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SUBCHAPTER I—GENERAL PROVISIONS

**§ 181. Lands subject to disposition; persons entitled to benefits; reciprocal privileges; helium rights reserved**

Deposits of coal, phosphate, sodium, potassium, oil, oil shale, gilsonite (including all vein-

type solid hydrocarbons), or gas, and lands containing such deposits owned by the United States, including those in national forests, but excluding lands acquired under the Appalachian Forest Act, approved March 1, 1911 (36 Stat. 961), and those in incorporated cities, towns, and villages and in national parks and monuments, those acquired under other Acts subsequent to February 25, 1920, and lands within the naval petroleum and oil-shale reserves, except as hereinafter provided, shall be subject to disposition in the form and manner provided by this chapter to citizens of the United States, or to associations of such citizens, or to any corporation organized under the laws of the United States, or of any State or Territory thereof, or in the case of coal, oil, oil shale, or gas, to municipalities. Citizens of another country, the laws, customs, or regulations of which deny similar or like privileges to citizens or corporations of this country, shall not by stock ownership, stock holding, or stock control, own any interest in any lease acquired under the provisions of this chapter.

The term "oil" shall embrace all nongaseous hydrocarbon substances other than those substances leasable as coal, oil shale, or gilsonite (including all vein-type solid hydrocarbons).

The term "combined hydrocarbon lease" shall refer to a lease issued in a special tar sand area pursuant to section 226 of this title after November 16, 1981.

The term "special tar sand area" means (1) an area designated by the Secretary of the Interior's orders of November 20, 1980 (45 FR 76800-76801) and January 21, 1981 (46 FR 6077-6078) as containing substantial deposits of tar sand.

The United States reserves the ownership of and the right to extract helium from all gas produced from lands leased or otherwise granted under the provisions of this chapter, under such rules and regulations as shall be prescribed by the Secretary of the Interior: *Provided further*, That in the extraction of helium from gas produced from such lands it shall be so extracted as to cause no substantial delay in the delivery of gas produced from the well to the purchaser thereof.

(Feb. 25, 1920, ch. 85, § 1, 41 Stat. 437; Feb. 7, 1927, ch. 66, § 5, 44 Stat. 1058; Aug. 8, 1946, ch. 916, § 1, 60 Stat. 950; Pub. L. 86-705, § 7(a), Sept. 2, 1960, 74 Stat. 790; Pub. L. 97-78, § 1(1), (4), Nov. 16, 1981, 95 Stat. 1070.)

REFERENCES IN TEXT

The Appalachian Forest Act, referred to in the first undesignated paragraph, is act Mar. 1, 1911, ch. 186, 36 Stat. 961, also popularly known as the Weeks Law, which enacted former sections 513 and 514 and sections 515 to 519, 521, 552, and 563 of Title 16, Conservation, and amended sections 480 and 500 of Title 16. For complete classification of this Act to the Code, see Short Title note set out under section 552 of Title 16 and Tables.

AMENDMENTS

1981—Pub. L. 97-78, in first par., substituted "gilsonite (including all vein-type solid hydrocarbons)," for "native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried)", and added, after first par. three paragraphs which defined "oil", "combined hydrocarbon lease", and "special tar sand area", respectively.

1960—Pub. L. 86-705 included deposits of native asphalt, solid and semisolid bitumen, and bituminous rock.

1946—Act Aug. 8, 1946, reenacted: existing par., less three provisos, as first sentence of first par., inserting “potassium” after “sodium”, which was also included in the 1927 amendment, and substituting provision for disposition of deposits “in incorporated cities, towns, and villages, and in national parks and monuments, those acquired under other Acts subsequent to February 25, 1920, and lands within the naval petroleum and oil-shale reserves” for such disposition “in national parks, and in lands withdrawn or reserved for military or naval uses or purposes” and phrase “associations of such citizens” for “any association of such persons”; former third proviso as second sentence of first par.; former first proviso, as second par., inserting reservation of ownership provision and striking out “permitted” before “leased or otherwise granted”; and former second proviso as proviso in second par.

1927—Act Feb. 7, 1927, included deposits of potassium.

#### SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106-463, §1, Nov. 7, 2000, 114 Stat. 2010, provided that: “This Act [amending section 184 of this title and enacting provisions set out as a note under section 184 of this title] may be cited as the ‘Coal Market Competition Act of 2000.’”

Pub. L. 106-393, title V, §501, Oct. 30, 2000, 114 Stat. 1624, provided that: “This title [amending section 191 of this title and enacting provisions set out as a note under section 191 of this title] may be cited as the ‘Mineral Revenue Payments Clarification Act of 2000.’”

#### SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100-203, title V, §5101(a), Dec. 22, 1987, 101 Stat. 1330-256, provided that: “This subtitle [subtitle B (§§5101-5113) of Pub. L. 100-203, enacting sections 195 and 226-3 of this title, amending sections 187a, 187b, 188, 191, and 226 of this title and section 3148 of Title 16, Conservation, and enacting provisions set out as notes under this section and section 226 of this title] may be cited as the ‘Federal Onshore Oil and Gas Leasing Reform Act of 1987.’”

#### SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97-78, Nov. 16, 1981, 95 Stat. 1070, which amended this section and sections 182, 184, 209, 226, 241, 351, and 352 of this title and enacted provisions set out as a note under this section, is popularly known as the “Combined Hydrocarbon Leasing Act of 1981”.

#### SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-377, §1(a), Aug. 4, 1976, 90 Stat. 1083, as amended by Pub. L. 95-554, §8, Oct. 30, 1978, 92 Stat. 2075, provided that: “This Act [enacting sections 202a, 208-1, and 208-2 of this title, amending sections 184, 191, 201, 203, 207, 209, and 352 of this title, repealing sections 201-1 and 204 of this title, and enacting provisions set out as notes under sections 184, 201, 201-1, 203, and 204 of this title] may be cited as the ‘Federal Coal Leasing Amendments Act of 1976.’”

#### SHORT TITLE OF 1960 AMENDMENT

Pub. L. 86-705, §1, Sept. 2, 1960, 74 Stat. 781, provided: “That this Act [amending this section and sections 182, 184, 187a, 226, 226-1, 226-2, and 241 of this title, and enacted provisions set out as notes under sections 187a and 226 of this title] may be cited as the ‘Mineral Leasing Act Revision of 1960.’”

#### SHORT TITLE

Act Feb. 25, 1920, ch. 85, §44, as added Dec. 22, 1987, Pub. L. 100-203, title V, §5113, 101 Stat. 1330-263, provided that: “This Act [enacting this chapter] may be cited as the ‘Mineral Leasing Act.’”

This chapter is also popularly known as the “Mineral Leasing Act of 1920” and the “Mineral Lands Leasing Act”.

#### SAVINGS PROVISION

Provisions of Federal Land Policy and Management Act of 1976, Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, not to be construed as permitting any person to place, or allow to be placed, spent oil shale, etc., on any Federal land other than land leased for the recovery of shale oil under the act of Feb. 25, 1920, section 181 et seq. of this title, see section 701(d) of Pub. L. 94-579, set out as a note under section 1701 of Title 43, Public Lands.

Act Aug. 8, 1946, ch. 916, §15, 60 Stat. 950, provided: “No repeal or amendment made by this Act [enacting sections 187a, 187b, 226c-226e, and 236b, amending this section and sections 184, 188, 193, 209, 225, 226, and 285, and repealing sections 223a, 226a, and 226b of this title] shall affect any right acquired under the law as it existed prior to such repeal or amendment, and such right shall be governed by the law in effect at the time of its acquisition; but any person holding a lease on the effective date of this Act [Aug. 8, 1946] may, by filing a statement to that effect, elect to have his lease governed by the applicable provisions of this Act instead of by the law in effect prior thereto.”

#### CONSTRUCTION AND APPLICABILITY OF 1981 AMENDMENTS

Pub. L. 97-78, §1(10), (11), Nov. 16, 1981, 95 Stat. 1072, provided that:

“(10) Nothing in this Act [see Short Title of 1981 Amendment note above] shall affect the taxable status of production from tar sand under the Crude Oil Windfall Profit Tax Act of 1980 (Public Law 96-223) [see Tables for classification], reduce the depletion allowance for production from tar sand, or otherwise affect the existing tax status applicable to such production.

“(11) No provision of this Act [see Short Title of 1981 Amendment note above] shall apply to national parks, national monuments, or other lands where mineral leasing is prohibited by law. The Secretary of the Interior shall apply the provisions of this Act to the Glen Canyon National Recreation Area, and to any other units of the national park system where mineral leasing is permitted, in accordance with any applicable minerals management plan if the Secretary finds that there will be no resulting significant adverse impacts on the administration of such area, or on other contiguous units of the national park system.”

#### ADMISSION OF ALASKA AS STATE: SELECTION OF LANDS

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Selection of lands by Alaska from lands made available by Statehood provisions including lands subject to leases, permits, licenses or contracts issued under this chapter, see section 6(h) of Pub. L. 85-508, set out as note preceding section 21 of Title 48.

#### OUTER CONTINENTAL SHELF; MINERAL LEASES

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

#### § 182. Lands disposed of with reservation of deposits of coal, etc.

The provisions of this chapter shall also apply to all deposits of coal, phosphate, sodium, oil, oil shale, gilsonite (including all vein-type solid hydrocarbons), or gas in the lands of the United States, which lands may have been or may be disposed of under laws reserving to the United States such deposits, with the right to prospect for, mine, and remove the same, subject to such conditions as are or may hereafter be provided by such laws reserving such deposits.



(Feb. 25, 1920, ch. 85, §34, 41 Stat. 450; Pub. L. 86-705, §7(a), Sept. 2, 1960, 74 Stat. 790; Pub. L. 97-78, §1(1), Nov. 16, 1981, 95 Stat. 1070.)

#### AMENDMENTS

1981—Pub. L. 97-78 substituted “gilsonite (including all vein-type solid hydrocarbons),” for “native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried)”.

1960—Pub. L. 86-705 included native asphalt, solid and semisolid bitumen, and bituminous rock.

### § 183. Cancellation of prospecting permits

The Secretary of the Interior shall reserve and may exercise the authority to cancel any prospecting permit upon failure by the permittee to exercise due diligence in the prosecution of the prospecting work in accordance with the terms and conditions stated in the permit, and shall insert in every such permit issued under the provisions of this chapter appropriate provisions for its cancellation by him.

(Feb. 25, 1920, ch. 85, §26, 41 Stat. 448.)

### § 184. Limitations on leases held, owned or controlled by persons, associations or corporations

#### (a) Coal leases

No person, association, or corporation, or any subsidiary, affiliate, or persons controlled by or under common control with such person, association, or corporation shall take, hold, own or control at one time, whether acquired directly from the Secretary under this chapter or otherwise, coal leases or permits on an aggregate of more than 75,000 acres in any one State and in no case greater than an aggregate of 150,000 acres in the United States: *Provided*, That any person, association, or corporation currently holding, owning, or controlling more than an aggregate of 150,000 acres in the United States on the date of enactment of this section shall not be required on account of this section to relinquish said leases or permits: *Provided, further*, That in no case shall such person, association, or corporation be permitted to take, hold, own, or control any further Federal coal leases or permits until such time as their holdings, ownership, or control of Federal leases or permits has been reduced below an aggregate of 150,000 acres within the United States.

#### (b) Sodium leases or permits, acreage

(1) No person, association, or corporation, except as otherwise provided in this subsection, shall take, hold, own, or control at one time, whether acquired directly from the Secretary under this chapter, or otherwise, sodium leases or permits on an aggregate of more than five thousand one hundred and twenty acres in any one State.

(2) The Secretary may, in his discretion, where the same is necessary in order to secure the economic mining of sodium compounds leasable under this chapter, permit a person, association, or corporation to take or hold sodium leases or permits on up to 30,720 acres in any one State.

#### (c) Phosphate leases, acreage

No person, association, or corporation shall take, hold, own, or control at one time, whether

acquired directly from the Secretary under this chapter, or otherwise, phosphate leases or permits on an aggregate of more than twenty thousand four hundred and eighty acres in the United States.

#### (d) Oil or gas leases, acreage, Alaska; options, semi-annual statements

(1) No person, association, or corporation, except as otherwise provided in this chapter, shall take, hold, own or control at one time, whether acquired directly from the Secretary under this chapter, or otherwise, oil or gas leases (including options for such leases or interests therein) on land held under the provisions of this chapter exceeding in the aggregate two hundred forty-six thousand and eighty acres in any one State other than Alaska<sup>1</sup> *Provided, however*, That acreage held in special tar sand areas, and acreage under any lease any portion of which has been committed to a federally approved unit or cooperative plan or communitization agreement or for which royalty (including compensatory royalty or royalty in-kind) was paid in the preceding calendar year, shall not be chargeable against such State limitations. In the case of the State of Alaska, the limit shall be three hundred thousand acres in the northern leasing district and three hundred thousand acres in the southern leasing district, and the boundary between said two districts shall be the left limit of the Tanana River from the border between the United States and Canada to the confluence of the Tanana and Yukon Rivers, and the left limit of the Yukon River from said confluence to its principal southern mouth.

(2) No person, association, or corporation shall take, hold, own, or control at one time options to acquire interests in oil or gas leases under the provisions of this chapter which involve, in the aggregate, more than two hundred thousand acres of land in any one State other than Alaska, or, in the case of Alaska, more than two hundred thousand acres in each of its two leasing districts, as hereinbefore described. No option to acquire any interest in such an oil or gas lease shall be enforceable if entered into for a period of more than three years (which three years shall be inclusive of any renewal period if a right to renew is reserved by any party to the option) without the prior approval of the Secretary. In any case in which an option to acquire the optionor's entire interest in the whole or a part of the acreage under a lease is entered into, the acreage to which the option is applicable shall be charged both to the optionor and to the optionee, but the charge to the optionor shall cease when the option is exercised. In any case in which an option to acquire a part of the optionor's interest in the whole or a part of the acreage under a lease is entered into, the acreage to which the option is applicable shall be fully charged to the optionor and a share thereof shall also be charged to the optionee, as his interest may appear, but after the option is exercised said acreage shall be charged to the parties pro rata as their interests may appear. In any case in which an assignment is made of a part of a lessee's interest in the whole or part of the

<sup>1</sup> So in original. Probably should be followed by a colon.

acreage under a lease or an application for a lease, the acreage shall be charged to the parties pro rata as their interests may appear. No option or renewal thereof shall be enforceable until notice thereof has been filed with the Secretary or an officer or employee of the Department of the Interior designated by him to receive the same. Each such notice shall include, in addition to any other matters prescribed by the Secretary, the names and addresses of the parties thereto, the serial number of the lease or application for a lease to which the option is applicable, and a statement of the number of acres covered thereby and of the interests and obligations of the parties thereto and shall be subscribed by all parties to the option or their duly authorized agents. An option which has not been exercised shall remain charged as hereinbefore provided until notice of its relinquishment or surrender has been filed, by either party, with the Secretary or any officer or employee of the Department of the Interior designated by him to receive the same. In addition, each holder of any such option shall file with the Secretary or an officer or employee of the Department of the Interior as aforesaid within ninety days after the 30th day of June and the 31st day of December in each year a statement showing, in addition to any other matters prescribed by the Secretary, his name, the name and address of each grantor of an option held by him, the serial number of every lease or application for a lease to which such an option is applicable, the number of acres covered by each such option, the total acreage in each State to which such options are applicable, and his interest and obligation under each such option. The failure of the holder of an option so to file shall render the option unenforceable<sup>2</sup> by him. The unenforceability<sup>3</sup> of any option under the provisions of this paragraph shall not diminish the number of acres deemed to be held under option by any person, association, or corporation in computing the amount chargeable under the first sentence of this paragraph and shall not relieve any party thereto of any liability to cancellation, forfeiture, forced disposition, or other sanction provided by law. The Secretary may prescribe forms on which the notice and statements required by this paragraph shall be made.

**(e) Association or stockholder interests, conditions; combined interests**

(1) No person, association, or corporation shall take, hold, own or control at one time any interest as a member of an association or as a stockholder in a corporation holding a lease, option, or permit under the provisions of this chapter which, together with the area embraced in any direct holding, ownership or control by him of such a lease, option, or permit or any other interest which he may have as a member of other associations or as a stockholder in other corporations holding, owning or controlling such leases, options, or permits for any kind of minerals, exceeds in the aggregate an amount equivalent to the maximum number of acres of the respective kinds of minerals allowed to any one

lessee, optionee, or permittee under this chapter, except that no person shall be charged with his pro rata share of any acreage holdings of any association or corporation unless he is the beneficial owner of more than 10 per centum of the stock or other instruments of ownership or control of such association or corporation, and except that within three years after September 2, 1960 no valid option in existence prior to September 2, 1960 held by a corporation or association on September 2, 1960 shall be chargeable to any stockholder of such corporation or to a member of such association so long as said option shall be so held by such corporation or association under the provisions of this chapter.

(2) No contract for development and operation of any lands leased under this chapter, whether or not coupled with an interest in such lease, and no lease held, owned, or controlled in common by two or more persons, associations, or corporations shall be deemed to create a separate association under the preceding paragraph of this subsection between or among the contracting parties or those who hold, own or control the lease in common, but the proportionate interest of each such party shall be charged against the total acreage permitted to be held, owned or controlled by such party under this chapter. The total acreage so held, owned, or controlled in common by two or more parties shall not exceed, in the aggregate, an amount equivalent to the maximum number of acres of the respective kinds of minerals allowed to any one lessee, optionee, or permittee under this chapter.

**(f) Limitations on other sections; combined interests permitted for certain purposes**

Nothing contained in subsection (e) of this section shall be construed (i) to limit sections 227, 228, 251 of this title or (ii), subject to the approval of the Secretary, to prevent any number of lessees under this chapter from combining their several interests so far as may be necessary for the purpose of constructing and carrying on the business of a refinery or of establishing and constructing, as a common carrier, a pipeline or railroad to be operated and used by them jointly in the transportation of oil from their several wells or from the wells of other lessees under this chapter or in the transportation of coal or (iii) to increase the acreage which may be taken, held, owned, or controlled under this section.

**(g) Forbidden interests acquired by descent, will, judgment, or decree; permissible holding period**

Any ownership or interest otherwise forbidden in this chapter which may be acquired by descent, will, judgment, or decree may be held for two years after its acquisition and no longer.

**(h) Cancellation, forfeiture, or disposal of interests for violation; bona fide purchasers and other valid interests; sale by Secretary; record of proceedings**

(1) If any interest in any lease is owned, or controlled, directly or indirectly, by means of stock or otherwise, in violation of any of the provisions of this chapter, the lease may be canceled, or the interest so owned may be forfeited,

<sup>2</sup>So in original. Probably should be "unenforceable".

<sup>3</sup>So in original. Probably should be "unenforceability".

or the person so owning or controlling the interest may be compelled to dispose of the interest, in any appropriate proceeding instituted by the Attorney General. Such a proceeding shall be instituted in the United States district court for the district in which the leased property or some part thereof is located or in which the defendant may be found.

(2) The right to cancel or forfeit for violation of any of the provisions of this chapter shall not apply so as to affect adversely the title or interest of a bona fide purchaser of any lease, interest in a lease, option to acquire a lease or an interest therein, or permit which lease, interest, option, or permit was acquired and is held by a qualified person, association, or corporation in conformity with those provisions, even though the holdings of the person, association, or corporation from which the lease, interest, option, or permit was acquired, or of his predecessor in title (including the original lessee of the United States) may have been canceled or forfeited or may be or may have been subject to cancellation or forfeiture for any such violation. If, in any such proceeding, an underlying lease, interest, option, or permit is canceled or forfeited to the Government and there are valid interests therein or valid options to acquire the lease or an interest therein which are not subject to cancellation, forfeiture, or compulsory disposition, the underlying lease, interest, option, or permit shall be sold by the Secretary to the highest responsible qualified bidder by competitive bidding under general regulations subject to all outstanding valid interests therein and valid options pertaining thereto. Likewise if, in any such proceeding, less than the whole interest in a lease, interest, option, or permit is canceled or forfeited to the Government, the partial interests so canceled or forfeited shall be sold by the Secretary to the highest responsible qualified bidder by competitive bidding under general regulations. If competitive bidding fails to produce a satisfactory offer the Secretary may, in either of these cases, sell the interest in question by such other method as he deems appropriate on terms not less favorable to the Government than those of the best competitive bid received.

(3) The commencement and conclusion of every proceeding under this subsection shall be promptly noted on the appropriate public records of the Bureau of Land Management.

**(i) Bona fide purchasers, conditions for obtaining dismissals**

Effective September 21, 1959, any person, association, or corporation who is a party to any proceeding with respect to a violation of any provision of this chapter, whether initiated prior to said date or thereafter, shall have the right to be dismissed promptly as such a party upon showing that he holds and acquired as a bona fide purchaser the interest involving him as such a party without violating any provisions of this chapter. No hearing upon any such showing shall be required unless the Secretary presents prima facie evidence indicating a possible violation of this chapter on the part of the alleged bona fide purchaser.

**(j) Waiver or suspension of rights**

If during any such proceeding, a party thereto files with the Secretary a waiver of his rights

under his lease (including particularly, where applicable, rights to drill and to assign) or if such rights are suspended by the Secretary pending a decision in the proceeding, whether initiated prior to enactment of this chapter or thereafter, payment of rentals and running of time against the term of the lease or leases involved shall be suspended as of the first day of the month following the filing of the waiver or suspension of the rights until the first day of the month following the final decision in the proceeding or the revocation of the waiver or suspension.

**(k) Unlawful trusts; forfeiture**

Except as otherwise provided in this chapter, if any lands or deposits subject to the provisions of this chapter shall be subleased, trusteeed, possessed, or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner whatsoever, so that they form a part of or are in any wise controlled by any combination in the form of an unlawful trust, with the consent of the lessee, optionee, or permittee, or form the subject of any contract or conspiracy in restraint of trade in the mining or selling of coal, phosphate, oil, oil shale, gilsonite (including all vein-type solid hydrocarbons), gas, or sodium entered into by the lessee, optionee, or permittee or any agreement or understanding, written, verbal, or otherwise, to which such lessee, optionee, or permittee shall be a party, of which his or its output is to be or become the subject, to control the price or prices thereof or of any holding of such lands by any individual, partnership, association, corporation, or control in excess of the amounts of lands provided in this chapter, the lease, option, or permit shall be forfeited by appropriate court proceedings.

**(l) Rules and regulations; notice to and consultation with Attorney General; application of antitrust laws; definitions**

(1) At each stage in the formulation and promulgation of rules and regulations concerning coal leasing pursuant to this chapter, and at each stage in the issuance, renewal, and readjustment of coal leases under this chapter, the Secretary of the Interior shall consult with and give due consideration to the views and advice of the Attorney General of the United States.

(2) No coal lease may be issued, renewed, or readjusted under this chapter until at least thirty days after the Secretary of the Interior notifies the Attorney General of the proposed issuance, renewal, or readjustment. Such notification shall contain such information as the Attorney General may require in order to advise the Secretary of the Interior as to whether such lease would create or maintain a situation inconsistent with the antitrust laws. If the Attorney General advises the Secretary of the Interior that a lease would create or maintain such a situation, the Secretary of the Interior may not issue such lease, nor may he renew or readjust such lease for a period not to exceed one year, as the case may be, unless he thereafter conducts a public hearing on the record in accordance with subchapter II of chapter 5 of title 5 and finds therein that such issuance, renewal, or readjustment is necessary to effectuate the purposes of this chapter, that it is consistent with the pub-

lic interest, and that there are no reasonable alternatives consistent with this chapter, the antitrust laws, and the public interest.

(3) Nothing in this chapter shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

(4) As used in this subsection, the term “anti-trust law” means—

(A) the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies”, approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(B) the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes”, approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(C) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(D) sections 73 and 74 of the Act entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes”, approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; or

(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(Feb. 25, 1920, ch. 85, §27, 41 Stat. 448; Apr. 30, 1926, ch. 197, 44 Stat. 373; July 3, 1930, ch. 854, §1, 46 Stat. 1007; Mar. 4, 1931, ch. 506, 46 Stat. 1524; Aug. 8, 1946, ch. 916, §6, 60 Stat. 954; June 1, 1948, ch. 365, 62 Stat. 285; June 3, 1948, ch. 379, §6, 62 Stat. 291; Aug. 2, 1954, ch. 650, 68 Stat. 648; Pub. L. 85-122, Aug. 13, 1957, 71 Stat. 341; Pub. L. 85-698, Aug. 21, 1958, 72 Stat. 688; Pub. L. 86-294, §1, Sept. 21, 1959, 73 Stat. 571; Pub. L. 86-391, §1(c), Mar. 18, 1960, 74 Stat. 8; Pub. L. 86-705, §3, Sept. 2, 1960, 74 Stat. 785; Pub. L. 88-526, §1, Aug. 31, 1964, 78 Stat. 710; Pub. L. 88-548, Aug. 31, 1964, 78 Stat. 754; Pub. L. 94-377, §§11, 15, Aug. 4, 1976, 90 Stat. 1090, 1091; Pub. L. 97-78, §1(2), (5), Nov. 16, 1981, 95 Stat. 1070; Pub. L. 106-191, §2, Apr. 28, 2000, 114 Stat. 232; Pub. L. 106-463, §3, Nov. 7, 2000, 114 Stat. 2011; Pub. L. 109-58, title III, §352, Aug. 8, 2005, 119 Stat. 714.)

#### REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), probably means the date of enactment of Pub. L. 94-377, which was Aug. 4, 1976.

The Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies”, approved July 2, 1890, as amended, referred to in subsec. (1)(4)(A), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, known as the Sherman Act, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes”, approved October 15, 1914, as amended, referred to in subsec. (1)(4)(B), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, known as the Clayton Act, and is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act, referred to in subsec. (1)(4)(C), is act Sept. 26, 1914, ch. 311, 38 Stat. 717,

as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

Act of June 19, 1936, chapter 592, referred to in subsec. (1)(4)(E), is act June 19, 1936, ch. 592, 49 Stat. 1526, known as the Robinson-Patman Antidiscrimination Act and also as the Robinson-Patman Price Discrimination Act, which enacted sections 13a, 13b, and 21a of Title 15, Commerce and Trade, and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

#### CODIFICATION

In subsec. (1)(2), “subchapter II of chapter 5 of title 5” substituted for “the Administrative Procedure Act” on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

#### AMENDMENTS

2005—Subsec. (d)(1). Pub. L. 109-58 inserted “, and acreage under any lease any portion of which has been committed to a federally approved unit or cooperative plan or communitization agreement or for which royalty (including compensatory royalty or royalty in-kind) was paid in the preceding calendar year,” after “acreage held in special tar sand areas”.

2000—Subsec. (a). Pub. L. 106-463 inserted heading, struck out “(1)” before “No person”, substituted “75,000 acres” for “forty-six thousand and eighty acres”, and substituted “150,000 acres” for “one hundred thousand acres” wherever appearing.

Subsec. (b)(2). Pub. L. 106-191 substituted “30,720 acres” for “fifteen thousand three hundred and sixty acres”.

1981—Subsec. (d)(1). Pub. L. 97-78, §1(5), inserted proviso that acreage held in special tar sand areas not be chargeable against State limitations.

Subsec. (k). Pub. L. 97-78, §1(2), substituted “gilsonite (including all vein-type solid hydrocarbons)” for “native asphalt, solid and semisolid bitumen, bituminous rock”.

1976—Subsec. (a)(1). Pub. L. 94-377, §11(a), inserted “or any subsidiary, affiliate, or persons controlled by or under common control with such person, association, or corporation” before “shall take, hold, own or control”, “and in no case greater than an aggregate of one hundred thousand acres in the United States” after “in any one State,” proviso relating to non-relinquishment of leases or permits by an entity owning or controlling more than an aggregate of one hundred thousand acres, and proviso prohibiting ownership or control of further Federal leases or permits until reduction to below an aggregate of one hundred thousand acres.

Subsec. (a)(2). Pub. L. 94-377, §11(b), struck out par. (2) providing for application, hearing and granting of additional acreage, not to exceed 5120 acres in any one State, to a person, association or corporation requiring such extra acreage to carry on business economically, and the subsequent reevaluation of such entity’s continuing need for such extra acreage.

Subsec. (l). Pub. L. 94-377, §15, added subsec. (l).

1964—Subsec. (a)(1). Pub. L. 88-526 struck out “, except as otherwise provided in this subsection,” after “corporation” and increased aggregate number of acres from 10,240 to 46,080 acres.

Subsec. (c). Pub. L. 88-548 increased aggregate number of acres from 10,240 to 20,480 acres.

1960—Pub. L. 86-705 generally revised provisions and divided them into subsecs. (a) to (k). Other changes concerned: maximum acreage in Alaska, unreported options, their unenforceability, form for notice of options, party to give notice, inclusion of options in acreage determinations, charge of association or corporate holdings against principal stockholders, hearings requirement based upon prima facie evidence of violations, running of time against a lease and the payment

of rentals during a waiver or suspension of a lessee's rights.

Pub. L. 86-391 authorized issuance of phosphate permits.

1959—Pub. L. 86-294 inserted provision that the right of cancellation or forfeiture for violations shall not apply so as to affect adversely the interest of a bona fide purchaser in a lease acquired in conformity with acreage limitations; that bona fide purchasers in such situations have the right to be dismissed as parties from proceedings; and that if a party to proceedings files waiver of rights to drill or assigns his interests, or if such rights are suspended pending decision, he shall, if he is not in violation of provisions, have the right to have his interest extended for a period of time equal to the period between filing of waiver or order of suspension and final decision, without payment of rental.

1958—Pub. L. 85-698 increased limitation on acreage which may be taken or held under coal leases or permits in any one State from 5,120 to 10,240 acres, permitted applications for additional coal leases or permits not exceeding 5,120 additional acres in the State, provided for hearings on such applications, authorized reevaluation and cancellation of leases and permits for additional acreage, and prohibited assignment, transfer, or sale of any of the additional acreage without the Secretary's approval.

1957—Pub. L. 85-122 struck out "or permits exceeding in the aggregate five thousand one hundred and twenty acres in any one State, and" after "phosphate leases" in second sentence.

1954—Act Aug. 2, 1954, increased acreage that any one person can hold in the aggregate from fifteen thousand three hundred and sixty acres to forty-six thousand and eighty acres, increased number of acres that can be held under option from one hundred thousand acres to two hundred thousand acres, and extended terms of the option from 2 to 3 years.

1948—Act June 1, 1948, substituted in second proviso "within two years after the passage of this Act" for "on or before August 8, 1950" in order to allow options to be exercised up to that time.

Act June 3, 1948, increased aggregate acreage allowed one person, etc., from two thousand five hundred and sixty acres to five thousand one hundred and twenty acres of coal or sodium leases, and increased the aggregate acreage allowed one person, etc., from seven thousand six hundred and eighty acres to fifteen thousand three hundred and sixty acres of oil or gas leases.

1946—Act Aug. 8, 1946, principally doubled amount of land that may be leased by any person or corporation in any one State and abolished former acreage limitation of 2,560 acres on one structure; excluded operating contracts and leases held in common from definition of "association"; inserted provisions relating to options; and omitted provisions relating to cooperative or unit plans and operating, drilling or development contracts.

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

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

1926—Act Apr. 30, 1926, amended section generally.

#### EFFECTIVE DATE OF 1959 AMENDMENT

Pub. L. 86-294, § 2, Sept. 21, 1959, 73 Stat. 571, provided that: "The rights granted by the second and third sentences of the amendment contained within section 1 of this Act [amending this section to provide that holder of interest in lease has right to be dismissed from cancellation or forfeiture proceedings upon showing he acquired his interest as bona fide purchaser and without violation of provisions, and to provide right to have his lease extended if rights thereunder to drill and to assign are suspended or waived during such proceedings and it is determined he is not in violation of provisions] shall apply with respect to any proceeding now pending or initiated after the date of enactment of this Act [Sept. 21, 1959]."

#### SAVINGS PROVISION

See note set out under section 181 of this title.

Pub. L. 94-377, § 11(b), Aug. 4, 1976, 90 Stat. 1090, provided in part that the repeal by section 11(b) of subsec. (a)(2) of this section is subject to valid existing rights.

#### TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior, referred to in subsec. (l), to promulgate regulations under this chapter relating to the fostering of competition for Federal leases, the implementation of alternative bidding systems authorized for the award of Federal leases, the establishment of diligence requirements for operations conducted on Federal leases, the setting of rates for production of Federal leases, and the specifying of the procedures, terms, and conditions for the 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.

#### FINDINGS

Pub. L. 106-463, § 2, Nov. 7, 2000, 114 Stat. 2010, provided that: "Congress finds that—

"(1) Federal land contains commercial deposits of coal, the Nation's largest deposits of coal being located on Federal land in Utah, Colorado, Montana, and the Powder River Basin of Wyoming;

"(2) coal is mined on Federal land through Federal coal leases under the Act of February 25, 1920 (commonly known as the 'Mineral Leasing Act') (30 U.S.C. 181 et seq.);

"(3) the sub-bituminous coal from these mines is low in sulfur, making it the cleanest burning coal for energy production;

"(4) the Mineral Leasing Act sets for each leasable mineral a limitation on the amount of acreage of Federal leases any 1 producer may hold in any 1 State or nationally;

"(5)(A) the present acreage limitation for Federal coal leases has been in place since 1976;

"(B) currently the coal lease acreage limit of 46,080 acres per State is less than the per-State Federal lease acreage limit for potash (96,000 acres) and oil and gas (246,080 acres);

"(6) coal producers in Wyoming and Utah are operating mines on Federal leaseholds that contain total acreage close to the coal lease acreage ceiling;

"(7) the same reasons that Congress cited in enacting increases for State lease acreage caps applicable in the case of other minerals—the advent of modern mine technology, changes in industry economics, greater global competition, and the need to conserve Federal resources—apply to coal;

"(8) existing coal mines require additional lease acreage to avoid premature closure, but those mines cannot relinquish mined-out areas to lease new acreage because those areas are subject to 10-year reclamation plans, and the reclaimed acreage is counted against the State and national acreage limits;

"(9) to enable them to make long-term business decisions affecting the type and amount of additional infrastructure investments, coal producers need certainty that sufficient acreage of leasable coal will be available for mining in the future; and

"(10) to maintain the vitality of the domestic coal industry and ensure the continued flow of valuable revenues to the Federal and State governments and of energy to the American public from coal production on Federal land, the Mineral Leasing Act should be amended to increase the acreage limitation for Federal coal leases."

Pub. L. 106-191, § 1, Apr. 28, 2000, 114 Stat. 231, provided that: "The Congress finds and declares that—

"(1) The Federal lands contain commercial deposits of trona, with the world's largest body of this mineral located on such lands in southwestern Wyoming.



“(2) Trona is mined on Federal lands through Federal sodium leases issued under the Mineral Leasing Act of 1920 [30 U.S.C. 181 et seq.].

“(3) The primary product of trona mining is soda ash (sodium carbonate), a basic industrial chemical that is used for glass making and a variety of consumer products, including baking soda, detergents, and pharmaceuticals.

“(4) The Mineral Leasing Act [30 U.S.C. 181 et seq.] sets for each leasable mineral limitations on the amount of acreage of Federal leases any one producer may hold in any one State or nationally.

“(5) The present acreage limitation for Federal sodium (trona) leases has been in place for over five decades, since 1948, and is the oldest acreage limitation in the Mineral Leasing Act. Over this time frame Congress and/or the BLM has revised acreage limits for other minerals to meet the needs of the respective industries. Currently, the sodium lease acreage limitation of 15,360 acres per State is approximately one-third of the per State Federal lease acreage cap for coal (46,080 acres) and potassium (51,200 acres) and one-sixteenth that of oil and gas (246,080 acres).

“(6) Three of the four trona producers in Wyoming are operating mines on Federal leaseholds that contain total acreage close to the sodium lease acreage ceiling.

“(7) The same reasons that Congress cited in enacting increases in other minerals’ per State lease acreage caps apply to trona: the advent of modern mine technology, changes in industry economics, greater global competition, and need to conserve the Federal resource.

“(8) Existing trona mines require additional lease acreage to avoid premature closure, and are unable to relinquish mined-out areas to lease new acreage because those areas continue to be used for mine access, ventilation, and tailings disposal and may provide future opportunities for secondary recovery by solution mining.

“(9) Existing trona producers are having to make long term business decisions affecting the type and amount of additional infrastructure investments based on the certainty that sufficient acreage of leaseable [sic] trona will be available for mining in the future.

“(10) To maintain the vitality of the domestic trona industry and ensure the continued flow of valuable revenues to the Federal and State governments and products to the American public from trona production on Federal lands, the Mineral Leasing Act should be amended to increase the acreage limitation for Federal sodium leases.”

#### ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

#### § 184a. Authorization of States to include in agreements for conservation of oil and gas resources lands acquired from United States

Notwithstanding the provisions of any applicable grant, deed, patent, exchange, or law of the United States, any State owning lands or interests therein acquired by it from the United States may consent to the operation or development of such lands or interests, or any part thereof, under agreements approved by the Secretary of the Interior made jointly or severally with lessees or permittees of lands or mineral deposits of the United States or others, for the purpose of more properly conserving the oil and gas resources within such State. Such agree-

ments may provide for the cooperative or unit operation or development of part or all of any oil or gas pool, field, or area; for the allocation of production and the sharing of proceeds from the whole or any specified part thereof regardless of the particular tract from which production is obtained or proceeds are derived; and, with the consent of the State, for the modification of the terms and provisions of State leases for lands operated and developed thereunder, including the term of years for which said leases were originally granted, to conform said leases to the terms and provisions of such agreements: *Provided*, That nothing in this section contained, nor the effectuation of it, shall be construed as in any respect waiving, determining or affecting any right, title, or interest, which otherwise may exist in the United States, and that the making of any agreement, as provided in this section, shall not be construed as an admission as to the title or ownership of the lands included.

(Jan. 26, 1940, ch. 14, 54 Stat. 17.)

#### 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.

#### § 185. Rights-of-way for pipelines through Federal lands

##### (a) Grant of authority

Rights-of-way through any Federal lands may be granted by the Secretary of the Interior or appropriate agency head for pipeline purposes for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom to any applicant possessing the qualifications provided in section 181 of this title in accordance with the provisions of this section.

##### (b) Definitions

(1) For the purposes of this section “Federal lands” means all lands owned by the United States except lands in the National Park System, lands held in trust for an Indian or Indian tribe, and lands on the Outer Continental Shelf. A right-of-way through a Federal reservation shall not be granted if the Secretary or agency head determines that it would be inconsistent with the purposes of the reservation.

(2) “Secretary” means the Secretary of the Interior.

(3) “Agency head” means the head of any Federal department or independent Federal office or agency, other than the Secretary of the Interior, which has jurisdiction over Federal lands.

##### (c) Inter-agency coordination

(1) Where the surface of all of the Federal lands involved in a proposed right-of-way or permit is under the jurisdiction of one Federal agency, the agency head, rather than the Secretary, is authorized to grant or renew the right-of-way or permit for the purposes set forth in this section.

(2) Where the surface of the Federal lands involved is administered by the Secretary or by two or more Federal agencies, the Secretary is authorized, after consultation with the agencies

involved, to grant or renew rights-of-way or permits through the Federal lands involved. The Secretary may enter into interagency agreements with all other Federal agencies having jurisdiction over Federal lands for the purpose of avoiding duplication, assigning responsibility, expediting review of rights-of-way or permit applications, issuing joint regulations, and assuring a decision based upon a comprehensive review of all factors involved in any right-of-way or permit application. Each agency head shall administer and enforce the provisions of this section, appropriate regulations, and the terms and conditions of rights-of-way or permits insofar as they involve Federal lands under the agency head's jurisdiction.

**(d) Width limitations**

The width of a right-of-way shall not exceed fifty feet plus the ground occupied by the pipeline (that is, the pipe and its related facilities) unless the Secretary or agency head finds, and records the reasons for his finding, that in his judgment a wider right-of-way is necessary for operation and maintenance after construction, or to protect the environment or public safety. Related facilities include but are not limited to valves, pump stations, supporting structures, bridges, monitoring and communication devices, surge and storage tanks, terminals, roads, airstrips and campsites and they need not necessarily be connected or contiguous to the pipe and may be the subjects of separate rights-of-way.

**(e) Temporary permits**

A right-of-way may be supplemented by such temporary permits for the use of Federal lands in the vicinity of the pipeline as the Secretary or agency head finds are necessary in connection with construction, operation, maintenance, or termination of the pipeline, or to protect the natural environment or public safety.

**(f) Regulatory authority**

Rights-of-way or permits granted or renewed pursuant to this section shall be subject to regulations promulgated in accord with the provisions of this section and shall be subject to such terms and conditions as the Secretary or agency head may prescribe regarding extent, duration, survey, location, construction, operation, maintenance, use, and termination.

**(g) Pipeline safety**

The Secretary or agency head shall impose requirements for the operation of the pipeline and related facilities in a manner that will protect the safety of workers and protect the public from sudden ruptures and slow degradation of the pipeline.

**(h) Environmental protection**

(1) Nothing in this section shall be construed to amend, repeal, modify, or change in any way the requirements of section 102(2)(C) [42 U.S.C. 4332(2)(C)] or any other provision of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

(2) The Secretary or agency head, prior to granting a right-of-way or permit pursuant to this section for a new project which may have a significant impact on the environment, shall re-

quire the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way or permit which shall comply with this section. The Secretary or agency head shall issue regulations or impose stipulations which shall include, but shall not be limited to: (A) requirements for restoration, revegetation, and curtailment of erosion of the surface of the land; (B) requirements to insure that activities in connection with the right-of-way or permit will not violate applicable air and water quality standards nor related facility siting standards established by or pursuant to law; (C) requirements designed to control or prevent (i) damage to the environment (including damage to fish and wildlife habitat), (ii) damage to public or private property, and (iii) hazards to public health and safety; and (D) requirements to protect the interests of individuals living in the general area of the right-of-way or permit who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes. Such regulations shall be applicable to every right-of-way or permit granted pursuant to this section, and may be made applicable by the Secretary or agency head to existing rights-of-way or permits, or rights-of-way or permits to be renewed pursuant to this section.

**(i) Disclosure**

If the applicant is a partnership, corporation, association, or other business entity, the Secretary or agency head shall require the applicant to disclose the identity of the participants in the entity. Such disclosure shall include where applicable (1) the name and address of each partner, (2) the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote, and (3) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

**(j) Technical and financial capability**

The Secretary or agency head shall grant or renew a right-of-way or permit under this section only when he is satisfied that the applicant has the technical and financial capability to construct, operate, maintain, and terminate the project for which the right-of-way or permit is requested in accordance with the requirements of this section.

**(k) Public hearings**

The Secretary or agency head by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local government agencies and the public adequate notice and an opportunity to comment upon right-of-way applications filed after the date of enactment of this subsection.

**(l) Reimbursement of costs**

The applicant for a right-of-way or permit shall reimburse the United States for adminis-

trative and other costs incurred in processing the application, and the holder of a right-of-way or permit shall reimburse the United States for the costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities on such right-of-way or permit area and shall pay annually in advance the fair market rental value of the right-of-way or permit, as determined by the Secretary or agency head.

**(m) Bonding**

Where he deems it appropriate the Secretary or agency head may require a holder of a right-of-way or permit to furnish a bond, or other security, satisfactory to the Secretary or agency head to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or permit or by any rule or regulation of the Secretary or agency head.

**(n) Duration of grant**

Each right-of-way or permit granted or renewed pursuant to this section shall be limited to a reasonable term in light of all circumstances concerning the project, but in no event more than thirty years. In determining the duration of a right-of-way the Secretary or agency head shall, among other things, take into consideration the cost of the facility, its useful life, and any public purpose it serves. The Secretary or agency head shall renew any right-of-way, in accordance with the provisions of this section, so long as the project is in commercial operation and is operated and maintained in accordance with all of the provisions of this section.

**(o) Suspension or termination of right-of-way**

(1) Abandonment of a right-of-way or non-compliance with any provision of this section may be grounds for suspension or termination of the right-of-way if (A) after due notice to the holder of the right-of-way, (B) a reasonable opportunity to comply with this section, and (C) an appropriate administrative proceeding pursuant to section 554 of title 5, the Secretary or agency head determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed upon condition, event, or time.

(2) If the Secretary or agency head determines that an immediate temporary suspension of activities within a right-of-way or permit area is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding.

(3) Deliberate failure of the holder to use the right-of-way for the purpose for which it was granted or renewed for any continuous two-year period shall constitute a rebuttable presumption of abandonment of the right-of-way: *Provided*, That where the failure to use the right-of-way is due to circumstances not within the holder's control the Secretary or agency head is not required to commence proceedings to suspend or terminate the right-of-way.

**(p) Joint use of rights-of-way**

In order to minimize adverse environmental impacts and the proliferation of separate rights-

of-way across Federal lands, the utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary or agency head the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way or permit area granted pursuant to this section.

**(q) Statutes**

No rights-of-way for the purposes provided for in this section shall be granted or renewed across Federal lands except under and subject to the provisions, limitations, and conditions of this section. Any application for a right-of-way filed under any other law prior to the effective date of this provision may, at the applicant's option, be considered as an application under this section. The Secretary or agency head may require the applicant to submit any additional information he deems necessary to comply with the requirements of this section.

**(r) Common carriers**

(1) Pipelines and related facilities authorized under this section shall be constructed, operated, and maintained as common carriers.

(2)(A) The owners or operators of pipelines subject to this section shall accept, convey, transport, or purchase without discrimination all oil or gas delivered to the pipeline without regard to whether such oil or gas was produced on Federal or non-Federal lands.

(B) In the case of oil or gas produced from Federal lands or from the resources on the Federal lands in the vicinity of the pipeline, the Secretary may, after a full hearing with due notice thereof to the interested parties and a proper finding of facts, determine the proportionate amounts to be accepted, conveyed, transported or purchased.

(3)(A) The common carrier provisions of this section shall not apply to any natural gas pipeline operated by any person subject to regulation under the Natural Gas Act [15 U.S.C. 717 et seq.] or by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality.

(B) Where natural gas not subject to State regulatory or conservation laws governing its purchase by pipelines is offered for sale, each such pipeline shall purchase, without discrimination, any such natural gas produced in the vicinity of the pipeline.

(4) The Government shall in express terms reserve and shall provide in every lease of oil lands under this chapter that the lessee, assignee, or beneficiary, if owner or operator of a controlling interest in any pipeline or of any company operating the pipeline which may be operated accessible to the oil derived from lands under such lease, shall at reasonable rates and without discrimination accept and convey the oil of the Government or of any citizen or company not the owner of any pipeline operating a lease or purchasing gas or oil under the provisions of this chapter.

(5) Whenever the Secretary has reason to believe that any owner or operator subject to this section is not operating any oil or gas pipeline

in complete accord with its obligations as a common carrier hereunder, he may request the Attorney General to prosecute an appropriate proceeding before the Secretary of Energy or Federal Energy Regulatory Commission or any appropriate State agency or the United States district court for the district in which the pipeline or any part thereof is located, to enforce such obligation or to impose any penalty provided therefor, or the Secretary may, by proceeding as provided in this section, suspend or terminate the said grant of right-of-way for non-compliance with the provisions of this section.

(6) The Secretary or agency head shall require, prior to granting or renewing a right-of-way, that the applicant submit and disclose all plans, contracts, agreements, or other information or material which he deems necessary to determine whether a right-of-way shall be granted or renewed and the terms and conditions which should be included in the right-of-way. Such information may include, but is not limited to: (A) conditions for, and agreements among owners or operators, regarding the addition of pumping facilities, looping, or otherwise increasing the pipeline or terminal's throughput capacity in response to actual or anticipated increases in demand; (B) conditions for adding or abandoning intake, offtake, or storage points or facilities; and (C) minimum shipment or purchase tenders.

**(s) Exports of Alaskan North Slope oil**

(1) Subject to paragraphs (2) through (6) of this subsection and notwithstanding any other provision of this chapter or any other provision of law (including any regulation) applicable to the export of oil transported by pipeline over right-of-way granted pursuant to section 1652 of title 43, such oil may be exported unless the President finds that exportation of this oil is not in the national interest. The President shall make his national interest determination within five months of November 28, 1995. In evaluating whether exports of this oil are in the national interest, the President shall at a minimum consider—

(A) whether exports of this oil would diminish the total quantity or quality of petroleum available to the United States;

(B) the results of an appropriate environmental review, including consideration of appropriate measures to mitigate any potential adverse effects of exports of this oil on the environment, which shall be completed within four months of November 28, 1995; and

(C) whether exports of this oil are likely to cause sustained material oil supply shortages or sustained oil prices significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including non-contiguous States and Pacific territories.

If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that such exports are consistent with the national interest.

(2) Except in the case of oil exported to a country with which the United States entered

into a bilateral international oil supply agreement before November 26, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to section 1652 of title 43 shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 50501 of title 46).

(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), or Part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271-76) to prohibit exports.

(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination, including any licensing requirements and conditions, within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

(5) If the Secretary of Commerce finds that exporting oil under authority of this subsection has caused sustained material oil supply shortages or sustained oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused or are likely to cause sustained material adverse employment effects in the United States, the Secretary of Commerce, in consultation with the Secretary of Energy, shall recommend, and the President may take, appropriate action concerning exports of this oil, which may include modifying or revoking authority to export such oil.

(6) Administrative action under this subsection is not subject to sections 551 and 553 through 559 of title 5.

**(t) Existing rights-of-way**

The Secretary or agency head may ratify and confirm any right-of-way or permit for an oil or gas pipeline or related facility that was granted under any provision of law before the effective date of this subsection, if it is modified by mutual agreement to comply to the extent practical with the provisions of this section. Any action taken by the Secretary or agency head pursuant to this subsection shall not be considered a major Federal action requiring a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1970 (Public Law 90-190; 42 U.S.C. 4321).<sup>1</sup>

**(u) Limitations on export**

Any domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to this section, except such crude oil which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency

<sup>1</sup>So in original. Probably should be "National Environmental Policy Act of 1969 (Public Law 91-190; 42 U.S.C. 4332(2)(C))".

of transportation across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1979 (50 U.S.C. App. 2401 and following)<sup>2</sup> and, in addition, before any crude oil subject to this section may be exported under the limitations and licensing requirements and penalty and enforcement provisions of the Export Administration Act of 1979 the President must make and publish an express finding that such exports will not diminish the total quantity or quality of petroleum available to the United States, and are in the national interest and are in accord with the provisions of the Export Administration Act of 1979: *Provided*, That the President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within this time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to the aforementioned Presidential findings shall cease.

**(v) State standards**

The Secretary or agency head shall take into consideration and to the extent practical comply with State standards for right-of-way construction, operation, and maintenance.

**(w) Reports**

(1) The Secretary and other appropriate agency heads shall report to 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 annually on the administration of this section and on the safety and environmental requirements imposed pursuant thereto.

(2) The Secretary or agency head shall promptly 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 upon receipt of an application for a right-of-way for a pipeline twenty-four inches or more in diameter, and no right-of-way for such a pipeline shall be granted until a notice of intention to grant the right-of-way, together with the Secretary's or agency head's detailed findings as to the terms and conditions he proposes to impose, has been submitted to such committees.

(3) Periodically, but at least once a year, the Secretary of the Department of Transportation shall cause the examination of all pipelines and associated facilities on Federal lands and shall cause the prompt reporting of any potential leaks or safety problems.

**(x) Liability**

(1) The Secretary or agency head shall promulgate regulations and may impose stipulations specifying the extent to which holders of rights-of-way and permits under this chapter shall be

liable to the United States for damage or injury incurred by the United States in connection with the right-of-way or permit. Where the right-of-way or permit involves lands which are under the exclusive jurisdiction of the Federal Government, the Secretary or agency head shall promulgate regulations specifying the extent to which holders shall be liable to third parties for injuries incurred in connection with the right-of-way or permit.

(2) The Secretary or agency head may, by regulation or stipulation, impose a standard of strict liability to govern activities taking place on a right-of-way or permit area which the Secretary or agency head determines, in his discretion, to present a foreseeable hazard or risk of danger to the United States.

(3) Regulations and stipulations pursuant to this subsection shall not impose strict liability for damage or injury resulting from (A) an act of war, or (B) negligence of the United States.

(4) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage or injury in excess of this amount shall be determined by ordinary rules of negligence.

(5) The regulations and stipulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liability, damage, or claims arising in connection with the right-of-way or permit.

(6) Any regulation or stipulation promulgated or imposed pursuant to this section shall provide that all owners of any interest in, and all affiliates or subsidiaries of any holder of, a right-of-way or permit shall be liable to the United States in the event that a claim for damage or injury cannot be collected from the holder.

(7) In any case where liability without fault is imposed pursuant to this subsection and the damages involved were caused by the negligence of a third party, the rules of subrogation shall apply in accordance with the law of the jurisdiction where the damage occurred.

**(y) Antitrust laws**

The grant of a right-of-way or permit pursuant to this section shall grant no immunity from the operation of the Federal antitrust laws.

(Feb. 25, 1920, ch. 85, §28, 41 Stat. 449; Aug. 21, 1935, ch. 599, §1, 49 Stat. 678; Aug. 12, 1953, ch. 408, 67 Stat. 557; Pub. L. 93-153, title I, §101, Nov. 16, 1973, 87 Stat. 576; Pub. L. 95-91, title III, §§301(b), 306, title IV, §402(a), (b), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 578, 581, 583, 584, 606, 607; Pub. L. 99-64, title I, §123(b), July 12, 1985, 99 Stat. 156; Pub. L. 101-475, §1, Oct. 30, 1990, 104 Stat. 1102; Pub. L. 103-437, §11(a)(1), Nov. 2, 1994, 108 Stat. 4589; Pub. L. 104-58, title II, §201, Nov. 28, 1995, 109 Stat. 560; Pub. L. 104-66, title I, §1121(k), Dec. 21, 1995, 109 Stat. 724.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (h)(1), 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

<sup>2</sup>See References in Text note below.



Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The date of enactment of this subsection, referred to in subsec. (k), the effective date of this provision, referred to in subsec. (q), and the effective date of this subsection, referred to in subsec. (t), probably mean the date of approval of Pub. L. 93-153, which was Nov. 16, 1973.

The Natural Gas Act, referred to in subsec. (r)(3)(A), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§717 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables.

The International Emergency Economic Powers Act, referred to in subsec. (s)(3), is title II of Pub. L. 95-223, Dec. 28, 1977, 91 Stat. 1626, as amended, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

The National Emergencies Act, referred to in subsec. (s)(3), is Pub. L. 94-412, Sept. 14, 1976, 90 Stat. 1255, as amended, which is classified principally to chapter 34 (§1601 et seq.) of Title 50. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

The Energy Policy and Conservation Act, referred to in subsec. (s)(3), is Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended. Part B of title II of the Act is classified generally to part B (§6271 et seq.) of subchapter II of chapter 77 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 6201 of Title 42 and Tables.

The Export Administration Act of 1979, referred to in subsec. (u), is Pub. L. 96-72, Sept. 29, 1979, 93 Stat. 503, which was classified principally to section 2401 et seq. of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as chapter 56 (§4601 et seq.) of Title 50, and was repealed by Pub. L. 115-232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232, except for sections 11A, 11B, and 11C thereof (50 U.S.C. 4611, 4612, 4613).

#### CODIFICATION

In subsec. (s)(2), "section 50501 of title 46" substituted for "section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)" on authority of Pub. L. 109-304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 50501 of Title 46, Shipping.

#### AMENDMENTS

1995—Subsec. (s). Pub. L. 104-58 amended heading and text of subsec. (s) generally. Prior to amendment, subsec. (s) provided that the Secretary of Interior, in consultation with Federal and State agencies, review need for national system of transportation and utility corridors across Federal lands and report to Congress and the President by July 1, 1975.

Subsec. (w)(4). Pub. L. 104-66 struck out par. (4) which read as follows: "The Secretary of the Department of Transportation shall report annually to the President, the Congress, the Secretary of the Interior, and the Secretary of Energy any potential dangers of or actual explosions, or potential or actual spillage on Federal lands and shall include in such report a statement of corrective action taken to prevent such explosion or spillage."

1994—Subsec. (w)(1), (2). Pub. L. 103-437 substituted "Natural Resources" for "Interior and Insular Affairs" before "of the United States House".

1990—Subsec. (w)(1). Pub. L. 101-475, §1(a), substituted "Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate" for "House and Senate Committees on Interior and Insular Affairs".

Subsec. (w)(2). Pub. L. 101-475, §1(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

"The Secretary or agency head shall notify the House and Senate Committees on Interior and Insular Affairs promptly upon receipt of an application for a right-of-way for a pipeline twenty-four inches or more in diameter, and no right-of-way for such a pipeline shall be granted until sixty days (not counting days on which the House of Representatives or the Senate has adjourned for more than three days) after a notice of intention to grant the right-of-way, together with the Secretary's or agency head's detailed findings as to terms and conditions he proposes to impose, has been submitted to such committees, unless each committee by resolution waives the waiting period."

1985—Subsec. (u). Pub. L. 99-64 substituted "Export Administration Act of 1979 (50 U.S.C. App. 2401 and following)" for "Export Administration Act of 1969 (Act of December 30, 1969; 83 Stat. 841)" and "Export Administration Act of 1979" for "Export Administration Act of 1969" in two places.

1973—Pub. L. 93-153 completely rewrote the section substituting 25 subsections lettered (a) through (y) covering all aspects of the granting of rights-of-way for pipelines through Federal lands for the former single unlettered paragraph under which rights-of-way of 25 feet on each side of the pipeline could be granted and under which the pipeline was to be operated as a common carrier.

1953—Act Aug. 12, 1953, permitted companies subject to Federal regulation, or public utilities subject to State regulations, to pass through the public domain without incurring the obligation to become a common carrier.

1935—Act Aug. 21, 1935, substituted "may be granted by the Secretary of the Interior" for "are granted" and inserted "and conditions" after "regulations" in two places, and "and shall accept, convey, transport, or purchase without discrimination, oil or natural gas produced from Government lands in the vicinity of the pipe line in such proportionate amounts as the Secretary of the Interior may, after a full hearing with notice thereof to the interested parties and a proper finding of facts, determine to be reasonable:" after "and maintained as common carriers."

#### TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with grants of rights-of-way and temporary use permits for Federal land and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of Department of Agriculture, related to compliance with associated land use permits authorized for and in conjunction with grants of rights-of-way across Federal lands issued under this section with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas were transferred to the Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, until the first anniversary of date of initial operation of the Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

"Secretary of Energy or Federal Energy Regulatory Commission" substituted for "Interstate Commerce Commission or Federal Power Commission" in subsec. (r)(5) pursuant to sections 301(b), 306, 402(a), (b), 703, and 707 of Pub. L. 95-91, which are classified to sections

7151(b), 7155, 7172(a), (b), 7293, and 7297 of Title 42, The Public Health and Welfare, and which transferred functions vested in Interstate Commerce Commission, and Chairman and members thereof, relating to transportation of oil by pipeline to Secretary of Energy (except for certain functions which were transferred to Federal Energy Regulatory Commission within Department of Energy), and terminated Federal Power Commission and transferred its functions to Secretary of Energy (except for certain functions which were transferred to Federal Energy Regulatory Commission).

#### REIMBURSEMENT OF ADMINISTRATIVE AND OTHER COSTS

Pub. L. 105-277, div. A, §101(e) [title II], Oct. 21, 1998, 112 Stat. 2681-231, 2681-272, provided that: "Notwithstanding any other provision of law, hereafter money collected, in advance or otherwise, by the Forest Service under authority of section 101 of Public Law 93-153 (30 U.S.C. 185(1)(l)) as reimbursement of administrative and other costs incurred in processing pipeline right-of-way or permit applications and for costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities, may be used to reimburse the applicable appropriation to which such costs were originally charged."

Similar provisions were contained in the following prior appropriation acts:

- Pub. L. 105-83, title II, Nov. 14, 1997, 111 Stat. 1576.
- Pub. L. 104-208, div. A, title I, §101(d) [title II], Sept. 30, 1996, 110 Stat. 3009-181, 3009-208.
- Pub. L. 104-134, title I, §101(c) [title II], Apr. 26, 1996, 110 Stat. 1321-156, 1321-184; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.
- Pub. L. 103-332, title II, Sept. 30, 1994, 108 Stat. 2524.
- Pub. L. 103-138, title II, Nov. 11, 1993, 107 Stat. 1403.
- Pub. L. 102-381, title II, Oct. 5, 1992, 106 Stat. 1401.
- Pub. L. 102-154, title II, Nov. 13, 1991, 105 Stat. 1017.

#### GAO REPORT

Pub. L. 104-58, title II, §202, Nov. 28, 1995, 109 Stat. 562, directed the Comptroller General of the United States to commence, three years after Nov. 28, 1995, a review of energy production in California and Alaska and the effects of Alaskan North Slope oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast and in Hawaii, and to submit to Congress, within twelve months after commencing the review, a report containing recommendations for Congress and the President to address job loss in the shipbuilding and ship repair industry on the West Coast, as well as adverse impacts on consumers and refiners on the West Coast and in Hawaii, that are attributed to Alaska North Slope oil exports.

#### OUTER CONTINENTAL SHELF; PIPELINE RIGHTS-OF-WAY

Pipeline rights-of-way in connection with oil, gas, and other leases on submerged lands of outer Continental Shelf, see section 1334 of Title 43, Public Lands.

#### EXPORTS OF ALASKAN NORTH SLOPE (ANS) CRUDE OIL

Memorandum of President of the United States, Apr. 28, 1996, 61 F.R. 19507, provided:

Memorandum for the Secretary of Commerce [and] the Secretary of Energy

Pursuant to section 28(s) of the Mineral Leasing Act, as amended, 30 U.S.C. 185, I hereby determine that exports of crude oil transported over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act [43 U.S.C. 1652] are in the national interest. In making this determination, I have taken into account the conclusions of an interagency working group, which found that such oil exports:

- will not diminish the total quantity or quality of petroleum available to the United States; and
- are not likely to cause sustained material oil supply shortages or sustained oil price increases significantly above world market levels that would cause sustained material adverse employment effects in the

United States or that would cause substantial harm to consumers, including those located in noncontiguous States and Pacific Territories.

I have also considered the interagency group's conclusions regarding potential environmental impacts of lifting the ban. Based on their findings and recommendations, I have concluded that exports of such crude oil will not pose significant risks to the environment if certain terms and conditions are met.

Therefore, pursuant to section 28(s) of the Mineral Leasing Act I direct the Secretary of Commerce to promulgate immediately a general license, or a license exception, authorizing exports of such crude oil, subject to appropriate documentation requirements, and consistent with the following conditions:

—tankers exporting ANS exports must use the same route that they do for shipments to Hawaii until they reach a point 300 miles due south of Cape Hinchinbrook Light and then turn toward Asian destinations. After reaching that point, tankers in the ANS oil trade must remain outside of the 200 nautical-miles Exclusive Economic Zone of the United States as defined in the Fisheries Conservation and Management Act (16 U.S.C. 1811) [probably means the Magnuson-Stevens Fishery Conservation and Management Act]. This condition also applies to tankers returning from foreign ports to Valdez, Alaska. Exceptions can be made at the discretion of the vessel master only to ensure the safety of the vessel;

—that export tankers be equipped with satellite-based communications systems that will enable the Coast Guard independently to determine their location. The Coast Guard will conduct appropriate monitoring of the tankers, a measure that will ensure compliance with the 200-mile condition, and help the Coast Guard respond quickly to any emergencies;

—the owner or operator of an Alaskan North Slope crude oil export tankship shall maintain a Critical Area Inspection Plan for each tankship in the trade in accordance with the U.S. Coast Guard's Navigation and Inspection Circular No. 15-91 as amended, which shall include an annual internal survey of the vessel's cargo block tanks; and

—the owner or operator of an Alaskan North Slope crude oil export tankship shall adopt a mandatory program of deep water ballast exchange (i.e., in 2,000 meters water depth). Exceptions can be made at the discretion of the captain only in order to ensure the safety of the vessel. Recordkeeping subject to Coast Guard audit will be required as part of this regime.

The Secretary of Commerce is authorized and directed to inform the appropriate committees of the Congress of this determination and to publish it in the Federal Register.

WILLIAM J. CLINTON.

#### **§ 186. Reservation of easements or rights-of-way for working purposes; reservation of right to dispose of surface of lands; determination before offering of lease; easement periods**

Any permit, lease, occupation, or use permitted under this chapter shall reserve to the Secretary of the Interior the right to permit upon such terms as he may determine to be just, for joint or several use, such easements or rights-of-way, including easements in tunnels upon, through, or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same, or of other lands containing the deposits described in this chapter, and the treatment and shipment of the products thereof by or under authority of the Government, its lessees, or permittees, and for other public purposes. The Secretary of the Interior, in his discretion, in making any lease under this chapter, may reserve to the United States the right to lease, sell, or otherwise dispose of the

surface of the lands embraced within such lease under existing law or laws hereafter enacted, insofar as said surface is not necessary for use of the lessee in extracting and removing the deposits therein. If such reservation is made it shall be so determined before the offering of such lease. The said Secretary, during the life of the lease, is authorized to issue such permits for easements herein provided to be reserved.

(Feb. 25, 1920, ch. 85, § 29, 41 Stat. 449.)

**§ 187. Assignment or subletting of leases; relinquishment of rights under leases; conditions in leases for protection of diverse interests in operation of mines, wells, etc.; State laws not impaired**

No lease issued under the authority of this chapter shall be assigned or sublet, except with the consent of the Secretary of the Interior. The lessee may, in the discretion of the Secretary of the Interior, be permitted at any time to make written relinquishment of all rights under such a lease, and upon acceptance thereof be thereby relieved of all future obligations under said lease, and may with like consent surrender any legal subdivision of the area included within the lease. Each lease shall contain provisions for the purpose of insuring the exercise of reasonable diligence, skill, and care in the operation of said property; a provision that such rules for the safety and welfare of the miners and for the prevention of undue waste as may be prescribed by said Secretary shall be observed, including a restriction of the workday to not exceeding eight hours in any one day for underground workers except in cases of emergency; provisions prohibiting the employment of any child under the age of sixteen in any mine below the surface; provisions securing the workmen complete freedom of purchase; provision requiring the payment of wages at least twice a month in lawful money of the United States, and providing proper rules and regulations to insure the fair and just weighing or measurement of the coal mined by each miner, and such other provisions as he may deem necessary to insure the sale of the production of such leased lands to the United States and to the public at reasonable prices, for the protection of the interests of the United States, for the prevention of monopoly, and for the safeguarding of the public welfare. None of such provisions shall be in conflict with the laws of the State in which the leased property is situated.

(Feb. 25, 1920, ch. 85, § 30, 41 Stat. 449; Pub. L. 95-554, § 5, Oct. 30, 1978, 92 Stat. 2074.)

AMENDMENTS

1978—Pub. L. 95-554 substituted “provisions prohibiting the employment of any child under the age of sixteen in any mine below the surface” for “provisions prohibiting the employment of any boy under the age of sixteen or the employment of any girl or woman, without regard to age, in any mine below the surface”.

**§ 187a. Oil or gas leases; partial assignments**

Notwithstanding anything to the contrary in section 187 of this title, any oil or gas lease issued under the authority of this chapter may be assigned or subleased, as to all or part of the acreage included therein, subject to final ap-

proval by the Secretary and as to either a divided or undivided interest therein, to any person or persons qualified to own a lease under this chapter, and any assignment or sublease shall take effect as of the first day of the lease month following the date of filing in the proper land office of three original executed counterparts thereof, together with any required bond and proof of the qualification under this chapter of the assignee or sublessee to take or hold such lease or interest therein. Until such approval, however, the assignor or sublessor and his surety shall continue to be responsible for the performance of any and all obligations as if no assignment or sublease had been executed. The Secretary shall disapprove the assignment or sublease only for lack of qualification of the assignee or sublessee or for lack of sufficient bond: *Provided, however,* That the Secretary may, in his discretion, disapprove an assignment of any of the following, unless the assignment constitutes the entire lease or is demonstrated to further the development of oil and gas:

- (1) A separate zone or deposit under any lease.
- (2) A part of a legal subdivision.
- (3) Less than 640 acres outside Alaska or of less than 2,560 acres within Alaska.

Requests for approval of assignment or sublease shall be processed promptly by the Secretary. Except where the assignment or sublease is not in accordance with applicable law, the approval shall be given within 60 days of the date of receipt by the Secretary of a request for such approval. Upon approval of any assignment or sublease, the assignee or sublessee shall be bound by the terms of the lease to the same extent as if such assignee or sublessee were the original lessee, any conditions in the assignment or sublease to the contrary notwithstanding. Any partial assignment of any lease shall segregate the assigned and retained portions thereof, and as above provided, release and discharge the assignor from all obligations thereafter accruing with respect to the assigned lands; and such segregated leases shall continue in full force and effect for the primary term of the original lease, but for not less than two years after the date of discovery of oil or gas in paying quantities upon any other segregated portion of the lands originally subject to such lease. Assignments under this section may also be made of parts of leases which are in their extended term because of any provision of this chapter. Upon the segregation by an assignment of a lease issued after September 2, 1960 and held beyond its primary term by production, actual or suspended, or the payment of compensatory royalty, the segregated lease of an undeveloped, assigned, or retained part shall continue for two years, and so long thereafter as oil or gas is produced in paying quantities.

(Feb. 25, 1920, ch. 85, § 30A, formerly § 30a, as added Aug. 8, 1946, ch. 916, § 7, 60 Stat. 955; amended July 29, 1954, ch. 644, § 1(6), 68 Stat. 585; Pub. L. 86-705, § 6, Sept. 2, 1960, 74 Stat. 790; renumbered § 30A and amended Pub. L. 100-203, title V, § 5103, Dec. 22, 1987, 101 Stat. 1330-258.)

AMENDMENTS

1987—Pub. L. 100-203 substituted third to fifth sentences for former third sentence which read as follows:

“The Secretary shall disapprove the assignment or sublease only for lack of qualification of the assignee or sublessee or for lack of sufficient bond: *Provided, however,* That the Secretary may, in his discretion, disapprove an assignment of a separate zone or deposit under any lease, or of a part of a legal subdivision.”

1960—Pub. L. 86-705 amended last sentence to restrict automatic extensions after Sept. 2, 1960.

1954—Act July 29, 1954, authorized partial assignment of a lease in its extended term regardless of reason for extension.

SAVINGS PROVISION

See note set out under section 181 of this title.

LEASES ISSUED PRIOR TO SEPTEMBER 2, 1960

Pub. L. 86-705, § 6, Sept. 2, 1960, 74 Stat. 790, provided in part that: “The provisions of this section 6 [amending this section] shall not be applicable to any lease issued prior to the effective date of this Act [Sept. 2, 1960].”

**§ 187b. Oil or gas leases; written relinquishment of rights; release of obligations**

Notwithstanding any provision to the contrary in section 187 of this title, a lessee may at any time make and file in the appropriate land office a written relinquishment of all rights under any oil or gas lease issued under the authority of this chapter or of any legal subdivision of the area included within any such lease. Such relinquishment shall be effective as of the date of its filing, subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties and to place all wells on the lands to be relinquished in condition for suspension or abandonment in accordance with the applicable lease terms and regulations; thereupon the lessee shall be released of all obligations thereafter accruing under said lease with respect to the lands relinquished, but no such relinquishment shall release such lessee, or his bond, from any liability for breach of any obligation of the lease, other than an obligation to drill, accrued at the date of the relinquishment.

(Feb. 25, 1920, ch. 85, §30B, formerly §30b, as added Aug. 8, 1946, ch. 916, §8, 60 Stat. 956; renumbered §30B, Pub. L. 100-203, title V, §5103, Dec. 22, 1987, 101 Stat. 1330-258.)

SAVINGS PROVISION

See note set out under section 181 of this title.

**§ 188. Failure to comply with provisions of lease**

**(a) Forfeiture**

Except as otherwise herein provided, any lease issued under the provisions of this chapter may be forfeited and canceled by an appropriate proceeding in the United States district court for the district in which the property, or some part thereof, is located whenever the lessee fails to comply with any of the provisions of this chapter, of the lease, or of the general regulations promulgated under this chapter and in force at the date of the lease; and the lease may provide for resort to appropriate methods for the settlement of disputes or for remedies for breach of specified conditions thereof.

**(b) Cancellation**

Any lease issued after August 21, 1935, under the provisions of section 226 of this title shall be

subject to cancellation by the Secretary of the Interior after 30 days notice upon the failure of the lessee to comply with any of the provisions of the lease, unless or until the leasehold contains a well capable of production of oil or gas in paying quantities, or the lease is committed to an approved cooperative or unit plan or communitization agreement under section 226(m) of this title which contains a well capable of production of unitized substances in paying quantities. Such notice in advance of cancellation shall be sent the lease owner by registered letter directed to the lease owner's record post-office address, and in case such letter shall be returned as undelivered, such notice shall also be posted for a period of thirty days in the United States land office for the district in which the land covered by such lease is situated, or in the event that there is no district land office for such district, then in the post office nearest such land. Notwithstanding the provisions of this section, however, upon failure of a lessee to pay rental on or before the anniversary date of the lease, for any lease on which there is no well capable of producing oil or gas in paying quantities, the lease shall automatically terminate by operation of law: *Provided, however,* That when the time for payment falls upon any day in which the proper office for payment is not open, payment may be received the next official working day and shall be considered as timely made: *Provided,* That if the rental payment due under a lease is paid on or before the anniversary date but either (1) the amount of the payment has been or is hereafter deficient and the deficiency is nominal, as determined by the Secretary by regulation, or (2) the payment was calculated in accordance with the acreage figure stated in the lease, or in any decision affecting the lease, or made in accordance with a bill or decision which has been rendered by him and such figure, bill, or decision is found to be in error resulting in a deficiency, such lease shall not automatically terminate unless (1) a new lease had been issued prior to May 12, 1970, or (2) the lessee fails to pay the deficiency within the period prescribed in a notice of deficiency sent to him by the Secretary.

**(c) Reinstatement**

Where any lease has been or is hereafter terminated automatically by operation of law under this section for failure to pay on or before the anniversary date the full amount of rental due, but such rental was paid on or tendered within twenty days thereafter, and it is shown to the satisfaction of the Secretary of the Interior that such failure was either justifiable or not due to a lack of reasonable diligence on the part of the lessee, the Secretary may reinstate the lease if—

(1) a petition for reinstatement, together with the required rental, including back rental accruing from the date of termination of the lease, is filed with the Secretary; and

(2) no valid lease has been issued affecting any of the lands covered by the terminated lease prior to the filing of said petition. The Secretary shall not issue any new lease affecting any of the lands covered by such terminated lease for a reasonable period, as deter-

mined in accordance with regulations issued by him. In any case where a reinstatement of a terminated lease is granted under this subsection and the Secretary finds that the reinstatement of such lease will not afford the lessee a reasonable opportunity to continue operations under the lease, the Secretary may, at his discretion, extend the term of such lease for such period as he deems reasonable: *Provided*, That (A) such extension shall not exceed a period equivalent to the time beginning when the lessee knew or should have known of the termination and ending on the date the Secretary grants such petition; (B) such extension shall not exceed a period equal to the unexpired portion of the lease or any extension thereof remaining at the date of termination; and (C) when the reinstatement occurs after the expiration of the term or extension thereof the lease may be extended from the date the Secretary grants the petition.

**(d) Additional grounds for reinstatement**

(1) Where any oil and gas lease issued pursuant to section 226(b) or (c) of this title or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) has been, or is hereafter, terminated automatically by operation of law under this section for failure to pay on or before the anniversary date the full amount of the rental due, and such rental is not paid or tendered within twenty days thereafter, and it is shown to the satisfaction of the Secretary of the Interior that such failure was justifiable or not due to lack of reasonable diligence on the part of the lessee, or, no matter when the rental is paid after termination, it is shown to the satisfaction of the Secretary that such failure was inadvertent, the Secretary may reinstate the lease as of the date of termination for the unexpired portion of the primary term of the original lease or any extension thereof remaining at the date of termination, and so long thereafter as oil or gas is produced in paying quantities. In any case where a lease is reinstated under this subsection and the Secretary finds that the reinstatement of such lease (A) occurs after the expiration of the primary term or any extension thereof, or (B) will not afford the lessee a reasonable opportunity to continue operations under the lease, the Secretary may, at his discretion, extend the term of such lease for such period as he deems reasonable, but in no event for more than two years from the date the Secretary authorizes the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

(2) No lease shall be reinstated under paragraph (1) of this subsection unless—

(A) with respect to any lease that terminated under subsection (b) on or before August 8, 2005, a petition for reinstatement (together with the required back rental and royalty accruing after the date of termination) is filed on or before the earlier of—

(i) 60 days after the lessee receives from the Secretary notice of termination, whether by return of check or by any other form of actual notice; or

(ii) 15 months after the termination of the lease; or

(B) with respect to any lease that terminates under subsection (b) after August 8, 2005, a pe-

tion for reinstatement (together with the required back rental and royalty accruing after the date of termination) is filed on or before the earlier of—

(i) 60 days after receipt of the notice of termination sent by the Secretary by certified mail to all lessees of record; or

(ii) 24 months after the termination of the lease.

**(e) Conditions for reinstatement**

Any reinstatement under subsection (d) of this section shall be made only if these conditions are met:

(1) no valid lease, whether still in existence or not, shall have been issued affecting any of the lands covered by the terminated lease prior to the filing of such petition: *Provided, however*, That after receipt of a petition for reinstatement, the Secretary shall not issue any new lease affecting any of the lands covered by such terminated lease for a reasonable period, as determined in accordance with regulations issued by him;

(2) payment of back rentals and either the inclusion in a reinstated lease issued pursuant to the provisions of section 226(b) of this title of a requirement for future rentals at a rate of not less than \$10 per acre per year, or the inclusion in a reinstated lease issued pursuant to the provisions of section 226(c) of this title of a requirement that future rentals shall be at a rate not less than \$5 per acre per year, all as determined by the Secretary;

(3)(A) payment of back royalties and the inclusion in a reinstated lease issued pursuant to the provisions of section 226(b) of this title of a requirement for future royalties at a rate of not less than 16 $\frac{2}{3}$  percent computed on a sliding scale based upon the average production per well per day, at a rate which shall be not less than 4 percentage points greater than the competitive royalty<sup>1</sup> schedule then in force and used for royalty determination for competitive leases issued pursuant to such section as determined by the Secretary: *Provided*, That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the termination of the original lease;

(B) payment of back royalties and inclusion in a reinstated lease issued pursuant to the provisions of section 226(c) of this title of a requirement for future royalties at a rate not less than 16 $\frac{2}{3}$  percent: *Provided*, That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the cancellation or termination of the original lease; and

(4) notice of the proposed reinstatement of a terminated lease, including the terms and conditions of reinstatement, shall be published in the Federal Register at least thirty days in advance of the reinstatement.

A copy of said notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the Secretary deemed significant in making this determination to reinstate, shall be furnished to

<sup>1</sup> So in original. Probably should be "royalty".



the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate at least thirty days in advance of the reinstatement. The lessee of a reinstated lease shall reimburse the Secretary for the administrative costs of reinstating the lease, but not to exceed \$500. In addition the lessee shall reimburse the Secretary for the cost of publication in the Federal Register of the notice of proposed reinstatement.

**(f) Issuance of noncompetitive oil and gas lease; conditions**

Where an unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, has been or is hereafter deemed conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 1744 of title 43, and it is shown to the satisfaction of the Secretary that such failure was inadvertent, justifiable, or not due to lack of reasonable diligence on the part of the owner, the Secretary may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease, consistent with the provisions of section 226(e) of this title, to be effective from the statutory date the claim was deemed conclusively abandoned. Issuance of such a lease shall be conditioned upon:

(1) a petition for issuance of a noncompetitive oil and gas lease, together with the required rental and royalty, including back rental and royalty accruing from the statutory date of abandonment of the oil placer mining claim, being filed with the Secretary—

(A) with respect to any claim deemed conclusively abandoned on or before January 12, 1983, on or before the one hundred and twentieth day after January 12, 1983, or

(B) with respect to any claim deemed conclusively abandoned after January 12, 1983, on or before the one hundred and twentieth day after final notification by the Secretary or a court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim;

(2) a valid lease not having been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of such petition: *Provided, however,* That after the filing of a petition for issuance of a lease under this subsection, the Secretary shall not issue any new lease affecting any of the lands covered by such abandoned oil placer mining claim for a reasonable period, as determined in accordance with regulations issued by him;

(3) a requirement in the lease for payment of rental, including back rentals accruing from the statutory date of abandonment of the oil placer mining claim, of not less than \$5 per acre per year;

(4) a requirement in the lease for payment of royalty on production removed or sold from the oil placer mining claim, including all royalty on production made subsequent to the statutory date the claim was deemed conclusively abandoned, of not less than 12½ percent; and

(5) compliance with the notice and reimbursement of costs provisions of paragraph (4) of subsection (e) but addressed to the petition covering the conversion of an abandoned unpatented oil placer mining claim to a noncompetitive oil and gas lease.

**(g) Treatment of leases**

(1) Except as otherwise provided in this section, a reinstated lease shall be treated as a competitive or a noncompetitive oil and gas lease in the same manner as the original lease issued pursuant to section 226(b) or (c) of this title.

(2) Except as otherwise provided in this section, the issuance of a lease in lieu of an abandoned patented oil placer mining claim shall be treated as a noncompetitive oil and gas lease issued pursuant to section 226(c) of this title.

(3) Notwithstanding any other provision of law, any lease issued pursuant to section 223 of this title shall be eligible for reinstatement under the terms and conditions set forth in subsections (c), (d), and (e) of this section, applicable to leases issued under section 226(c) of this title except, that, upon reinstatement, such lease shall continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.

(4) Notwithstanding any other provision of law, any lease issued pursuant to section 223 of this title shall, upon renewal on or after November 15, 1990, continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.

**(h) Statutory provisions applicable to leases**

The minimum royalty provisions of section 226(m) of this title and the provisions of section 209 of this title shall be applicable to leases issued pursuant to subsections (d) and (f) of this section.

**(i) Royalty reductions**

(1) In acting on a petition to issue a noncompetitive oil and gas lease, under subsection (f) of this section or in response to a request filed after issuance of such a lease, or both, the Secretary is authorized to reduce the royalty on such lease if in his judgment it is equitable to do so or the circumstances warrant such relief due to uneconomic or other circumstances which could cause undue hardship or premature termination of production.

(2) In acting on a petition for reinstatement pursuant to subsection (d) of this section or in response to a request filed after reinstatement, or both, the Secretary is authorized to reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes if, in his judgment, there are uneconomic or other circumstances which could cause undue hardship or premature termination of production; or because of any written action of the United States, its agents or employees, which preceded, and was a major consideration in, the lessee's expenditure of funds to develop the property under the lease after the rent had become due and had not been paid; or if in the judgment of the Secretary it is equitable to do so for any reason.

**(j) Discretion of Secretary**

Where, in the judgment of the Secretary of the Interior, drilling operations were being diligently conducted on the last day of the primary term of the lease, and, except for nonpayment of rental, the lessee would have been entitled to extension of his lease, pursuant to section 226-1(d) of this title, the Secretary of the Interior may reinstate such lease notwithstanding the failure of the lessee to have made payment of the next year's rental, provided the conditions of subparagraphs (1) and (2) of section<sup>1</sup> (c) are satisfied.

(Feb. 25, 1920, ch. 85, §31, 41 Stat. 450; Aug. 8, 1946, ch. 916, §9, 60 Stat. 956; July 29, 1954, ch. 644, §1(7), 68 Stat. 585; Pub. L. 87-822, §1, Oct. 15, 1962, 76 Stat. 943; Pub. L. 91-245, §1, 2, May 12, 1970, 84 Stat. 206; Pub. L. 97-451, title IV, §401, Jan. 12, 1983, 96 Stat. 2462; Pub. L. 100-203, title V, §§5102(d)(2), 5104, Dec. 22, 1987, 101 Stat. 1330-258, 1330-259; Pub. L. 101-567, §1, Nov. 15, 1990, 104 Stat. 2802; Pub. L. 103-437, §11(a)(1), Nov. 2, 1994, 108 Stat. 4589; Pub. L. 109-58, title III, §371(b), Aug. 8, 2005, 119 Stat. 734.)

## REFERENCES IN TEXT

The Mineral Leasing Act for Acquired Lands, referred to in subsec. (d)(1), is act Aug. 7, 1947, ch. 513, 61 Stat. 913, as amended, which is classified generally to chapter 7 (§351 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 351 of this title and Tables.

## AMENDMENTS

2005—Subsec. (d)(2)(A), (B). Pub. L. 109-58 added subpars. (A) and (B) and struck out former subpars. (A) and (B), which related to reinstatement with respect to any lease that terminated under subsec. (b) of this section prior to Jan. 12, 1983, and reinstatement with respect to any lease that terminated under subsec. (b) of this section on or after Jan. 12, 1983.

1994—Subsec. (e). Pub. L. 103-437 substituted "Natural Resources" for "Interior and Insular Affairs" before "of the House" in concluding provisions.

1990—Subsec. (g)(3), (4). Pub. L. 101-567 added pars. (3) and (4).

1987—Subsec. (b). Pub. L. 100-203, §5104, amended first sentence generally. Prior to amendment, first sentence read as follows: "Any lease issued after August 21, 1935, under the provisions of section 226 of this title shall be subject to cancellation by the Secretary of the Interior after thirty days' notice upon the failure of the lessee to comply with any of the provisions of the lease, unless or until the land covered by any such lease is known to contain valuable deposits of oil or gas."

Subsec. (h). Pub. L. 100-203, §5102(d)(2), substituted "section 226(m)" for "section 226(j)".

1983—Subsecs. (d) to (j). Pub. L. 97-451 added subsecs. (d) to (i) and redesignated former subsec. (d) as (j).

1970—Subsec. (b). Pub. L. 91-245, §1, inserted proviso authorizing continuance of a lease where timely paid rent is nominally deficient or miscalculated due to an error either in acreage figure stated in the lease, in any decision affecting the lease, or in a bill or decision rendered by the Secretary, except where a new lease was issued prior to May 12, 1970 or the lessee failed to pay the deficiency within the period allowed by the Secretary.

Subsec. (c). Pub. L. 91-245, §2, inserted provisions allowing reinstatement of a lease despite a twenty-day delay in payment of rent, made the payment of back rental accruing from the date of termination of the lease a prerequisite to such reinstatement, restricted

the Secretary's power to issue a new lease on the lands covered by the terminated lease, gave the Secretary discretion to extend the term of a reinstated lease so as to afford the lessee a reasonable opportunity to continue operations under the lease, and struck out requirement that the petition for reinstatement of any lease terminated prior to Oct. 15, 1962 be filed within 180 days after Oct. 15, 1962.

1962—Pub. L. 87-822 designated existing pars. as subsecs. (a) and (b) and added subsecs. (c) and (d).

1954—Act July 29, 1954, provided for automatic termination of a lease on failure to pay rental on or before anniversary date of lease, for any lease on which there is no well capable of producing oil or gas in paying quantities.

1946—Act Aug. 8, 1946, principally added second par. relating to cancellation of leases by Secretary of the Interior.

## SAVINGS PROVISION

See note set out under section 181 of this title.

## REINSTATEMENT OF LEASES

Pub. L. 109-58, title III, §371(a), Aug. 8, 2005, 119 Stat. 734, provided that:

"Notwithstanding section 31(d)(2)(B) of the Mineral Leasing Act (30 U.S.C. 188(d)(2)(B)) as in effect before the effective date of this section [probably means the date of enactment of Pub. L. 109-58, Aug. 8, 2005], and notwithstanding the amendment made by subsection (b) of this section [amending this section], the Secretary of the Interior may reinstate any oil and gas lease issued under that Act [30 U.S.C. 181 et seq.] that was terminated for failure of a lessee to pay the full amount of rental on or before the anniversary date of the lease, during the period beginning on September 1, 2001, and ending on June 30, 2004, if—

"(1) not later than 120 days after the date of enactment of this Act [Aug. 8, 2005], the lessee—

"(A) files a petition for reinstatement of the lease;

"(B) complies with the conditions of section 31(e) of the Mineral Leasing Act (30 U.S.C. 188(e)); and

"(C) certifies that the lessee did not receive a notice of termination by the date that was 13 months before the date of termination; and

"(2) the land is available for leasing."

## AUTHORITY FOR ISSUANCE OF LEASES UNAFFECTED BY REINSTATEMENT OF LEASES

Pub. L. 87-822, §2, Oct. 15, 1962, 76 Stat. 943, provided that: "Nothing in this Act [amending this section] shall be construed as limiting the authority of the Secretary of the Interior to issue, during the periods in which petitions for reinstatement may be filed, oil and gas leases for any of the lands affected."

## OUTER CONTINENTAL SHELF; CANCELLATION OF LEASES

Cancellation of mineral leases on submerged lands of outer Continental Shelf, see sections 1334 and 1337 of Title 43, Public Lands.

**§ 188a. Surrender of leases**

The Secretary of the Interior is authorized to accept the surrender of any lease issued pursuant to any of the provisions of this chapter, or any amendment thereof, where the surrender is filed in the Bureau of Land Management subsequent to the accrual but prior to the payment of the yearly rental due under the lease, upon payment of the accrued rental on a pro rata monthly basis for the portion of the lease year prior to the filing of the surrender. The authority granted to the Secretary of the Interior by this section shall extend only to cases in which he finds that the failure of the lessee to file a timely surrender of the lease prior to the accrual of the

<sup>1</sup> So in original. Probably should be "subsection".

rental was not due to a lack of reasonable diligence, but it shall not extend to claims or cases which have been referred to the Department of Justice for purposes of suit.

(Nov. 28, 1943, ch. 329, 57 Stat. 593; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### 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.

#### TRANSFER OF FUNCTIONS

“Bureau of Land Management” substituted in text for “General Land Office” on authority of Reorg. Plan No. 3 of 1946, §403, set out in the Appendix to Title 5, Government Organization and Employees.

### § 189. Rules and regulations; boundary lines; State rights unaffected; taxation

The Secretary of the Interior is authorized to prescribe necessary and proper rules and regulations and to do any and all things necessary to carry out and accomplish the purposes of this chapter, also to fix and determine the boundary lines of any structure, or oil or gas field, for the purposes of this chapter. Nothing in this chapter shall be construed or held to affect the rights of the States or other local authority to exercise any rights which they may have, including the right to levy and collect taxes upon improvements, output of mines, or other rights, property, or assets of any lessee of the United States.

(Feb. 25, 1920, ch. 85, §32, 41 Stat. 450.)

#### TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior to promulgate regulations under this chapter relating to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, 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.

#### OUTER CONTINENTAL SHELF; RULES AND REGULATIONS WITH RESPECT TO LEASES

Rules and regulations with respect to mineral leases on submerged lands of outer Continental Shelf to be prescribed by Secretary of the Interior, see section 1334 of Title 43, Public Lands.

### § 190. Oath; requirement; form; blanks

All statements, representations, or reports required by the Secretary of the Interior under this chapter shall be upon oath, unless otherwise specified by him, and in such form and upon such blanks as the Secretary of the Interior may require.

(Feb. 25, 1920, ch. 85, §33, 41 Stat. 450.)

### § 191. Disposition of moneys received

#### (a) In general

All money received from sales, bonuses, royalties including interest charges collected under

the Federal Oil and Gas Royalty Management Act of 1982 [30 U.S.C. 1701 et seq.], and rentals of the public lands under the provisions of this chapter and the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.], shall be paid into the Treasury of the United States; and, subject to the provisions of subsection (b), 50 per centum thereof shall be paid by the Secretary of the Treasury to the State other than Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys paid to any of such States on or after January 1, 1976, to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this chapter, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service; and excepting those from Alaska, 40 per centum thereof shall be paid into, reserved, appropriated, as part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902, and of those from Alaska, 90 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof: *Provided*, That all moneys which may accrue to the United States under the provisions of this chapter and the Geothermal Steam Act of 1970 from lands within the naval petroleum reserves shall be deposited in the Treasury as “miscellaneous receipts”, as provided by section 8733(b) of title 10. All moneys received under the provisions of this chapter and the Geothermal Steam Act of 1970 not otherwise disposed of by this section shall be credited to miscellaneous receipts. Payments to States under this section with respect to any moneys received by the United States, shall be made not later than the last business day of the month in which such moneys are warranted by the United States Treasury to the Secretary as having been received, except for any portion of such moneys which is under challenge and placed in a suspense account pending resolution of a dispute. Such warrants shall be issued by the United States Treasury not later than 10 days after receipt of such moneys by the Treasury. Moneys placed in a suspense account which are determined to be payable to a State shall be made not later than the last business day of the month in which such dispute is resolved. Any such amount placed in a suspense account pending resolution shall bear interest until the dispute is resolved.

#### (b) Deduction for administrative costs

In determining the amount of payments to the States under this section, beginning in fiscal year 2014 and for each year thereafter, the amount of such payments shall be reduced by 2 percent for any administrative or other costs incurred by the United States in carrying out the program authorized by this chapter, and the amount of such reduction shall be deposited to miscellaneous receipts of the Treasury.

#### (c) Rentals received on or after August 8, 2005

(1) Notwithstanding the first sentence of subsection (a), any rentals received from leases in any State (other than the State of Alaska) on or after August 8, 2005, shall be deposited in the

Treasury, to be allocated in accordance with paragraph (2).

(2) Of the amounts deposited in the Treasury under paragraph (1)—

(A) 50 percent shall be paid by the Secretary of the Treasury to the State within the boundaries of which the leased land is located or the deposits were derived; and

(B) 50 percent shall be deposited in a special fund in the Treasury, to be known as the “BLM Permit Processing Improvement Fund” (referred to in this subsection as the “Fund”).

(3) USE OF FUND.—

(A) IN GENERAL.—The Fund shall be available to the Secretary of the Interior for expenditure, without further appropriation and without fiscal year limitation, for the coordination and processing of oil and gas use authorizations on onshore Federal and Indian trust mineral estate land.

(B) ACCOUNTS.—The Secretary shall divide the Fund into—

(i) a Rental Account (referred to in this subsection as the “Rental Account”) comprised of rental receipts collected under this section; and

(ii) a Fee Account (referred to in this subsection as the “Fee Account”) comprised of fees collected under subsection (d).

(4) RENTAL ACCOUNT.—

(A) IN GENERAL.—The Secretary shall use the Rental Account for—

(i) the coordination and processing of oil and gas use authorizations on onshore Federal and Indian trust mineral estate land under the jurisdiction of the Project offices identified under section 15924(d) of title 42; and

(ii) training programs for development of expertise related to coordinating and processing oil and gas use authorizations.

(B) ALLOCATION.—In determining the allocation of the Rental Account among Project offices for a fiscal year, the Secretary shall consider—

(i) the number of applications for permit to drill received in a Project office during the previous fiscal year;

(ii) the backlog of applications described in clause (i) in a Project office;

(iii) publicly available industry forecasts for development of oil and gas resources under the jurisdiction of a Project office; and

(iv) any opportunities for partnership with local industry organizations and educational institutions in developing training programs to facilitate the coordination and processing of oil and gas use authorizations.

(5) FEE ACCOUNT.—

(A) IN GENERAL.—The Secretary shall use the Fee Account for the coordination and processing of oil and gas use authorizations on onshore Federal and Indian trust mineral estate land.

(B) ALLOCATION.—The Secretary shall transfer not less than 75 percent of the revenues collected by an office for the processing of applications for permits to the State office of the State in which the fees were collected.

#### (d) BLM oil and gas permit processing fee

##### (1) In general

Notwithstanding any other provision of law, for each of fiscal years 2016 through 2026, the Secretary, acting through the Director of the Bureau of Land Management, shall collect a fee for each new application for a permit to drill that is submitted to the Secretary.

##### (2) Amount

The amount of the fee shall be \$9,500 for each new application, as indexed for United States dollar inflation from October 1, 2015 (as measured by the Consumer Price Index).

##### (3) Use

Of the fees collected under this subsection for a fiscal year, the Secretary shall transfer—

(A) for each of fiscal years 2016 through 2019—

(i) 15 percent to the field offices that collected the fees and used to process protests, leases, and permits under this chapter, subject to appropriation; and

(ii) 85 percent to the BLM Permit Processing Improvement Fund established under subsection (c)(2)(B) (referred to in this subsection as the “Fund”); and

(B) for each of fiscal years 2020 through 2026, all of the fees to the Fund.

##### (4) Additional costs

During each of fiscal years of 2016 through 2026, the Secretary shall not implement a rulemaking that would enable an increase in fees to recover additional costs related to processing applications for permits to drill.

(Feb. 25, 1920, ch. 85, §35, 41 Stat. 450; May 27, 1947, ch. 83, 61 Stat. 119; Aug. 3, 1950, ch. 527, 64 Stat. 402; Pub. L. 85–88, §2, July 10, 1957, 71 Stat. 282; Pub. L. 85–508, §§6(k), 28(b), July 7, 1958, 72 Stat. 343, 351; Pub. L. 94–273, §6(2), Apr. 21, 1976, 90 Stat. 377; Pub. L. 94–377, §9, Aug. 4, 1976, 90 Stat. 1089; Pub. L. 94–422, title III, §301, Sept. 28, 1976, 90 Stat. 1323; Pub. L. 94–579, title III, §317(a), Oct. 21, 1976, 90 Stat. 2770; Pub. L. 97–451, title I, §§104(a), 111(g), Jan. 12, 1983, 96 Stat. 2451, 2456; Pub. L. 100–203, title V, §5109, Dec. 22, 1987, 101 Stat. 1330–261; Pub. L. 100–443, §5(b), Sept. 22, 1988, 102 Stat. 1768; Pub. L. 103–66, title X, §10201, Aug. 10, 1993, 107 Stat. 407; Pub. L. 106–393, title V, §503, Oct. 30, 2000, 114 Stat. 1624; Pub. L. 109–58, title III, §365(g), Aug. 8, 2005, 119 Stat. 725; Pub. L. 113–67, div. A, title III, §302, Dec. 26, 2013, 127 Stat. 1181; Pub. L. 113–291, div. B, title XXX, §3021(b), (c)(1), Dec. 19, 2014, 128 Stat. 3760, 3761; Pub. L. 115–232, div. A, title VIII, §809(i)(1), Aug. 13, 2018, 132 Stat. 1843.)

##### REFERENCES IN TEXT

The Federal Oil and Gas Royalty Management Act of 1982, referred to in subsec. (a), is Pub. L. 97–451, Jan. 12, 1983, 96 Stat. 2447, which is classified generally to chapter 29 (§1701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

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.

The Reclamation Act, approved June 17, 1902, referred to in subsec. (a), is act June 17, 1902, ch. 1093, 32 Stat. 388, which is classified generally to chapter 12 (§371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables.

#### CODIFICATION

Provisions of subsec. (a) which authorized the payment of monies to the Territory of Alaska were omitted as superseded by the provisions authorizing the payment of monies to the State of Alaska.

#### AMENDMENTS

2018—Subsec. (a). Pub. L. 115-232 substituted “section 8733(b) of title 10” for “the Act of June 4, 1920 (41 Stat. 813), as amended June 30, 1938 (52 Stat. 1252)”.

2014—Subsec. (c)(3) to (5). Pub. L. 113-291, §3021(c)(1), added pars. (3) to (5) and struck out former par. (3) which read as follows: “For each of fiscal years 2006 through 2015, the Fund shall be available to the Secretary of the Interior for expenditure, without further appropriation and without fiscal year limitation, for the coordination and processing of oil and gas use authorizations on onshore Federal land under the jurisdiction of the Pilot Project offices identified in section 15924(d) of title 42.”

Subsec. (d). Pub. L. 113-291, §3021(b), added subsec. (d)

2013—Subsec. (b). Pub. L. 113-67 amended subsec. (b) generally. Prior to amendment, text read as follows: “In determining the amount of payments to the States under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.”

2005—Subsec. (c). Pub. L. 109-58 added subsec. (c).

2000—Subsec. (b). Pub. L. 106-393 amended subsec. (b) generally. Prior to amendment, subsec. (b) related to deductions for administration from the amount to be paid to States under this section or under other laws requiring payment to a State of revenues derived from the leasing of onshore lands owned by the United States for the production of the same types of minerals leasable under this chapter or of geothermal steam.

1993—Pub. L. 103-66 struck out last sentence, designated remaining provisions as subsec. (a) and in first sentence inserted “and, subject to the provisions of subsection (b),” before “50 per centum”, and added subsec. (b). Prior to amendment, last sentence read as follows: “In determining the amount of payments to States under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.”

1988—Pub. L. 100-443 struck out “notwithstanding the provisions of section 20 thereof,” before “shall be paid”.

1987—Pub. L. 100-203 inserted at end “In determining the amount of payments to States under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.”

1983—Pub. L. 97-451, §111(g), inserted reference to interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982.

Pub. L. 97-451, §104(a), struck out “as soon as practicable after March 31 and September 30 of each year” after “Secretary of the Treasury” and “of those from Alaska”, and inserted at end provisions directing that payments to States be made not later than the last business day of the month in which such moneys are warranted by the United States Treasury to the Secretary as having been received, that warrants be issued by the Treasury not later than 10 days after receipt of the money by the Treasury, that moneys placed in a suspense account which are determined to be payable to a State be made not later than the last business day of the month in which a dispute is resolved, and that amounts placed in a suspense account pending resolution bear interest until the dispute is resolved.

1976—Pub. L. 94-579 substituted provisions setting forth determination of amount, time for payments, and

manner of expenditure by the States of all moneys received from sales, etc., under provisions of this chapter and the Geothermal Steam Act of 1970, and proviso relating to naval petroleum reserve moneys, for provisions setting forth determination of amount and time for payment to the States of all moneys received from sales, etc., under the provisions of this chapter, and provisos relating to naval petroleum reserve moneys, additional moneys from sales, etc., under this chapter and the Geothermal Steam Act of 1970, and expenditure of State oil shale funds.

Pub. L. 94-422 inserted proviso that all moneys paid to any State from sales, bonuses, royalties, and rentals of oil shale in public lands may be used by any State for planning, construction, and maintenance of public facilities as legislature of State may direct.

Pub. L. 94-377 substituted “40 per centum thereof shall be paid into, reserved” for “52½ per centum thereof shall be paid into, reserved”, inserted “and the Geothermal Steam Act of 1970, notwithstanding the provisions of section 20 thereof” before “shall be paid into the Treasury of the United States”, “and the Geothermal Steam Act of 1970” before “from lands within the naval petroleum reserves” and before “not otherwise disposed of by this section”, and provisos relating to the payment of an additional 12½ per centum of all money received from lands under provisions of this chapter and the Geothermal Steam Act of 1970 to the State within whose boundaries the lands are located, to be used for construction of public facilities, and relating to the use of funds received by Colorado and Utah under the specified leases.

Pub. L. 94-273 substituted “March” for “December” and “September” for “June”.

1958—Pub. L. 85-508, §§6(k), 28(b), struck out provisions which related to disposition of proceeds or income derived by the United States from mineral school sections in the Territory of Alaska and substituted “, and of those from Alaska 52½ per centum thereof shall be paid to the State of Alaska for disposition by the legislators thereof” for “, and of those from Alaska 52½ per centum thereof shall be paid to the Territory of Alaska for disposition by the Legislature of the Territory of Alaska” before proviso.

1957—Pub. L. 85-88 inserted “, and of those from Alaska 52½ per centum thereof shall be paid to the Territory of Alaska for disposition by the Legislature of the Territory of Alaska” before proviso.

1950—Act Aug. 3, 1950, in providing that payments to States be made bi-annually instead of annually, substituted “as soon as practicable after December 31 and June 30 of each year” for “after the expiration of each fiscal year”.

1947—Act May 27, 1947, extended provisions by allocating 37½% of the money received from sales, bonuses, royalties, and rentals of public lands to the Territory of Alaska, for the construction and maintenance of public schools or other public educational institutions and inserted provisions relating to disposition of proceeds or income derived by the United States from mineral school sections in the Territory of Alaska.

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 104(a) of Pub. L. 97-451 applicable with respect to payments received by the Secretary of the Treasury after Oct. 1, 1983, unless the Secretary by rule, prescribes an earlier effective date, see section 104(c) of Pub. L. 97-451, set out as an Effective Date note under section 1714 of this title.

#### SAVINGS PROVISION

Amendment by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., exist-



ing 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.

#### FINDINGS

Pub. L. 106-393, title V, §502, Oct. 30, 2000, 114 Stat. 1624, provided that: "The Congress finds the following:

"(1) Section 10201 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 107 Stat. 407) amended section 35 of the Mineral Leasing Act (30 U.S.C. 191) to change the sharing of onshore mineral revenues and revenues from geothermal steam from a 50:50 split between the Federal Government and the States to a complicated formula that entailed deducting from the State share of leasing revenues '50 percent of the portion of the enacted appropriations of the Department of the Interior and any other agency during the preceding fiscal year allocable to the administration of all laws providing for the leasing of any onshore lands or interest in land owned by the United States for the production of the same types of minerals leasable under this Act or of geothermal steam, and to enforcement of such laws \* \* \*'.

"(2) There is no legislative record to suggest a sound public policy rationale for deducting prior-year administrative expenses from the sharing of current-year receipts, indicating that this change was made primarily for budget scoring reasons.

"(3) The system put in place by this change in law has proved difficult to administer and has given rise to disputes between the Federal Government and the States as to the nature of allocable expenses. Federal accounting systems have proven to be poorly suited to breaking down administrative costs in the manner required by the law. Different Federal agencies implementing this law have used varying methodologies to identify allocable costs, resulting in an inequitable distribution of costs during fiscal years 1994 through 1996. In November 1997, the Inspector General of the Department of the Interior found that 'the congressionally approved method for cost sharing deductions effective in fiscal year 1997 may not accurately compute the deductions'.

"(4) Given the lack of a substantive rationale for the 1993 change in law and the complexity and administrative burden involved, a return to the sharing formula prior to the enactment of the Omnibus Budget Reconciliation Act of 1993 [Aug. 10, 1993] is justified."

#### FUNDS HELD BY COLORADO AND UTAH FROM INTERIOR DEPARTMENT OIL SHALE TEST LEASES

Pub. L. 94-579, title III, §317(b), Oct. 21, 1976, 90 Stat. 2771, provided that: "Funds now held pursuant to said section 35 [this section] by the States of Colorado and Utah separately from the Department of the Interior oil shale test leases known as C-A; C-B; U-A and U-B shall be used by such States and subdivisions as the legislature of each State may direct giving priority to those subdivisions socially or economically impacted by the development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services."

#### ADMISSION OF ALASKA AS STATE

Effectiveness of amendment by Pub. L. 85-508 was dependent on admission of Alaska into the Union under sections 6(k) and 8(b) of Pub. L. 85-508. Admission was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508. See notes preceding section 21 of Title 48, Territories and Insular Possessions.

#### OUTER CONTINENTAL SHELF; REVENUES FROM LEASES

Disposition of revenues from leases on submerged lands of outer Continental Shelf, see sections 1337 and 1338 of Title 43, Public Lands.

### § 191a. Late payment charges under Federal mineral leases

#### (a) Distribution of late payment charges

Any interest or other charges paid to the United States by reason of the late payment of any royalty, rent, bonus, or other amount due to the United States under any lease issued by the United States for the extraction of oil, gas, coal, or any other mineral, or for geothermal steam, shall be deposited in the same account and distributed to the same recipients, in the same manner, as such royalty, rent, bonus, or other amount.

#### (b) Effective date

Subsection (a) shall apply with respect to any interest, or other charge referred to in subsection (a), which is paid to the United States on or after July 1, 1988.

#### (c) Prohibition against recoupment

Any interest, or other charge referred to in subsection (a), which was paid to the United States before July 1, 1988, and distributed to any State or other recipient is hereby deemed to be authorized and approved as of the date of payment or distribution, and no part of any such payment or distribution shall be recouped from the State or other recipient. This subsection shall not apply to interest or other charges paid in connection with any royalty, rent, bonus, or other amount determined not to be owing to the United States.

(Pub. L. 100-524, §7, Oct. 24, 1988, 102 Stat. 2607.)

#### CODIFICATION

Section was enacted as part of the Congaree Swamp National Monument Expansion and Wilderness Act, and not as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

### § 191b. Collection of unpaid and underpaid royalties and late payment interest owed by lessees

Beginning in fiscal year 1996 and thereafter, the Secretary shall take appropriate action to collect unpaid and underpaid royalties and late payment interest owed by Federal and Indian mineral lessees and other royalty payors on amounts received in settlement or other resolution of disputes under, and for partial or complete termination of, sales agreements for minerals from Federal and Indian leases.

(Pub. L. 104-134, title I, §101(c) [title I], Apr. 26, 1996, 110 Stat. 1321-156, 1321-167; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.)

#### 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.

#### SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation act:

Pub. L. 103-332, title I, Sept. 30, 1994, 108 Stat. 2508.

### § 192. Payment of royalties in oil or gas; sale of such oil or gas

All royalty accruing to the United States under any oil or gas lease or permit under this

chapter on demand of the Secretary of the Interior shall be paid in oil or gas.

Upon granting any oil or gas lease under this chapter, and from time to time thereafter during said lease, the Secretary of the Interior shall, except whenever in his judgment it is desirable to retain the same for the use of the United States, offer for sale for such period as he may determine, upon notice and advertisement on sealed bids or at public auction, all royalty oil and gas accruing or reserved to the United States under such lease. Such advertisement and sale shall reserve to the Secretary of the Interior the right to reject all bids whenever within his judgment the interest of the United States demands; and in cases where no satisfactory bid is received or where the accepted bidder fails to complete the purchase, or where the Secretary of the Interior shall determine that it is unwise in the public interest to accept the offer of the highest bidder, the Secretary of the Interior, within his discretion, may readvertise such royalty for sale, or sell at private sale at not less than the market price for such period, or accept the value thereof from the lessee: *Provided*, That inasmuch as the public interest will be served by the sale of royalty oil to refineries not having their own source of supply for crude oil, the Secretary of the Interior, when he determines that sufficient supplies of crude oil are not available in the open market to such refineries, is authorized and directed to grant preference to such refineries in the sale of oil under the provisions of this section, for processing or use in such refineries and not for resale in kind, and in so doing may sell to such refineries at private sale at not less than the market price any royalty oil accruing or reserved to the United States under leases issued pursuant to this chapter: *Provided further*, That in selling such royalty oil the Secretary of the Interior may at his discretion prorate such oil among such refineries in the area in which the oil is produced: *Provided, however*, That pending the making of a permanent contract for the sale of any royalty, oil or gas as herein provided, the Secretary of the Interior may sell the current product at private sale, at not less than the market price: *And provided further*, That any royalty, oil, or gas may be sold at not less than the market price at private sale to any department or agency of the United States.

(Feb. 25, 1920, ch. 85, §36, 41 Stat. 451; July 13, 1946, ch. 574, 60 Stat. 533.)

#### AMENDMENTS

1946—Act July 13, 1946, inserted first two provisos which were enacted in order to assist small business enterprise by encouraging the operation of oil refineries not having an adequate supply of crude oil.

#### OUTER CONTINENTAL SHELF; ROYALTIES FROM LEASES

Payment of royalties from mineral leases on submerged lands of outer Continental Shelf, see section 1337 of Title 43, Public Lands.

#### § 192a. Cancellation or modification of contracts

Where, under any existing contract entered into pursuant to the first proviso in the second paragraph of section 192 of this title, any refinery is required to pay a premium price for the

purchase of Government royalty oil, such refinery may, at its option, by written notice to the Secretary of the Interior, elect either—

(1) to terminate such contract, the termination to take place at the end of the calendar month following the month in which such notice is given; or

(2) to retain such contract with the modifications, that (a) the price, on and after March 1, 1949, shall be as defined in the contract, without premium payments, (b) any credit thereby resulting from past premium payments shall be added to the refinery's account, and (c) the Secretary may, at his option, elect to terminate the contract as so modified, such termination to take place at the end of the third calendar month following the month in which written notice thereof is given by the Secretary.

(Sept. 1, 1949, ch. 529, §1, 63 Stat. 682.)

#### 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.

#### § 192b. Application to contracts

The provisions of sections 192a to 192c of this title shall apply to all existing contracts for the purchase of Government royalty oil entered into after July 13, 1946, and prior to September 1, 1949, irrespective of whether a determination of preference status was made in connection with the award of such contracts, but shall not apply to any such contract which subsequent to its award has been transferred, through the acquisition of stock interests or other transactions, to the ownership or control of a refinery ineligible for a preference under section 192 of this title, and the regulations in force thereunder at the time of such transfer.

(Sept. 1, 1949, ch. 529, §2, 63 Stat. 682.)

#### 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.

#### § 192c. Rules and regulations governing issuance of certain leases; disposition of receipts

The Secretary of the Interior is authorized under general rules and regulations to be prescribed by him to issue leases or permits for the exploration, development, and utilization of the mineral deposits, other than those subject to the provisions of chapter 7 of this title, in those lands added to the Shasta National Forest by the Act of March 19, 1948 (Public Law 449, Eightieth Congress), which were acquired with funds of the United States or lands received in exchange therefor: *Provided*, That any permit or lease of such deposits in lands administered by the Secretary of Agriculture shall be issued only with his consent and subject to such conditions as he may prescribe to insure the adequate utilization of the lands for the purposes set forth in the Act of March 19, 1948: *And provided further*, That all receipts derived from leases or permits issued under the authority of sections 192a to 192c of this title shall be paid into the same

funds or accounts in the Treasury and shall be distributed in the same manner as prescribed for other receipts from the lands affected by the lease or permit, the intention of this provision being that sections 192a to 192c of this title shall not affect the distribution of receipts pursuant to legislation applicable to such lands.

(Sept. 1, 1949, ch. 529, § 3, 63 Stat. 683.)

#### REFERENCES IN TEXT

Act of March 19, 1948 (Public Law 449, Eightieth Congress), referred to in text, is act Mar. 19, 1948, ch. 139, 62 Stat. 83. See Shasta National Forest codification note set out under sections 486a to 486w of Title 16, Conservation.

#### 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.

#### TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior under this section, with respect to use and disposal from lands under jurisdiction of Secretary of Agriculture of those mineral materials which Secretary of Agriculture is authorized to dispose of from other lands under his jurisdiction under sections 601 to 604 and 611 to 615 of this title, see Pub. L. 86-509, June 11, 1960, 74 Stat. 205, set out as a Transfer of Functions from Secretary of the Interior to Secretary of Agriculture note under section 2201 of Title 7, Agriculture.

### § 193. Disposition of deposits of coal, and so forth

The deposits of coal, phosphate, sodium, potassium, oil, oil shale, and gas, herein referred to, in lands valuable for such minerals, including lands and deposits in Lander, Wyoming, coal entries numbered 18 to 49, inclusive, shall be subject to disposition only in the form and manner provided in this chapter, except as provided in sections 1716 and 1719 of title 43, and except as to valid claims existent on February 25, 1920, and thereafter maintained in compliance with the laws under which initiated, which claims may be perfected under such laws, including discovery.

(Feb. 25, 1920, ch. 85, § 37, 41 Stat. 451; Feb. 7, 1927, ch. 66, § 5, 44 Stat. 1058; Aug. 8, 1946, ch. 916, § 11, 60 Stat. 957; Pub. L. 95-554, § 4, Oct. 30, 1978, 92 Stat. 2074.)

#### CODIFICATION

Section was from act Feb. 25, 1920, in which words now reading "in Lander, Wyoming, coal entries numbered 18 to 49, inclusive," originally read "described in the joint resolution entitled 'Joint resolution authorizing the Secretary of the Interior to permit the continuation of coal mining operations on certain lands in Wyoming,' approved August 12, 1912, (Thirty-seven Statutes at Large p. 1346)." The change was effected by interpolation, in lieu of the reference to the 1912 resolution, the actual description of lands contained in said resolution.

#### AMENDMENTS

1978—Pub. L. 95-554 provided for disposition of minerals as provided in sections 1716 and 1719 of title 43.

1946—Act Aug. 8, 1946, excluded from section 5 of act Feb. 7, 1927, the incorporation, by reference, of section 181 of this title, and reenacted inclusion of deposits of potassium.

1927—Act Feb. 7, 1927, included deposits of potassium.

### § 193a. Preference right of United States to purchase coal for Army and Navy; price for coal; civil actions; jurisdiction

The United States shall, at all times, have the preference right to purchase so much of the product of any mine or mines opened upon the lands sold under the provisions of this Act, as may be necessary for the use of the Army and Navy, and at such reasonable and remunerative price as may be fixed by the President; but the producers of any coal so purchased who may be dissatisfied with the price thus fixed shall have the right to prosecute suits against the United States in the United States Court of Federal Claims for the recovery of any additional sum or sums they may claim as justly due upon such purchase.

(May 28, 1908, ch. 211, § 2, 35 Stat. 424; Pub. L. 97-164, title I, § 160(a)(10), Apr. 2, 1982, 96 Stat. 48; Pub. L. 102-572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

#### REFERENCES IN TEXT

This Act, referred to in text, is act May 28, 1908, ch. 211, 35 Stat. 424. Sections 1, 3, and 4 of this Act related to consolidation of claims permitted and the limit of acreage, prohibition against unlawful trusts, etc., and contents of patents, respectively, and are not classified to the Code.

#### 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.

Section was formerly classified to section 453 of Title 48, Territories and Insular Possessions.

#### AMENDMENTS

1992—Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court".

1982—Pub. L. 97-164 substituted "United States Claims Court" for "Court of Claims".

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

### § 194. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 644

Section, acts Feb. 25, 1920, ch. 85, § 38, 41 Stat. 451; Mar. 3, 1925, ch. 462, 43 Stat. 1145, related to fees and commissions of registers (successors to consolidated offices of registers and receivers), the predecessors of managers.

### § 195. Enforcement

#### (a) Violations

It shall be unlawful for any person:

(1) to organize or participate in any scheme, arrangement, plan, or agreement to circumvent or defeat the provisions of this chapter or its implementing regulations, or

(2) to seek to obtain or to obtain any money or property by means of false statements of

material facts or by failing to state material facts concerning:

- (A) the value of any lease or portion thereof issued or to be issued under this chapter;
- (B) the availability of any land for leasing under this chapter;
- (C) the ability of any person to obtain leases under this chapter; or
- (D) the provisions of this chapter and its implementing regulations.

**(b) Penalty**

Any person who knowingly violates the provisions of subsection (a) of this section shall be punished by a fine of not more than \$500,000, imprisonment for not more than five years, or both.

**(c) Civil actions**

Whenever it shall appear that any person is engaged, or is about to engage, in any act which constitutes or will constitute a violation of subsection (a) of this section, the Attorney General may institute a civil action in the district court of the United States for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located, for a temporary restraining order, injunction, civil penalty of not more than \$100,000 for each violation, or other appropriate remedy, including but not limited to, a prohibition from participation in exploration, leasing, or development of any Federal mineral, or any combination of the foregoing.

**(d) Corporations**

(1) Whenever a corporation or other entity is subject to civil or criminal action under this section, any officer, employee, or agent of such corporation or entity who knowingly authorized, ordered, or carried out the proscribed activity shall be subject to the same action.

(2) Whenever any officer, employee, or agent of a corporation or other entity is subject to civil or criminal action under this section for activity conducted on behalf of the corporation or other entity, the corporation or other entity shall be subject to the same action, unless it is shown that the officer, employee, or agent was acting without the knowledge or consent of the corporation or other entity.

**(e) Remedies, fines, and imprisonment**

The remedies, penalties, fines, and imprisonment prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies, penalties, fines, and imprisonment prescribed in this section shall be in addition to any other remedies, penalties, fines, and imprisonment afforded by any other law or regulation.

**(f) State civil actions**

(1) A State may commence a civil action under subsection (c) of this section against any person conducting activity within the State in violation of this section. Civil actions brought by a State shall only be brought in the United States district court for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located. The district court shall have jurisdic-

tion, without regard to the amount in controversy or the citizenship of the parties, to order appropriate remedies and penalties as described in subsection (c) of this section.

(2) A State shall notify the Attorney General of the United States of any civil action filed by the State under this subsection within 30 days of filing of the action. The Attorney General of the United States shall notify a State of any civil action arising from activity conducted within that State filed by the Attorney General under this subsection within 30 days of filing of the action.

(3) Any civil penalties recovered by a State under this subsection shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate. If a civil action is jointly brought by the Attorney General and a State, by more than one State or by the Attorney General and more than one State, any civil penalties recovered as a result of the joint action shall be shared by the parties bringing the action in the manner determined by the court rendering judgment in such action.

(4) If a State has commenced a civil action against a person conducting activity within the State in violation of this section, the Attorney General may join in such action but may not institute a separate action arising from the same activity under this section. If the Attorney General has commenced a civil action against a person conducting activity within a State in violation of this section, that State may join in such action but may not institute a separate action arising from the same activity under this section.

(5) Nothing in this section shall deprive a State of jurisdiction to enforce its own civil and criminal laws against any person who may also be subject to civil and criminal action under this section.

(Feb. 25, 1920, ch. 85, §41, as added Pub. L. 100-203, title V, §5108, Dec. 22, 1987, 101 Stat. 1330-260.)

**§ 196. Cooperative agreements; delegation of authority**

Notwithstanding any other provision of law, for fiscal year 1992 and each year thereafter, the Secretary of the Interior or his designee is authorized to—

(a) enter into a cooperative agreement or agreements with any State or Indian tribe to share royalty management information, to carry out inspection, auditing, investigation or enforcement (not including the collection of royalties, civil penalties, or other payments) activities in cooperation with the Secretary, except that the Secretary shall not enter into such cooperative agreement with a State with respect to any such activities on Indian lands except with the permission of the Indian tribe involved; and

(b) upon written request of any State, to delegate to the State all or part of the authorities and responsibilities of the Secretary under the authorizing leasing statutes, leases, and regulations promulgated pursuant thereto to conduct audits, investigations, and inspec-

tions, except that the Secretary shall not undertake such a delegation with respect to any Indian lands except with permission of the Indian tribe involved,

with respect to any lease authorizing exploration for or development of coal, any other solid mineral, or geothermal steam on any Federal lands or Indian lands within the State or with respect to any lease or portion of a lease subject to section 1337(g) of title 43, on the same terms and conditions as those authorized for oil and gas leases under sections 1732, 1733, 1735, and 1736 of this title and the regulations duly promulgated with respect thereto: *Provided further*, That section 1734 of this title shall apply to leases authorizing exploration for or development of coal, any other solid mineral, or geothermal steam on any Federal lands, or to any lease or portion of a lease subject to section 1337(g) of title 43: *Provided further*, That the Secretary shall compensate any State or Indian tribe for those costs which are necessary to carry out activities conducted pursuant to such cooperative agreement or delegation.

(Pub. L. 102-154, title I, Nov. 13, 1991, 105 Stat. 1001.)

#### 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.

#### SUBCHAPTER II—COAL

### § 201. Leases and exploration

#### (a) Leases

(1) The Secretary of the Interior is authorized to divide any lands subject to this chapter which have been classified for coal leasing into leasing tracts of such size as he finds appropriate and in the public interest and which will permit the mining of all coal which can be economically extracted in such tract and thereafter he shall, in his discretion, upon the request of any qualified applicant or on his own motion, from time to time, offer such lands for leasing and shall award leases thereon by competitive bidding: *Provided*, That notwithstanding the competitive bidding requirement of this section, the Secretary may, subject to such conditions which he deems appropriate, negotiate the sale at fair market value of coal the removal of which is necessary and incidental to the exercise of a right-of-way permit issued pursuant to title V of the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1761 et seq.]. No less than 50 per centum of the total acreage offered for lease by the Secretary in any one year shall be leased under a system of deferred bonus payment. Upon default or cancellation of any coal lease for which bonus payments are due, any unpaid remainder of the bid shall be immediately payable to the United States. A reasonable number of leasing tracts shall be reserved and offered for lease in accordance with this section to public bodies, including Federal agencies, rural electric cooperatives, or nonprofit corporations controlled by any of such entities: *Provided*, That the coal so offered for lease shall be for use by such entity or entities in implementing a defi-

nite plan to produce energy for their own use or for sale to their members or customers (except for short-term sales to others). No bid shall be accepted which is less than the fair market value, as determined by the Secretary, of the coal subject to the lease. Prior to his determination of the fair market value of the coal subject to the lease, the Secretary shall give opportunity for and consideration to public comments on the fair market value. Nothing in this section shall be construed to require the Secretary to make public his judgment as to the fair market value of the coal to be leased, or the comments he receives thereon prior to the issuance of the lease. He is authorized, in awarding leases for coal lands improved and occupied or claimed in good faith, prior to February 25, 1920, to consider and recognize equitable rights of such occupants or claimants.

(2)(A) The Secretary shall not issue a lease or leases under the terms of this chapter to any person, association, corporation, or any subsidiary, affiliate, or persons controlled by or under common control with such person, association, or corporation, where any such entity holds a lease or leases issued by the United States to coal deposits and has held such lease or leases for a period of ten years when such entity is not, except as provided for in section 207(b) of this title, producing coal from the lease deposits in commercial quantities. In computing the ten-year period referred to in the preceding sentence, periods of time prior to August 4, 1976, shall not be counted.

(B) Any lease proposal which permits surface coal mining within the boundaries of a National Forest which the Secretary proposes to issue under this chapter shall be submitted to the Governor of each State within which the coal deposits subject to such lease are located. No such lease may be issued under this chapter before the expiration of the sixty-day period beginning on the date of such submission. If any Governor to whom a proposed lease was submitted under this subparagraph objects to the issuance of such lease, such lease shall not be issued before the expiration of the six-month period beginning on the date the Secretary is notified by the Governor of such objection. During such six-month period, the Governor may submit to the Secretary a statement of reasons why such lease should not be issued and the Secretary shall, on the basis of such statement, reconsider the issuance of such lease.

(3)(A)(i) No lease sale shall be held unless the lands containing the coal deposits have been included in a comprehensive land-use plan and such sale is compatible with such plan. The Secretary of the Interior shall prepare such land-use plans on lands under his responsibility where such plans have not been previously prepared. The Secretary of the Interior shall inform the Secretary of Agriculture of substantial development interest in coal leasing on lands within the National Forest System. Upon receipt of such notification from the Secretary of the Interior, the Secretary of Agriculture shall prepare a comprehensive land-use plan for such areas where such plans have not been previously prepared. The plan of the Secretary of Agriculture shall take into consideration the pro-