

convenient for the extraction" for "Any qualified applicant to whom the Secretary of the Interior may grant a lease to develop and extract phosphates, or phosphate rock, under the provisions of this chapter", "lands", and "for the proper prospecting for or development, extraction", respectively.

#### SUBCHAPTER IV—OIL AND GAS

##### §§ 221 to 222i. Omitted

###### CODIFICATION

Sections expired by their own terms. They provided as follows:

Section 221, acts Feb. 25, 1920, ch. 85, §13, 41 Stat. 441; Aug. 21, 1935, ch. 599, §1, 49 Stat. 674, provided for prospecting permits, their terms and conditions, extension, location of lands, marking land, notice of application for permits, permits in Alaska, exchanging permits for leases, and limited extensions to Dec. 31, 1938.

Section 222, act Jan. 11, 1922, ch. 28, 42 Stat. 356, authorized Secretary of the Interior to extend time for drilling not to exceed three years.

Section 222a, act Apr. 5, 1926, ch. 107, §1, 44 Stat. 236, authorized a further extension of two years for drilling.

Section 222b, act Apr. 5, 1926, ch. 107, §2, 44 Stat. 236, provided for extension of expired permits for a period of two years from Apr. 5, 1926.

Section 222c, act Mar. 9, 1928, ch. 168, §1, 45 Stat. 252, authorized a two year extension for permits.

Section 222d, act Mar. 9, 1928, ch. 168, §2, 45 Stat. 252, authorized a two year extension of permits already expired.

Section 222e, act Jan. 23, 1930, ch. 25, §1, 46 Stat. 58, provided that permits issued or extended for three years might be further for three years.

Section 222f, act Jan. 23, 1930, ch. 25, §2, 46 Stat. 59, provided for an extension of permits already expired for a period of three years from Jan. 23, 1930.

Section 222g, act June 30, 1932, ch. 319, §1, 47 Stat. 445, provided for a further extension of three years.

Section 222h, act June 30, 1932, ch. 319, §2, 47 Stat. 446, authorized an extension, for permits already expired, of three years from June 30, 1932.

Section 222i, acts Aug. 26, 1937, ch. 828, 50 Stat. 842; Aug. 11, 1939, ch. 716, 53 Stat. 1418, provided for final extension of prospecting permits, outstanding on Dec. 31, 1937, to Dec. 31, 1939.

###### COMPROMISE OF CLAIMS FOR ACCRUED RENTAL

Act July 29, 1942, ch. 534, §2, 56 Stat. 726, authorized Secretary of the Interior to make a compromise settlement of any claim for accrued rental under a lease issued pursuant to the provisions of section 221 of this title, in any case in which he determined that it would be financially beneficial to the United States to make such a compromise settlement or in any case in which he determined that collection of the full amount of such accrued rental from the lessee was inadvisable because of the lessee's financial resources being limited.

##### § 223. Leases; amount and survey of land; term of lease; royalties and annual rental

Upon establishing to the satisfaction of the Secretary of the Interior that valuable deposits of oil or gas have been discovered within the limits of the land embraced in any permit, the permittee shall be entitled to a lease for one-fourth of the land embraced in the prospecting permit: *Provided*, That the permittee shall be granted a lease for as much as one hundred and sixty acres of said lands, if there be that number of acres within the permit. The area to be selected by the permittee, shall be in reasonably compact form and, if surveyed, to be described by the legal subdivisions of the public-land surveys; if unsurveyed, to be surveyed by the Gov-

ernment at the expense of the applicant for lease in accordance with rules and regulations to be prescribed by the Secretary of the Interior, and the lands leased shall be conformed to and taken in accordance with the legal subdivisions of such surveys; deposits made to cover expense of surveys shall be deemed appropriated for that purpose, and any excess deposits may be repaid to the person or persons making such deposit or their legal representatives. Such leases shall be for a term of twenty years upon a royalty of 5 per centum in amount or value of the production and the annual payment in advance of a rental of \$1 per acre, the rental paid for any one year to be credited against the royalties as they accrue for that year, and shall continue in force otherwise as prescribed in section 226 of this title for leases issued prior to August 21, 1935. The permittee shall also be entitled to a preference right to a lease for the remainder of the land in his prospecting permit at a royalty of not less than 12½ per centum in amount or value of the production nor more than the royalty rate prescribed by regulation in force on January 1, 1935, for secondary leases issued under this section, and under such other conditions as are fixed for oil or gas leases issued under section 226 of this title the royalty to be determined by competitive bidding or fixed by such other method as the Secretary may by regulations prescribe: *Provided further*, That the Secretary shall have the right to reject any or all bids.

(Feb. 25, 1920, ch. 85, §14, 41 Stat. 442; Aug. 21, 1935, ch. 599, §1, 49 Stat. 676.)

###### AMENDMENTS

1935—Act Aug. 21, 1935, inserted "reasonably" before "compact form" and substituted "and shall continue in force otherwise as prescribed in section 226 of this title for leases issued prior to August 21, 1935" and "oil or gas leases issued under section 226 of this title" for "with the right of renewal as prescribed in section 226 of this title" and "oil or gas leases in this chapter", respectively.

###### LIMITATION OF ROYALTY ON DISCOVERIES DURING WAR PERIOD

Act Dec. 24, 1942, ch. 812, 56 Stat. 1080, limiting royalty obligation of oil or gas lessee who drills well resulting in discovery of new deposit on public domain during the national emergency was repealed by Joint Res. July 25, 1947, ch. 327, §1, 61 Stat. 449.

###### OUTER CONTINENTAL SHELF; LEASES

Grant by Secretary of the Interior of oil, gas, and other mineral leases on submerged lands of outer Continental Shelf, see section 1331 et seq. of Title 43, Public Lands.

##### § 223a. Repealed. Aug. 8, 1946, ch. 916, §14, 60 Stat. 958

Section, act Aug. 21, 1935, ch. 599, §2, 49 Stat. 679, related to new oil and gas leases in lieu of old.

###### SAVINGS PROVISION

See note set out under section 181 of this title.

##### § 224. Payments for oil or gas taken prior to application for lease

Until the permittee shall apply for lease to the one quarter of the permit area heretofore provided for he shall pay to the United States 20 per

centum of the gross value of all oil or gas secured by him from the lands embraced within his permit and sold or otherwise disposed of or held by him for sale or other disposition.

(Feb. 25, 1920, ch. 85, § 15, 41 Stat. 442.)

### § 225. Condition of lease, forfeiture for violation

All leases of lands containing oil or gas, made or issued under the provisions of this chapter, shall be subject to the condition that the lessee will, in conducting his explorations and mining operations, use all reasonable precautions to prevent waste of oil or gas developed in the land, or the entrance of water through wells drilled by him to the oil sands or oil-bearing strata, to the destruction or injury of the oil deposits. Violations of the provisions of this section shall constitute grounds for the forfeiture of the lease, to be enforced as provided in this chapter.

(Feb. 25, 1920, ch. 85, § 16, 41 Stat. 443; Aug. 8, 1946, ch. 916, § 2, 60 Stat. 951.)

#### AMENDMENTS

1946—Act Aug. 8, 1946, omitted condition that no wells should be drilled within two hundred feet of boundaries of leased lands.

#### SAVINGS PROVISION

See note set out under section 181 of this title.

#### OUTER CONTINENTAL SHELF; TERMS AND CONDITIONS OF LEASES

Terms and conditions of mineral leases on submerged lands of outer Continental Shelf, see section 1337 of Title 43, Public Lands.

### § 226. Lease of oil and gas lands

#### (a) Authority of Secretary

All lands subject to disposition under this chapter which are known or believed to contain oil or gas deposits may be leased by the Secretary.

#### (b) Lands within known geologic structure of a producing oil or gas field; lands within special tar sand areas; competitive bidding; royalties

(1)(A) All lands to be leased which are not subject to leasing under paragraphs (2) and (3) of this subsection shall be leased as provided in this paragraph to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 2,560 acres, except in Alaska, where units shall be not more than 5,760 acres. Such units shall be as nearly compact as possible. Lease sales shall be conducted by oral bidding. Lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary. A lease shall be conditioned upon the payment of a royalty at a rate of not less than 12.5 percent in amount or value of the production removed or sold from the lease. The Secretary shall accept the highest bid from a responsible qualified bidder which is equal to or greater than the national minimum acceptable bid, without evaluation of the value of the lands proposed for lease. Leases shall be issued within 60 days following payment by the successful bid-

der of the remainder of the bonus bid, if any, and the annual rental for the first lease year. All bids for less than the national minimum acceptable bid shall be rejected. Lands for which no bids are received or for which the highest bid is less than the national minimum acceptable bid shall be offered promptly within 30 days for leasing under subsection (c) of this section and shall remain available for leasing for a period of 2 years after the competitive lease sale.

(B) The national minimum acceptable bid shall be \$2 per acre for a period of 2 years from December 22, 1987. Thereafter, the Secretary, subject to paragraph (2)(B), may establish by regulation a higher national minimum acceptable bid for all leases based upon a finding that such action is necessary: (i) to enhance financial returns to the United States; and (ii) to promote more efficient management of oil and gas resources on Federal lands. Ninety days before the Secretary makes any change in the national minimum acceptable bid, the Secretary shall notify the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The proposal or promulgation of any regulation to establish a national minimum acceptable bid shall not be considered a major Federal action subject to the requirements of section 4332(2)(C) of title 42.

(2)(A)(i) If the lands to be leased are within a special tar sand area, they shall be leased to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 5,760 acres, which shall be as nearly compact as possible, upon the payment by the lessee of such bonus as may be accepted by the Secretary.

(ii) Royalty shall be 12½ per centum in amount or value of production removed or sold from the lease, subject to subsection (k)(1)(c)<sup>1</sup> of this section.

(iii) The Secretary may lease such additional lands in special tar sand areas as may be required in support of any operations necessary for the recovery of tar sands.

(iv) No lease issued under this paragraph shall be included in any chargeability limitation associated with oil and gas leases.

(B) For any area that contains any combination of tar sand and oil or gas (or both), the Secretary may issue under this chapter, separately—

(i) a lease for exploration for and extraction of tar sand; and

(ii) a lease for exploration for and development of oil and gas.

(C) A lease issued for tar sand shall be issued using the same bidding process, annual rental, and posting period as a lease issued for oil and gas, except that the minimum acceptable bid required for a lease issued for tar sand shall be \$2 per acre.

(D) The Secretary may waive, suspend, or alter any requirement under section 183 of this title that a permittee under a permit authorizing prospecting for tar sand must exercise due

<sup>1</sup> So in original. Probably should be subsection "(k)(1)(C)".

diligence, to promote any resource covered by a combined hydrocarbon lease.

(3)(A) If the United States held a vested future interest in a mineral estate that, immediately prior to becoming a vested present interest, was subject to a lease under which oil or gas was being produced, or had a well capable of producing, in paying quantities at an annual average production volume per well per day of either not more than 15 barrels per day of oil or condensate, or not more than 60,000 cubic feet of gas, the holder of the lease may elect to continue the lease as a noncompetitive lease under subsection (c)(1) of this section.

(B) An election under this paragraph is effective—

(i) in the case of an interest which vested after January 1, 1990, and on or before October 24, 1992, if the election is made before the date that is 1 year after October 24, 1992;

(ii) in the case of an interest which vests within 1 year after October 24, 1992, if the election is made before the date that is 2 years after October 24, 1992; and

(iii) in any case other than those described in clause (i) or (ii), if the election is made prior to the interest becoming a vested present interest.

(C) Notwithstanding the consent requirement referenced in section 352 of this title, the Secretary shall issue a noncompetitive lease under subsection (c)(1) of this section to a holder who makes an election under subparagraph (A) and who is qualified to hold a lease under this chapter. Such lease shall be subject to all terms and conditions under this chapter that are applicable to leases issued under subsection (c)(1) of this section.

(D) A lease issued pursuant to this paragraph shall continue so long as oil or gas continues to be produced in paying quantities.

(E) This paragraph shall apply only to those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following).

**(c) Lands subject to leasing under subsection (b); first qualified applicant**

(1) If the lands to be leased are not leased under subsection (b)(1) of this section or are not subject to competitive leasing under subsection (b)(2) of this section, the person first making application for the lease who is qualified to hold a lease under this chapter shall be entitled to a lease of such lands without competitive bidding, upon payment of a non-refundable application fee of at least \$75. A lease under this subsection shall be conditioned upon the payment of a royalty at a rate of 12.5 percent in amount or value of the production removed or sold from the lease. Leases shall be issued within 60 days of the date on which the Secretary identifies the first responsible qualified applicant.

(2)(A) Lands (i) which were posted for sale under subsection (b)(1) of this section but for which no bids were received or for which the highest bid was less than the national minimum acceptable bid and (ii) for which, at the end of the period referred to in subsection (b)(1) of this section no lease has been issued and no lease ap-

plication is pending under paragraph (1) of this subsection, shall again be available for leasing only in accordance with subsection (b)(1) of this section.

(B) The land in any lease which is issued under paragraph (1) of this subsection or under subsection (b)(1) of this section which lease terminates, expires, is cancelled or is relinquished shall again be available for leasing only in accordance with subsection (b)(1) of this section.

**(d) Annual rentals**

All leases issued under this section, as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, shall be conditioned upon payment by the lessee of a rental of not less than \$1.50 per acre per year for the first through fifth years of the lease and not less than \$2 per acre per year for each year thereafter. A minimum royalty in lieu of rental of not less than the rental which otherwise would be required for that lease year shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.

**(e) Primary terms**

Competitive and noncompetitive leases issued under this section shall be for a primary term of 10 years: *Provided, however,* That competitive leases issued in special tar sand areas shall also be for a primary term of ten years. Each such lease shall continue so long after its primary term as oil or gas is produced in paying quantities. Any lease issued under this section for land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for two years and so long thereafter as oil or gas is produced in paying quantities.

**(f) Notice of proposed action; posting of notice; terms and maps**

At least 45 days before offering lands for lease under this section, and at least 30 days before approving applications for permits to drill under the provisions of a lease or substantially modifying the terms of any lease issued under this section, the Secretary shall provide notice of the proposed action. Such notice shall be posted in the appropriate local office of the leasing and land management agencies. Such notice shall include the terms or modified lease terms and maps or a narrative description of the affected lands. Where the inclusion of maps in such notice is not practicable, maps of the affected lands shall be made available to the public for review. Such maps shall show the location of all tracts to be leased, and of all leases already issued in the general area. The requirements of this subsection are in addition to any public notice required by other law.

**(g) Regulation of surface-disturbing activities; approval of plan of operations; bond or surety; failure to comply with reclamation requirements as barring lease; opportunity to comply with requirements**

The Secretary of the Interior, or for National Forest lands, the Secretary of Agriculture, shall

regulate all surface-disturbing activities conducted pursuant to any lease issued under this chapter, and shall determine reclamation and other actions as required in the interest of conservation of surface resources. No permit to drill on an oil and gas lease issued under this chapter may be granted without the analysis and approval by the Secretary concerned of a plan of operations covering proposed surface-disturbing activities within the lease area. The Secretary concerned shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface-disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. The Secretary shall not issue a lease or leases or approve the assignment of any lease or leases under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the Secretary of the Interior or Secretary of Agriculture, such entity has failed or refused to comply in any material respect with the reclamation requirements and other standards established under this section for any prior lease to which such requirements and standards applied. Prior to making such determination with respect to any such entity the concerned Secretary shall provide such entity with adequate notification and an opportunity to comply with such reclamation requirements and other standards and shall consider whether any administrative or judicial appeal is pending. Once the entity has complied with the reclamation requirement or other standard concerned an oil or gas lease may be issued to such entity under this chapter.

**(h) National Forest System Lands**

The Secretary of the Interior may not issue any lease on National Forest System Lands reserved from the public domain over the objection of the Secretary of Agriculture.

**(i) Termination**

No lease issued under this section which is subject to termination because of cessation of production shall be terminated for this cause so long as reworking or drilling operations which were commenced on the land prior to or within sixty days after cessation of production are conducted thereon with reasonable diligence, or so long as oil or gas is produced in paying quantities as a result of such operations. No lease issued under this section shall expire because operations or production is suspended under any order, or with the consent, of the Secretary. No lease issued under this section covering lands on which there is a well capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same unless the lessee is allowed a reasonable time, which shall be not less than sixty days after notice by registered or certified mail, within which to place such well in producing status or unless, after such status

is established, production is discontinued on the leased premises without permission granted by the Secretary under the provisions of this chapter.

**(j) Drainage agreements; primary term of lease, extension**

Whenever it appears to the Secretary that lands owned by the United States are being drained of oil or gas by wells drilled on adjacent lands, he may negotiate agreements whereby the United States, or the United States and its lessees, shall be compensated for such drainage. Such agreements shall be made with the consent of the lessees, if any, affected thereby. If such agreement is entered into, the primary term of any lease for which compensatory royalty is being paid, or any extension of such primary term, shall be extended for the period during which such compensatory royalty is paid and for a period of one year from discontinuance of such payment and so long thereafter as oil or gas is produced in paying quantities.

**(k) Mining claims; suspension of running time of lease**

If, during the primary term or any extended term of any lease issued under this section, a verified statement is filed by any mining claimant pursuant to subsection (c) of section 527 of this title, whether such filing occur prior to September 2, 1960 or thereafter, asserting the existence of a conflicting unpatented mining claim or claims upon which diligent work is being prosecuted as to any lands covered by the lease, the running of time under such lease shall be suspended as to the lands involved from the first day of the month following the filing of such verified statement until a final decision is rendered in the matter.

**(l) Exchange of leases; conditions**

The Secretary of the Interior shall, upon timely application therefor, issue a new lease in exchange for any lease issued for a term of twenty years, or any renewal thereof, or any lease issued prior to August 8, 1946, in exchange for a twenty-year lease, such new lease to be for a primary term of five years and so long thereafter as oil or gas is produced in paying quantities and at a royalty rate of not less than 12½ per centum in amount or value of the production removed or sold from such leases, except that the royalty rate shall be 12½ per centum in amount or value of the production removed or sold from said leases as to (1) such leases, or such parts of the lands subject thereto and the deposits underlying the same, as are not believed to be within the productive limits of any producing oil or gas deposit, as such productive limits are found by the Secretary to have existed on August 8, 1946; and (2) any production on a lease from an oil or gas deposit which was discovered after May 27, 1941, by a well or wells drilled within the boundaries of the lease, and which is determined by the Secretary to be a new deposit; and (3) any production on or allocated to a lease pursuant to an approved cooperative or unit plan of development or operation from an oil or gas deposit which was discovered after May 27, 1941, on land committed to such plan, and which is determined by the Secretary to be

a new deposit, where such lease, or a lease for which it is exchanged, was included in such plan at the time of discovery or was included in a duly executed and filed application for the approval of such plan at the time of discovery.

**(m) Cooperative or unit plan; authority of Secretary of the Interior to alter or modify; communitization or drilling agreements; term of lease, conditions; Secretary to approve operating, drilling or development contracts, and subsurface storage**

For the purpose of more properly conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof (whether or not any part of said oil or gas pool, field, or like area, is then subject to any cooperative or unit plan of development or operation), lessees thereof and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of such pool, field, or like area, or any part thereof, whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest. The Secretary is thereunto authorized, in his discretion, with the consent of the holders of leases involved, to establish, alter, change, or revoke drilling, producing, rental, minimum royalty, and royalty requirements of such leases and to make such regulations with reference to such leases, with like consent on the part of the lessees, in connection with the institution and operation of any such cooperative or unit plan as he may deem necessary or proper to secure the proper protection of the public interest. The Secretary may provide that oil and gas leases hereafter issued under this chapter shall contain a provision requiring the lessee to operate under such a reasonable cooperative or unit plan, and he may prescribe such a plan under which such lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

Any plan authorized by the preceding paragraph which includes lands owned by the United States may, in the discretion of the Secretary, contain a provision whereby authority is vested in the Secretary of the Interior, or any such person, committee, or State or Federal officer or agency as may be designated in the plan, to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such plan. All leases operated under any such plan approved or prescribed by the Secretary shall be excepted in determining holdings or control under the provisions of any section of this chapter.

When separate tracts cannot be independently developed and operated in conformity with an established well-spacing or development program, any lease, or a portion thereof, may be pooled with other lands, whether or not owned by the United States, under a communitization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the Secretary of the Interior to be in the public interest, and operations or production pursuant to

such an agreement shall be deemed to be operations or production as to each such lease committed thereto.

Any lease issued for a term of twenty years, or any renewal thereof, or any portion of such lease that has become the subject of a cooperative or unit plan of development or operation of a pool, field, or like area, which plan has the approval of the Secretary of the Interior, shall continue in force until the termination of such plan. Any other lease issued under any section of this chapter which has heretofore or may hereafter be committed to any such plan that contains a general provision for allocation of oil or gas shall continue in force and effect as to the land committed so long as the lease remains subject to the plan: *Provided*, That production is had in paying quantities under the plan prior to the expiration date of the term of such lease. Any lease heretofore or hereafter committed to any such plan embracing lands that are in part within and in part outside of the area covered by any such plan shall be segregated into separate leases as to the lands committed and the lands not committed as of the effective date of unitization: *Provided, however*, That any such lease as to the nonunitized portion shall continue in force and effect for the term thereof but for not less than two years from the date of such segregation and so long thereafter as oil or gas is produced in paying quantities. The minimum royalty or discovery rental under any lease that has become subject to any cooperative or unit plan of development or operation, or other plan that contains a general provision for allocation of oil or gas, shall be payable only with respect to the lands subject to such lease to which oil or gas shall be allocated under such plan. Any lease which shall be eliminated from any such approved or prescribed plan, or from any communitization or drilling agreement authorized by this section, and any lease which shall be in effect at the termination of any such approved or prescribed plan, or at the termination of any such communitization or drilling agreement, unless relinquished, shall continue in effect for the original term thereof, but for not less than two years, and so long thereafter as oil or gas is produced in paying quantities.

The Secretary of the Interior is hereby authorized, on such conditions as he may prescribe, to approve operating, drilling, or development contracts made by one or more lessees of oil or gas leases, with one or more persons, associations, or corporations whenever, in his discretion, the conservation of natural products or the public convenience or necessity may require it or the interests of the United States may be best subserved thereby. All leases operated under such approved operating, drilling, or development contracts, and interests thereunder, shall be excepted in determining holdings or control under the provisions of this chapter.

The Secretary of the Interior, to avoid waste or to promote conservation of natural resources, may authorize the subsurface storage of oil or gas, whether or not produced from federally owned lands, in lands leased or subject to lease under this chapter. Such authorization may provide for the payment of a storage fee or rental on such stored oil or gas or, in lieu of such fee

or rental, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced. Any lease on which storage is so authorized shall be extended at least for the period of storage and so long thereafter as oil or gas not previously produced is produced in paying quantities.

**(n) Conversion of oil and gas leases and claims on hydrocarbon resources to combined hydrocarbon leases for primary term of 10 years; application**

(1)(A) The owner of (1) an oil and gas lease issued prior to November 16, 1981, or (2) a valid claim to any hydrocarbon resources leaseable under this section based on a mineral location made prior to January 21, 1926, and located within a special tar sand area shall be entitled to convert such lease or claim to a combined hydrocarbon lease for a primary term of ten years upon the filing of an application within two years from November 16, 1981, containing an acceptable plan of operations which assures reasonable protection of the environment and diligent development of those resources requiring enhanced recovery methods of development or mining. For purposes of conversion, no claim shall be deemed invalid solely because it was located as a placer location rather than a lode location or vice versa, notwithstanding any previous adjudication on that issue.

(B) The Secretary shall issue final regulations to implement this section within six months of November 16, 1981. If any oil and gas lease eligible for conversion under this section would otherwise expire after November 16, 1981, and before six months following the issuance of implementing regulations, the lessee may preserve his conversion right under such lease for a period ending six months after the issuance of implementing regulations by filing with the Secretary, before the expiration of the lease, a notice of intent to file an application for conversion. Upon submission of a complete plan of operations in substantial compliance with the regulations promulgated by the Secretary for the filing of such plans, the Secretary shall suspend the running of the term of any oil and gas lease proposed for conversion until the plan is finally approved or disapproved. The Secretary shall act upon a proposed plan of operations within fifteen months of its submittal.

(C) When an existing oil and gas lease is converted to a combined hydrocarbon lease, the royalty shall be that provided for in the original oil and gas lease and for a converted mining claim, 12½ per centum in amount or value of production removed or sold from the lease.

(2) Except as provided in this section, nothing in the Combined Hydrocarbon Leasing Act of 1981 shall be construed to diminish or increase the rights of any lessee under any oil and gas lease issued prior to November 16, 1981.

**(o) Certain outstanding oil and gas deposits**

(1) Prior to the commencement of surface-disturbing activities relating to the development of oil and gas deposits on lands described under paragraph (5), the Secretary of Agriculture shall require, pursuant to regulations promulgated by the Secretary, that such activities be subject to

terms and conditions as provided under paragraph (2).

(2) The terms and conditions referred to in paragraph (1) shall require that reasonable advance notice be furnished to the Secretary of Agriculture at least 60 days prior to the commencement of surface disturbing activities.

(3) Advance notice under paragraph (2) shall include each of the following items of information:

(A) A designated field representative.

(B) A map showing the location and dimensions of all improvements, including but not limited to, well sites and road and pipeline accesses.

(C) A plan of operations, of an interim character if necessary, setting forth a schedule for construction and drilling.

(D) A plan of erosion and sedimentation control.

(E) Proof of ownership of mineral title.

Nothing in this subsection shall be construed to affect any authority of the State in which the lands concerned are located to impose any requirements with respect to such oil and gas operations.

(4) The person proposing to develop oil and gas deposits on lands described under paragraph (5) shall either—

(A) permit the Secretary to market merchantable timber owned by the United States on lands subject to such activities; or

(B) arrange to purchase merchantable timber on lands subject to such surface disturbing activities from the Secretary of Agriculture, or otherwise arrange for the disposition of such merchantable timber, upon such terms and upon such advance notice of the items referred to in subparagraphs (A) through (E) of paragraph (3) as the Secretary may accept.

(5)(A) The lands referred to in this subsection are those lands referenced in subparagraph (B) which are under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following), but does not have an interest in oil and gas deposits that may be present under such lands. This subsection does not apply to any such lands where, under the provisions of its acquisition of an interest in the lands, the United States is to acquire any oil and gas deposits that may be present under such lands in the future but such interest has not yet vested with the United States.

(B) This subsection shall only apply in the Allegheny National Forest.

**(p) Deadlines for consideration of applications for permits**

**(1) In general**

Not later than 10 days after the date on which the Secretary receives an application for any permit to drill, the Secretary shall—

(A) notify the applicant that the application is complete; or

(B) notify the applicant that information is missing and specify any information that is required to be submitted for the application to be complete.

**(2) Issuance or deferral**

Not later than 30 days after the applicant for a permit has submitted a complete application, the Secretary shall—

(A) issue the permit, if the requirements under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other applicable law have been completed within such timeframe; or

(B) defer the decision on the permit and provide to the applicant a notice—

(i) that specifies any steps that the applicant could take for the permit to be issued; and

(ii) a list of actions that need to be taken by the agency to complete compliance with applicable law together with timelines and deadlines for completing such actions.

**(3) Requirements for deferred applications****(A) In general**

If the Secretary provides notice under paragraph (2)(B), the applicant shall have a period of 2 years from the date of receipt of the notice in which to complete all requirements specified by the Secretary, including providing information needed for compliance with the National Environmental Policy Act of 1969.

**(B) Issuance of decision on permit**

If the applicant completes the requirements within the period specified in subparagraph (A), the Secretary shall issue a decision on the permit not later than 10 days after the date of completion of the requirements described in subparagraph (A), unless compliance with the National Environmental Policy Act of 1969 and other applicable law has not been completed within such timeframe.

**(C) Denial of permit**

If the applicant does not complete the requirements within the period specified in subparagraph (A) or if the applicant does not comply with applicable law, the Secretary shall deny the permit.

(Feb. 25, 1920, ch. 85, §17, 41 Stat. 443; July 3, 1930, ch. 854, §1, 46 Stat. 1007; Mar. 4, 1931, ch. 506, 46 Stat. 1523; Aug. 21, 1935, ch. 599, §1, 49 Stat. 676; Aug. 8, 1946, ch. 916, §3, 60 Stat. 951; July 29, 1954, ch. 644, §1(1)–(3), 68 Stat. 583; Pub. L. 86–507, §1(21), June 11, 1960, 74 Stat. 201; Pub. L. 86–705, §2, Sept. 2, 1960, 74 Stat. 781; Pub. L. 97–78, §1(6), (8), Nov. 16, 1981, 95 Stat. 1070, 1071; Pub. L. 100–203, title V, §5102(a)–(d)(1), Dec. 22, 1987, 101 Stat. 1330–256, 1330–257; Pub. L. 102–486, title XXV, §§2507(a), 2508(a), 2509, Oct. 24, 1992, 106 Stat. 3107–3109; Pub. L. 103–437, §11(a)(1), Nov. 2, 1994, 108 Stat. 4589; Pub. L. 104–66, title I, §1081(a), Dec. 21, 1995, 109 Stat. 721; Pub. L. 109–58, title III, §§350(a), (b), 366, 369(j)(1), Aug. 8, 2005, 119 Stat. 711, 726, 730.)

## REFERENCES IN TEXT

Act of March 1, 1911, referred to in subsecs. (b)(3)(E) and (o)(5)(A), is act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of Title

16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 552 of Title 16 and Tables.

The Federal Onshore Oil and Gas Leasing Reform Act of 1987, referred to in subsec. (d), is subtitle B (§§5101 to 5113) of title V of Pub. L. 100–203, Dec. 22, 1987, 101 Stat. 1330–256. For complete classification of this Act to the Code, see Short Title of 1987 Amendment note set out under section 181 of this title and Tables.

The Combined Hydrocarbon Leasing Act of 1981, referred to in subsec. (n)(2), is Pub. L. 97–78, Nov. 16, 1981, 95 Stat. 1070, which amended sections 181, 182, 184, 209, 226, 241, 351, and 352 of this title and enacted a provision set out as a note under section 181 of this title. For complete classification of this Act to the Code, see Short Title of 1981 Amendment note set out under section 181 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (p)(2)(A), (3)(A), (B), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

## AMENDMENTS

2005—Subsec. (b)(1)(B). Pub. L. 109–58, §350(b), inserted “, subject to paragraph (2)(B),” after “Thereafter, the Secretary”.

Subsec. (b)(2). Pub. L. 109–58, §350(a), designated existing provisions as subpar. (A) and added subpars. (B) to (D).

Subsec. (b)(2)(A). Pub. L. 109–58, §369(j)(1), designated first sentence as cl. (i), substituted “5,760” for “five thousand one hundred and twenty”, designated second and third sentences as cls. (ii) and (iii), respectively, and added cl. (iv).

Subsec. (p). Pub. L. 109–58, §366, added subsec. (p).

1995—Subsec. (j). Pub. L. 104–66 struck out at end “The Secretary shall report to Congress at the beginning of each regular session all such agreements entered into during the previous year which involve unleased Government lands.”

1994—Subsec. (b)(1)(B). Pub. L. 103–437 substituted “Natural Resources” for “Interior and Insular Affairs” before “of the United States House”.

1992—Subsec. (b)(1)(A). Pub. L. 102–486, §2507(a)(1), substituted “under paragraphs (2) and (3)” for “under paragraph (2)”.

Subsec. (b)(3). Pub. L. 102–486, §2507(a)(2), added par. (3).

Subsec. (e). Pub. L. 102–486, §2509, substituted “Competitive and noncompetitive leases issued under this section shall be for a primary term of 10 years: *Provided, however,*” for “Competitive leases issued under this section shall be for a primary term of five years and noncompetitive leases for a primary term of ten years: *Provided, however,*”.

Subsec. (o). Pub. L. 102–486, §2508(a), added subsec. (o).

1987—Subsec. (b)(1). Pub. L. 100–203, §5102(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “If the lands to be leased are within any known geological structure of a producing oil or gas field, they shall be leased to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than six hundred and forty acres, which shall be as nearly compact in form as possible, upon the payment by the lessee of such bonus as may be accepted by the Secretary and of such royalty as may be fixed in the lease, which shall be not less than 12½ per centum in amount or value of the production removed or sold from the lease.”

Subsec. (c). Pub. L. 100–203, §5102(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “If the lands to be leased are not subject to leasing under subsection (b) of this section, the person first making application for the lease who is qualified to hold a lease under this chapter shall be entitled to a lease of such lands without competitive bidding. Such leases shall be conditioned upon the payment by the

lessee of a royalty of 12½ per centum in amount or value of the production removed or sold from the lease.”

Subsec. (d). Pub. L. 100-203, §5102(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “All leases issued under this section shall be conditioned upon payment by the lessee of a rental of not less than 50 cents per acre for each year of the lease. Each year’s lease rental shall be paid in advance. A minimum royalty of \$1 per acre in lieu of rental shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.”

Subsecs. (f) to (n). Pub. L. 100-203, §5102(d)(1), added subsecs. (f) to (h) and redesignated former subsecs. (f) to (k) as (i) to (n), respectively.

1981—Subsec. (b). Pub. L. 97-78, §1(6)(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 97-78, §1(6)(b), substituted “sub-ject to leasing under subsection (b) of this section” for “within any known geological structure of a producing oil or gas field”.

Subsec. (e). Pub. L. 97-78, §1(6)(c), inserted proviso that competitive leases in special tar sand areas be for a primary term of ten years.

Subsec. (k). Pub. L. 97-78, §1(8), added subsec. (k).

1960—Pub. L. 86-705 generally amended this section and sections 226d and 226e of this title, combining all three sections and subdividing provisions into subsections (a) to (j) of this section. Among other changes were: substitution of a fixed 10-year term for a renewable 5-year term for noncompetitive leases, the addition of subsec. (h) provisions with respect to the running of time against a lease during a contest of the claim, an increase in the minimum yearly rentals from 25 to 50 cents an acre, and striking out provisions that permitted a waiver of second-year and third-year rentals in certain situations.

Pub. L. 86-507 authorized notice of withdrawal to be given by certified mail.

1954—Act July 29, 1954, in second par., provided, that no lease shall terminate for nonproduction (1) if reworking or drilling operations are begun within 60 days after cessation of production, (2) if cessation of production is by order or with consent of the Secretary of the Interior, or (3) unless the lessee is given a reasonable time of at least 60 days to place a well, capable of producing paying quantities of oil or gas, on a producing status.

Act July 29, 1954, in third par., made sure that if a lessee seasonably applies for an extension of the initial five-year term of the lease he will be given such extension for either 5 years or 2 years, depending on whether or not the land is in a producing structure.

Act July 29, 1954, in fifth par., provided that the primary term of a lease which is effected by an agreement under which the United States received compensatory royalty remains in full force and effect for 1 year following discontinuance of compensatory royalty payments.

1946—Act Aug. 8, 1946, principally substituted, with respect to the leasing of lands not within a known geological structure of a producing oil or gas field, a royalty rate of 12½ per cent without further provision as to lease terms or quality of production; substituted a minimum royalty of \$1 per acre per annum after discovery for the advance rental of not less than 25 cents per acre per annum required prior to discovery; provided that all leases shall be for a primary term of 5 years which shall continue thereafter for so long as oil or gas is produced in paying quantities, and that leases, with certain exceptions, shall be subject to one renewal for 5 years, and, if not subject to renewal, shall extend for an additional 2 years if diligent operations are in progress at the lease expiration date.

1935—Act Aug. 21, 1935, amended section generally.

1931—Act Mar. 4, 1931, amended section generally.

1930—Act July 3, 1930, amended section generally.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Section 2507(b) of Pub. L. 102-486 provided that: “The amendments made by subsection (a) [amending this

section] apply with respect to those mineral estates in which the interest of the United States becomes a vested present interest after January 1, 1990.”

#### REGULATIONS

Pub. L. 109-58, title III, §350(c), Aug. 8, 2005, 119 Stat. 711, provided that: “Not later than 45 days after the date of enactment of this Act [Aug. 8, 2005], the Secretary [of the Interior] shall issue final regulations to implement this section [amending this section].”

Section 2508(b) of Pub. L. 102-486 provided that: “Within 90 days after the enactment of this Act [Oct. 24, 1992] the Secretary of Agriculture shall promulgate regulations to implement the amendment made by subsection (a) [amending this section].”

Section 5107 of Pub. L. 100-203 provided that:

“(a) REGULATIONS.—The Secretary shall issue final regulations to implement this subtitle [subtitle B (§§5101-5113) of title V of Pub. L. 100-203, see Short Title of 1987 Amendment note set out under section 181 of this title] within 180 days after the enactment of this subtitle [Dec. 22, 1987]. The regulations shall be effective when published in the Federal Register.

“(b) TREATMENT UNDER OTHER LAW.—The proposal or promulgation of such regulations shall not be considered a major Federal action subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 [42 U.S.C. 4332(2)(C)].

“(c) TEST SALE.—The Secretary may hold one or more lease sales conducted in accordance with the amendments made by this subtitle before promulgation of regulations referred to in subsection (a). Sale procedures for such sale shall be established in the notice of sale.”

#### SAVINGS PROVISION

Section 8 of Pub. L. 86-705 provided that: “No amendment made by this Act [see Short Title of 1960 Amendment note set out under section 181 of this title] shall affect any valid right in existence on the effective date [Sept. 2, 1960] of the Mineral Leasing Act Revision of 1960.”

See note set out under section 181 of this title.

#### TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior, referred to in subsec. (j), to promulgate regulations under this chapter relating to establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97-100, title II, §201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97-315, pp. 25, 26, Nov. 5, 1981.

#### PENDING APPLICATIONS, OFFERS, AND BIDS

Section 5106 of Pub. L. 100-203 provided that:

“(a) Notwithstanding any other provision of this subtitle [subtitle B (§§5101-5113) of title V of Pub. L. 100-203, see Short Title of 1987 Amendment note set out under section 181 of this title] and except as provided in subsection (b) of this section, all noncompetitive oil and gas lease applications and offers and competitive oil and gas bids pending on the date of enactment of this subtitle [Dec. 22, 1987] shall be processed, and leases shall be issued under the provisions of the Act of February 25, 1920 [this chapter], as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law.

“(b) No noncompetitive lease applications or offers pending on the date of enactment of this subtitle for lands within the Shawnee National Forest, Illinois; the Ouachita National Forest, Arkansas; Fort Chaffee, Arkansas; or Eglin Air Force Base, Florida; shall be proc-



essed until these lands are posted for competitive bidding in accordance with section 5102 of this subtitle [amending this section and section 188 of this title]. If any such tract does not receive a bid equal to or greater than the national minimum acceptable bid from a responsible qualified bidder then the noncompetitive applications or offers pending for such a tract shall be reinstated and noncompetitive leases issued under the Act of February 25, 1920, as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law. If competitive leases are issued for any such tract, then the pending noncompetitive application or offer shall be rejected.

“(c) Except as provided in subsections (a) and (b) of this section, all oil and gas leasing pursuant to the Act of February 25, 1920, after the date of enactment of this subtitle shall be conducted in accordance with the provisions of this subtitle.”

#### REPORT TO CONGRESS

Section 5110 of Pub. L. 100-203 provided that: “The Secretary shall submit annually for 5 years after enactment of this subtitle [Dec. 22, 1987] to the Congress a report containing appropriate information to facilitate congressional monitoring of this subtitle [subtitle B (§§5101-5113) of title V of Pub. L. 100-203, see Short Title of 1987 Amendment note set out under section 181 of this title]. Such report shall include, but not be limited to—

“(1) the number of acres leased, and the number of leases issued, competitively and noncompetitively;

“(2) the amount of revenue received from bonus bids, filing fees, rentals, and royalties;

“(3) the amount of production from competitive and noncompetitive leases; and

“(4) such other data and information as will facilitate—

“(A) an assessment of the onshore oil and gas leasing system, and

“(B) a comparison of the system as revised by this subtitle with the system in operation prior to the enactment of this subtitle.”

#### LAND USE STUDY

Section 5111 of Pub. L. 100-203 provided that: “The National Academy of Sciences and the Comptroller General of the United States shall conduct a study of the manner in which oil and gas resources are considered in the land use plans developed by the Secretary of the Interior in accordance with provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) [Pub. L. 94-579, see Short Title note under 43 U.S.C. 1701] and the Secretary of Agriculture in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476) [Pub. L. 93-378, 16 U.S.C. 1600 et seq.], as amended by the National Forest Management Act of 1976 (90 Stat. 2949) [Pub. L. 94-588, see Short Title of 1976 Amendment note under 16 U.S.C. 1600], and recommend any improvements that may be necessary to ensure that—

“(1) potential oil and gas resources are adequately addressed in planning documents;

“(2) the social, economic, and environmental consequences of exploration and development of oil and gas resources are determined; and

“(3) any stipulations to be applied to oil and gas leases are clearly identified.”

#### REINSTATEMENT AND EXTENSION OF CERTAIN TEN-YEAR OIL AND GAS LEASES

Act July 14, 1952, ch. 742, 66 Stat. 630, provided: “That any lease issued for a ten-year term in exchange for an oil and gas prospecting permit pursuant to sections 13 and 17 of the Act entitled ‘An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain’, approved February 25, 1920, as amended by the Act of August 21, 1935 (49 Stat. 674) [sections 221 and 226, respectively, of this title], and

prior to amendment by the Act of August 8, 1946 [act Aug. 8, 1946, ch. 916, §3, 60 Stat. 951], and upon which drilling operations were being diligently prosecuted on the expiration date of such lease, prior to the effective date of this Act [July 14, 1952], is hereby reinstated effective from the expiration date of the lease and shall continue in effect for a period of two years after the effective date of this Act and so long thereafter as oil or gas is produced in paying quantities, if, within ninety days after the enactment of this Act, payment is made, under the terms of such lease as reinstated and extended, of any sums due the United States for prior years. This Act shall not be applicable to any lands which, subsequent to such expiration and prior to the enactment of this Act, have been withdrawn from leasing, leased, or otherwise disposed of.”

#### OUTER CONTINENTAL SHELF; LEASES

Grant by Secretary of the Interior of oil, gas, and other mineral leases on submerged lands of outer Continental Shelf, see section 1331 et seq. of Title 43, Public Lands.

#### § 226-1. Extension of noncompetitive oil or gas lease issued before September 2, 1960

##### (a) Lands not withdrawn from leasing

Upon the expiration of the initial five-year term of any noncompetitive oil or gas lease which was issued prior to September 2, 1960, and which has been maintained in accordance with applicable statutory requirements and regulations, the record titleholder thereof shall be entitled to a single extension of the lease, unless then otherwise provided by law, for such lands covered by it as are not, on the expiration date of the lease, withdrawn from leasing. A withdrawal, however, shall not affect the right to an extension if actual drilling operations on such lands were commenced prior to the effective date of the withdrawal and were being diligently prosecuted on the expiration date of the lease. No withdrawal shall be effective within the meaning of this section until ninety days after notice thereof has been sent by registered or certified mail to each lessee to be affected by such withdrawal.

##### (b) Known and unknown geologic structures of producing fields

As to lands not within the known geologic structure of a producing oil or gas field, a noncompetitive oil or gas lease to which this section is applicable shall be extended for a period of five years and so long thereafter as oil or gas is produced in paying quantities. As to lands within the known geologic structure of a producing oil or gas field, a noncompetitive lease to which this section is applicable shall be extended for a period of two years and so long thereafter as oil or gas is produced in paying quantities.

##### (c) Application requirement

Any noncompetitive oil or gas lease extended under this section shall be subject to the rules and regulations in force at the expiration of the initial five-year term of the lease. No extension shall be granted, however, unless within a period of ninety days prior to the expiration date of the lease an application therefor is filed by the record titleholder or an assignee whose assignment has been filed for approval or an operator whose operating agreement has been filed for approval.

**(d) Commencement of actual drilling operations**

Any lease issued prior to September 2, 1960, which has been maintained in accordance with applicable statutory requirements and regulations and which pertains to land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for two years and so long thereafter as oil or gas is produced in paying quantities.

(Pub. L. 86-705, § 4, Sept. 2, 1960, 74 Stat. 789.)

## CODIFICATION

Section was enacted as part of Mineral Leasing Act Revision of 1960, and not as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

**§ 226-2. Limitations for filing oil and gas contests**

No action contesting a decision of the Secretary involving any oil and gas lease shall be maintained unless such action is commenced or taken within ninety days after the final decision of the Secretary relating to such matter. No such action contesting such a decision of the Secretary rendered prior to September 2, 1960 shall be maintained unless the same be commenced or taken within ninety days after September 2, 1960.

(Feb. 25, 1920, ch. 85, § 42, as added Pub. L. 86-705, § 5, Sept. 2, 1960, 74 Stat. 790.)

**§ 226-3. Lands not subject to oil and gas leasing****(a) Prohibition**

The Secretary shall not issue any lease under this chapter or under the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.] on any of the following Federal lands:

(1) Lands recommended for wilderness allocation by the surface managing agency.

(2) Lands within Bureau of Land Management wilderness study areas.

(3) Lands designated by Congress as wilderness study areas, except where oil and gas leasing is specifically allowed to continue by the statute designating the study area.

(4) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or have been released to uses other than wilderness by an act of Congress.

**(b) Exploration**

In the case of any area of National Forest or public lands subject to this section, nothing in this section shall affect any authority of the Secretary of the Interior (or for National Forest Lands reserved from the public domain, the Secretary of Agriculture) to issue permits for exploration for oil and gas, coal, oil shale, phosphate, potassium, sulphur, gilsonite or geothermal resources by means not requiring construction of roads or improvement of existing roads if such activity is conducted in a manner compatible with the preservation of the wilderness environment.

(Feb. 25, 1920, ch. 85, § 43, as added Pub. L. 100-203, title V, § 5112, Dec. 22, 1987, 101 Stat. 1330-262; amended Pub. L. 100-443, § 5(c), Sept. 22, 1988, 102 Stat. 1768.)

## REFERENCES IN TEXT

The Geothermal Steam Act of 1970, referred to in subsec. (a), is Pub. L. 91-581, Dec. 24, 1970, 84 Stat. 1566, which is classified principally to chapter 23 (§1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

## AMENDMENTS

1988—Subsec. (a). Pub. L. 100-443, § 5(c)(1), inserted “or under the Geothermal Steam Act of 1970” after “under this chapter” and directed that “oil and gas” be stricken which was executed by striking those words where they appeared after “not issue any” in introductory provisions, but not where they appeared in par. (3) as the probable intent of Congress.

Subsec. (b). Pub. L. 100-443, § 5(c)(2), inserted “, coal, oil shale, phosphate, potassium, sulphur, gilsonite or geothermal resources” after “oil and gas”.

**§§ 226a, 226b. Repealed. Aug. 8, 1946, ch. 916, § 14, 60 Stat. 958**

Section 226a, act July 8, 1940, ch. 548, 54 Stat. 742, related to lease of lands not within known productive field. See section 226 of this title.

Section 226b, acts July 29, 1942, ch. 534, § 1, 56 Stat. 726; Dec. 22, 1943, ch. 376, 57 Stat. 608; Sept. 27, 1944, ch. 429, 58 Stat. 755; Nov. 30, 1945, ch. 495, 59 Stat. 587, related to preference right to new oil and gas lease upon expiration of five-year non-competitive oil and gas lease. See section 226 of this title.

## SAVINGS PROVISION

See note set out under section 181 of this title.

**§ 226c. Reduction of royalties under existing leases**

From and after August 8, 1946, the royalty obligation to the United States under all leases requiring payment of royalty in excess of 12½ per centum, except leases issued or to be issued upon competitive bidding, is reduced to 12½ per centum in amount or value of production removed or sold from said leases as to (1) such leases, or such part of the lands subject thereto, and the deposits underlying the same, as are not believed to be within the productive limits of any oil or gas deposit, as such productive limits are found by the Secretary to exist on August 8, 1946, and (2) any production on a lease from an oil or gas deposit which was discovered after May 27, 1941, by a well or wells drilled within the boundaries of the lease, and which is determined by the Secretary to be a new deposit; and (3) any production on or allocated to a lease pursuant to an approved unit or cooperative agreement from an oil or gas deposit which was discovered after May 27, 1941, on land committed to such agreement, and which is determined by the Secretary to be a new deposit, where such lease was included in such agreement at the time of discovery, or was included in a duly executed and filed application for the approval of such agreement at the time of discovery.

(Aug. 8, 1946, ch. 916, § 12, 60 Stat. 957.)

## CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

## SAVINGS PROVISION

See note set out under section 181 of this title.

## OUTER CONTINENTAL SHELF; REFUNDS ON MINERAL-LEASE PAYMENTS

Refunds of excess payments with respect to oil, gas, and other leases on submerged lands of outer Continental Shelf, see section 1339 of Title 43, Public Lands.

**§§ 226d, 226e. Omitted**

## CODIFICATION

Sections were completely amended by Pub. L. 86-705, § 2, Sept. 2, 1960, 74 Stat. 781, and included in section 17 of Mineral Leasing Act of Feb. 25, 1920, classified to section 226 of this title.

Section 226d, act Feb. 25, 1920, ch. 85, § 17a, as added Aug. 8, 1946, ch. 916, § 4, 60 Stat. 952, provided for the exchange of leases and fixed royalty rates for new leases.

Section 226e, act Feb. 25, 1920, ch. 85, § 17b, as added Aug. 8, 1946, ch. 916, § 5, 60 Stat. 952; amended July 29, 1954, ch. 644, § 1(4), (5), 68 Stat. 585, permitted establishment of cooperative or unit plans, setting up procedures for regulating production, approving contracts and preventing waste.

**§ 227. Omitted**

## CODIFICATION

Section, acts Feb. 25, 1920, ch. 85, § 18, 41 Stat. 443; Feb. 25, 1928, ch. 104, 45 Stat. 148, authorized the United States to issue leases for a period of twenty years to persons who relinquished all rights claimed or possessed prior to July 3, 1910 under preexisting placer mining law provided relinquishment was filed in the General Land Office within six months after Feb. 25, 1920.

**§ 228. Prospecting permits and leases to persons of lands not withdrawn; terms and conditions of; fraud of claimants**

Any person who on October 1, 1919, was a bona fide occupant or claimant of oil or gas lands under a claim initiated while such lands were not withdrawn from oil or gas location and entry, and who had previously performed all acts under then existing laws necessary to valid locations thereof except to make discovery, and upon which discovery had not been made prior to February 25, 1920, and who has performed work or expended on or for the benefit of such locations an amount equal in the aggregate of \$250 for each location if application therefor shall be made within six months from February 25, 1920, shall be entitled to prospecting permits thereon upon the same terms and conditions, and limitations as to acreage, as other permits provided for in this chapter, or where any such person has made such discovery, prior to said February 25, 1920, he shall be entitled to a lease thereon under such terms as the Secretary of the Interior may prescribe unless otherwise provided for in section 227<sup>1</sup> of this title: *Provided*, That where such prospecting permit is granted upon land within any known geologic structure of a producing oil or gas field, the royalty to be fixed in any lease thereafter granted thereon or any portion thereof shall be not less than 12½ per-centum of all the oil or gas produced except oil or gas used for production purposes on the claim, or unavoidably lost: *Provided, however*, That the provisions of this section shall not

apply to lands reserved for the use of the Navy. No claimant for a permit or lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith shall be entitled to any of the benefits of this section.

All permits or leases hereunder shall inure to the benefit of the claimant and all persons claiming through or under him by lease, contract, or otherwise, as their interests may appear.

(Feb. 25, 1920, ch. 85, § 19, 41 Stat. 445.)

## REFERENCES IN TEXT

Section 227 of this title, referred to in text, was omitted from the Code.

**§ 229. Preference right to permits or leases of claimants of lands bona fide entered as agricultural land; terms and conditions**

In the case of lands bona fide entered as agricultural, and not withdrawn or classified as mineral at the time of entry, but not including lands claimed under any railroad grant, the entryman or patentee, or assigns, where assignment was made prior to January 1, 1918, if the entry has been patented with the mineral right reserved, shall be entitled to a preference right to a permit and to a lease, as herein provided, in case of discovery; and within an area not greater than a township such entryman and patentees, or assigns holding restricted patents may combine their holdings, not to exceed two thousand five hundred and sixty acres for the purpose of making joint application. Leases executed under this section and embracing only lands so entered shall provide for the payment of a royalty of not less than 12½ per centum as to such areas within the permit as may not be included within the discovery lease to which the permittee is entitled under section 223 of this title.

(Feb. 25, 1920, ch. 85, § 20, 41 Stat. 445.)

**§ 229a. Water struck while drilling for oil and gas****(a) Acquisition; condition in lease**

All prospecting permits and leases for oil or gas made or issued under the provisions of this chapter shall be subject to the condition that in case the permittee or lessee strikes water while drilling instead of oil or gas, the Secretary of the Interior may, when such water is of such quality and quantity as to be valuable and usable at a reasonable cost for agricultural, domestic, or other purposes, purchase the casing in the well at the reasonable value thereof to be fixed under rules and regulations to be prescribed by the Secretary.

**(b) Prior leases**

In cases where water wells producing such water have heretofore been or may hereafter be drilled upon lands embraced in any prospecting permit or lease heretofore issued under this chapter, the Secretary may in like manner purchase the casing in such wells.

**(c) Disposition**

The Secretary may make such purchase and may lease or operate such wells for the purpose of producing water and of using the same on the

<sup>1</sup> See References in Text note below.

public lands or of disposing of such water for beneficial use on other lands, and where such wells have heretofore been plugged or abandoned or where such wells have been drilled prior to the issuance of any permit or lease by persons not in privity with the permittee or lessee, the Secretary may develop the same for the purposes of this section: *Provided*, That owners or occupants of lands adjacent to those upon which such water wells may be developed shall have a preference right to make beneficial use of such water.

**(d) Revolving fund**

The Secretary may use so much of any funds available for the plugging of wells, as he may find necessary to start the program provided for by this section, and thereafter he may use the proceeds from the sale or other disposition of such water as a revolving fund for the continuation of such program, and such proceeds are hereby appropriated for such purpose.

**(e) Operations under lease not restricted**

Nothing in this section shall be construed to restrict operations under any oil or gas lease or permit under any other provision of this chapter.

(Feb. 25, 1920, ch. 85, § 40, as added June 16, 1934, ch. 557, 48 Stat. 977; amended Pub. L. 94-579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-579 struck out proviso relating to reservation of land as a water hole under section 300 of title 43.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 704(a) of Pub. L. 94-579 provided that the amendment made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Amendment by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of Title 43, Public Lands.

**§§ 230 to 233. Repealed. June 22, 1948, ch. 605, § 3, 62 Stat. 576**

Section 230, act Mar. 4, 1923, ch. 249, § 1, 42 Stat. 1448, authorized permits and leases for certain United States citizens and corporations in Oklahoma.

Section 231, act Mar. 4, 1923, ch. 249, § 2, 42 Stat. 1448, required applications for permits and leases to be made not later than sixty days after Mar. 4, 1923.

Section 232, act Mar. 4, 1923, ch. 249, § 3, 42 Stat. 1448, limited amount of land any one person or corporation could be granted.

Section 233, act Mar. 4, 1923, ch. 249, § 4, 42 Stat. 1448, provided for payment of royalties to United States.

SAVINGS PROVISION

Section 3 of act June 22, 1948, provided that the repeal of these sections is subject to existing valid rights.

**§ 233a. Permits or leases of certain lands in Oklahoma; retention of royalties**

The Secretary of the Interior is directed to retain in his custody until otherwise directed by law the 12½ per centum and other royalties heretofore or hereafter received by him in pursuance of section 233<sup>1</sup> of this title.

<sup>1</sup> See References in Text note below.

(Mar. 4, 1925, ch. 550, § 2, 43 Stat. 1302.)

REFERENCES IN TEXT

Section 233 of this title, referred to in text, was repealed by act June 22, 1948, ch. 605, § 3, 62 Stat. 576.

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

**§§ 234 to 236. Repealed. June 22, 1948, ch. 605, § 3, 62 Stat. 576**

Section 234, act Mar. 4, 1923, ch. 249, § 5, 42 Stat. 1449, provided for application of other laws to leases and permits granted under sections 230 to 233 and 234 to 236 of this title, and for disposition of lands and deposits remaining unappropriated and undisposed of.

Section 235, act Mar. 4, 1923, ch. 249, § 6, 42 Stat. 1449, prohibited interference with certain lands in possession of receivers appointed by the Supreme Court.

Section 236, act Mar. 4, 1923, ch. 249, § 7, 42 Stat. 1450, authorized promulgation of rules and regulations necessary to accomplish purposes of sections 230 to 233 and 234 to 236 of this title.

SAVINGS PROVISION

Section 3 of act June 22, 1948, provided that the repeal of these sections is subject to existing valid rights.

**§ 236a. Lands in naval petroleum reserves and naval oil-shale reserves; effect of other laws**

Nothing in sections 185, 221,<sup>1</sup> 223, 223a,<sup>1</sup> and 226 of this title and this section shall be construed as affecting any lands within the borders of the naval petroleum reserves and naval oil-shale reserves or agreements concerning operations thereunder or in relation to the same, but the Secretary of the Navy is hereby authorized, with the consent of the President, to enter into agreements such as those provided for under sections 184 and 226 of this title, which agreement shall not, unless expressed therein, operate to extend the terms of any lease affected thereby.

(Aug. 21, 1935, ch. 599, § 3, 49 Stat. 679.)

REFERENCES IN TEXT

Section 221 of this title, referred to in text, was omitted from the Code.

Section 223a of this title, referred to in text, was repealed by act Aug. 8, 1946, ch. 916, § 14, 60 Stat. 958.

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

**§ 236b. Existing leases within naval petroleum reserves not affected**

Nothing in this act shall be construed as affecting existing leases within the borders of the naval petroleum reserves, or agreements concerning operations thereunder or in relation thereto.

(Aug. 8, 1946, ch. 916, § 13, 60 Stat. 958; Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 675.)

REFERENCES IN TEXT

This act, referred to in text, is act Aug. 8, 1946, ch. 916, 60 Stat. 950, as amended, which is classified gener-

<sup>1</sup> See References in Text note below.

ally to sections 181, 184, 187a, 187b, 188, 193, 209, 225, 226, 226c to 226e, 236b, and 285 of this title. For complete classification of this Act to the Code, see Tables.

#### CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

#### AMENDMENTS

1956—Act Aug. 10, 1956, repealed the portion of this section after “thereto” which authorized the Secretary of the Navy, with the consent of the President, to enter into agreements such as those provided for in section 236e of this title, which agreements, should not, unless expressed therein, operate to extend the term of any lease affected thereby.

### § 237. Omitted

#### CODIFICATION

Section, Pub. L. 95-372, title VI, §602, Sept. 18, 1978, 92 Stat. 694, which required the Secretary of the Interior to submit annual reports to Congress on delinquent royalty accounts under leases issued under any Act regulating development of oil and gas on Federal lands, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 111 of House Document No. 103-7.

### SUBCHAPTER V—OIL SHALE

### § 241. Leases of lands

#### (a) In general

(1) The Secretary of the Interior is hereby authorized to lease to any person or corporation qualified under this chapter any deposits of oil shale, and gilsonite (including all vein-type solid hydrocarbons) belonging to the United States and the surface of so much of the public lands containing such deposits, or land adjacent thereto, as may be required for the extraction and reduction of the leased minerals, under such rules and regulations, not inconsistent with this chapter, as he may prescribe.

(2) No lease hereunder shall exceed 5,760 acres of land, to be described by the legal subdivisions of the public-land surveys, or if unsurveyed, to be surveyed by the United States, at the expense of the applicant, in accordance with regulations to be prescribed by the Secretary of the Interior.

(3) Leases may be for indeterminate periods, upon such conditions as may be imposed by the Secretary of the Interior, including covenants relative to methods of mining, prevention of waste, and productive development.

(4) For the privilege of mining, extracting, and disposing of the oil or other minerals covered by a lease under this section the lessee shall pay to the United States such royalties as shall be specified in the lease and an annual rental, payable at the beginning of each year, at the rate of \$2.00 per acre per annum, for the lands included in the lease, the rental paid for any one year to be credited against the royalties accruing for that year; such royalties to be subject to readjustment at the end of each twenty-year period by the Secretary of the Interior. For the purpose of encouraging the production of petroleum products from shales the Secretary may, in his discretion, waive the payment of any royalty and rental during the first five years of any

lease. Any person having a valid claim to such minerals under existing laws on January 1, 1919, shall, upon the relinquishment of such claim, be entitled to a lease under the provisions of this section for such area of the land relinquished as shall not exceed the maximum area authorized by this section to be leased to an individual or corporation. No claimant for a lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section. No one person, association, or corporation shall acquire or hold more than 50,000 acres of oil shale leases in any one State. For gilsonite (including all vein-type solid hydrocarbons) no person, association, or corporation shall acquire or hold more than seven thousand six hundred eighty acres in any one State without respect to the number of leases.

(5) No lease issued under this section shall be included in any chargeability limitation associated with oil and gas leases.

#### (b) Offer for lease; deposits other than oil shale; questioned validity because of location; preference rights

If an offer for a lease under the provisions of this section for deposits other than oil shale is based upon a mineral location, the validity of which might be questioned because the claim was based on a placer location rather than on a lode location, or vice versa, the offeror shall have a preference right to a lease if the offer is filed not more than one year after September 2, 1960.

#### (c)<sup>1</sup> Multiple use principal leases; gilsonite including all vein-type solid hydrocarbons

With respect to gilsonite (including all vein-type solid hydrocarbons) a lease under the multiple use principle may issue notwithstanding the existence of an outstanding lease issued under any other provision of this chapter.

#### (c)<sup>1</sup> Offsite leases

(1) The Secretary may within the State of Colorado lease to the holder of the Federal oil shale lease known as Federal Prototype Tract C—a additional lands necessary for the disposal of oil shale wastes and the materials removed from mined lands, and for the building of plants, reduction works, and other facilities connected with oil shale operations (which lease shall be referred to hereinafter as an “offsite lease”). The Secretary may only issue one offsite lease not to exceed six thousand four hundred acres. An offsite lease may not serve more than one Federal oil shale lease and may not be transferred except in conjunction with the transfer of the Federal oil shale lease that it serves.

(2) The Secretary may issue one offsite lease of not more than three hundred and twenty acres to any person, association or corporation which has the right to develop oil shale on non-Federal lands. An offsite lease serving non-Federal oil shale land may not serve more than one oil shale operation and may not be transferred except in conjunction with the transfer of the non-Federal oil shale land that it serves. Not

<sup>1</sup>Two subsecs. (c) have been enacted.