calendar month in which said oil is produced. The lessee shall be in no manner responsible or held liable for loss or destruction of such oil by causes beyond his control.

(b) The proceeds from all leases shall be taken up in the accounts of the superintendent for appropriate deposit for the benefit of the Indians.

§ 227.18 Free use of gas by lessor.

If the leased premises produce gas in excess of the lessee's requirements for the development and operation of said premises, then the lessor may use sufficient gas, free of charge, for any desired school or other buildings belonging to the tribe, by making his own connections to a regulator installed, connected to the well and maintained by the lessee, and the lessee shall not be required to pay royalty on gas so used. The use of such gas shall be at the lessor's risk at all times.

§ 227.19 Division orders.

(a) Lessees may make arrangements with the purchasers of oil for the payment of the royalties on production to the superintendent by such purchasers, but such arrangements, if made, shall not operate to relieve a lessee from responsibility should the purchaser fail or refuse to pay such royalties when due. Where lessees avail themselves of this privilege, division orders permitting the pipeline companies or other purchasers of the oil to withhold the royalty interest shall be executed and forwarded to the supervisor for approval, as pipeline companies are not permitted to accept or run oil from leased Indian lands until after the approval of a division order showing that the lessee has a lease regularly approved and in effect. When the lessee company runs its own oil, it shall execute an intracompany division order and forward it to the supervisor for his consideration. The right is reserved for the supervisor to cancel a division order at any time or require the pipeline company to discontinue to run the oil of any lessee who fails to operate the lease properly or otherwise violates

Bureau of Indian Affairs, Interior

§ 227.23

the provisions of the lease, of the regulations in this part, or of the operating regulations.

(b) When oil is taken by authority of a division order, the lessee or his representatives shall be actually present when the oil is gaged and records are made of the temperature, gravity and impurities. The lessee will be held responsible for the correctness and the correct recording and reporting of all the foregoing measurements, which except lowest gage, shall be made at the time the oil is turned into the pipeline. Failure of the lessee to perform properly these duties will subject the division order to revocation.

CROSS REFERENCE: For oil and gas operating regulations of the Geological Survey, see 30 CFR part 221.

OPERATIONS

§ 227.20 Permission to start operations.

(a) No operations will be permitted on any lease before it is executed by the Secretary of the Interior.

(b) Written permission must be secured from the supervisor or his representative before any operations are started on the leased premises. After such permission is secured the operations must be in accordance with the operating regulations promulgated by the Secretary of the Interior. Copies of the regulations in this part may be secured from either the supervisor or the superintendent, and no operations should be attempted without a study of the operating regulations.

§ 227.21 Restrictions on operations.

(a) All leases issued under the provisions of the regulations in this part shall be subject to imposition by the Secretary of the Interior of such restrictions as to time or times for the drilling of wells and as to the production from any well or wells as in his judgment may be necessary or proper for the protection of the natural resources of the leased land and in the interest of the lessor. In the exercise of his judgment the Secretary of the Interior may take into consideration, among other things, the Federal laws, State laws, regulations by competent Federal or State authorities, lawful

agreements among operators regulating either drilling or production, or both, and any regulatory action desired by tribal authorities.

(b) All leases issued pursuant to the regulations in this part shall be subject to a co-operative or unit development plan affecting the leased lands if and when required by the Secretary of the Interior, but no lease shall participate in any cooperative or unit plan without prior approval of the Secretary of the Interior.

§ 227.22 Diligence and prevention of waste.

The lessee shall exercise diligence in drilling and operating wells for oil and gas on the leased lands while such products can be secured in paying quantities; carry on all operations in a good and workmanlike manner in accordance with approved methods and practice, having due regard for the prevention of waste of oil or gas developed on the land, or the entrance of water through wells drilled by the lessee to the productive sands or oil or gas-bearing strata to the destruction or injury of the oil or gas deposits, the preservation and conservation of the property for future productive operations, and to the health and safety of workmen and employees; plug securely all wells before abandoning the same and to shut off effectually all water from the oil or gas-bearing strata; not drill any well within 200 feet of any house or barn on the premises without the lessor's written consent; carry out at his expense all reasonable orders and requirements of the supervisor relative to prevention of waste, and preservation of the property and the health and safety of workmen; bury all pipelines crossing tillable lands below plow depth unless other arrangements therefor are made with the superintendent; pay all damages to crops, buildings, and other improvements on the premises occasioned by the lessee's operations: *Provided*, That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond his control.

§ 227.23 Wells.

The lessee shall agree (a) to drill and produce all wells necessary to offset or

§ 227.24

protect the leased land from drainage by wells on adjoining lands not the property of the lessor, or in lieu thereof, compensate the lessor in full each month for the estimated loss of royalty through drainage: *Provided*, That during the period of supervision by the Secretary of the Interior, the necessity for offset wells shall be determined by the supervisor and payment in lieu of drilling and producing shall be with the consent of, and in an amount determined by the Secretary of the Interior; (b) at the election of the lessee to drill and produce other wells: *Provided*, That the right to drill and produce such other wells shall be subject to any system of well spacing or production allotments authorized and approved under the applicable law or regulations, approved by the Secretary of the Interior and affecting the field or area in which the leased lands are situated; and (c) if the lessee elects not to drill and produce such other wells for any period the Secretary of the Interior may, within 10 days after due notice in writing, either require the drilling and production of such wells to the number necessary, in his opinion, to insure reasonable diligence in the development and operation of the property, or may in lieu of such additional diligent drilling and production require the payment on and after the first anniversary date of the lease of not to exceed \$1 per acre per annum, which sum shall be in addition to any rental or royalty herein specified.

§ 227.24 Penalties.

Failure of the lessee to comply with any provisions of the lease, of the operating regulations, of the regulations in this part, orders of the superintendent or his representative, or of the orders of the supervisor or his representative, shall subject the lessee to a penalty of not more than \$500 per day for each day the terms of the lease, the regulations, or such orders are violated: *Provided*, That the lessee shall be entitled to notice, and hearing within 30 days after such notice, with respect to the terms of the lease, regulations, or orders violated, which hearing shall be held by the supervisor, whose findings shall be conclusive unless an appeal be taken to the Secretary of the Interior within 30

25 CFR Ch. I (4-1-16 Edition)

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

§ 227.25 Inspection of premises, books and accounts.

Lessee shall agree to allow the lessor and his agents or any authorized representative of the Interior Department to enter, from time to time, upon and into all parts of the leased premises for the purposes of inspection and shall further agree to keep a full and correct account of all operations and make reports thereof, as required by the applicable regulations of the Department; and their books and records, showing manner of operations and persons interested, shall be open at all times for examination of such officers of the Department as shall be instructed in writing by the Secretary of the Interior or authorized by regulations, to make such examination.

§ 227.26 Assignments and overriding royalties.

(a) Leases, or any interest therein, may be assigned or transferred only with the approval of the Secretary of the Interior, and to procure such approval the assignee must be qualified to hold such lease under existing rules and regulations, and shall furnish a satisfactory bond for the faithful performance of the covenants and conditions thereof. No lease or any interest therein, or the use of such lease, shall be assigned, sublet, or transferred directly or indirectly, by working or drilling contract, or otherwise without the consent of the Secretary of the Interior. Assignments of leases shall be filed with the superintendent within 20 days after the date of execution.

(b) An agreement creating overriding royalties or payments out of production under this part shall be subject to the provisions of § 211.26(d) of this chapter, or as hereafter amended.

[22 FR 10622, Dec. 24, 1957, as amended at 23 FR 9759, Dec. 18, 1958. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 227.27 Stipulations.

The lessee under any lease heretofore executed may be stipulation (Form 5-154i), with the consent of the lessor,

Bureau of Indian Affairs, Interior

§ 227.30

make such lease subject to all the terms, conditions, and provisions contained in the lease form currently in use. Stipulations shall be filed with the superintendent within 20 days after the date of execution.

§ 227.28 Cancellations.

Leases shall be irrevocable except for breach of the terms and conditions of the same and may be forfeited and cancelled by an appropriate proceeding in the U.S. District Court for the District of Wyoming whenever the lessee fails to comply with their terms and conditions; the lessee may, on approval of the Secretary of the Interior, surrender a lease or any part of it:

(a) That he make application for cancellation to the superintendent having jurisdiction over the land.

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

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

(d) 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.

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

(f) 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 deliv-

ered, he will be required to surrender only his copy of the assignment.

(g) 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.

(h) 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.

(i) In the event oil or gas is being drained from the leased premises by wells not covered by the 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.

§ 227.29 Fees.

Unless otherwise authorized by the Secretary of the Interior or his authorized representative, each lease, sublease, or assignment shall be accompanied at the time of filing by a fee of \$10.

(Sec. 1, 41 Stat. 415, as amended; 25 U.S.C. 413)

[24 FR 7949, Oct. 2, 1959. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 227.30 Forms.

The provisions of § 211.30 of this chapter, or as hereafter amended are applicable to this part.

[24 FR 7949, Oct. 2, 1959. Redesignated at 47 FR 13327, Mar. 30, 1982]