

See also note set out under section 1 of this title.

INDIAN LANDS EXCEPTED

Commenting on this section and sections 72 to 76 of this title the Department of the Interior says:

“While there may be some Indian lands still subject to coal entry by virtue of the provisions of law opening such lands to entry, the coal land laws generally were superseded by the leasing Act of Feb. 25, 1920, 41 Stat. 437 [section 181 et seq. of this title], and it is at least questionable whether the coal land laws should be carried into the Code.”

§ 72. Preference right of coal mine entry; acreage limitation

Any person or association of persons severally qualified, as provided in section 71 of this title, who have opened and improved, or shall open and improve, any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference right of entry, under section 71 of this title, of the mines so opened and improved: *Provided*, That when any association of not less than four persons, severally qualified as provided in section 71 of this title, shall have expended not less than \$5,000 in working and improving any such mine or mines, such association may enter not exceeding six hundred and forty acres, including such mining improvements.

(R.S. § 2348.)

CODIFICATION

R.S. § 2348 derived from act Mar. 3, 1873, ch. 279, § 2, 17 Stat. 607.

INDIAN LANDS EXCEPTED

See note set out under section 71 of this title.

§ 73. Presentation of claims

All claims under section 72 of this title must be presented to the register of the proper land district within sixty days after the date of actual possession and the commencement of improvements on the land, by the filing of a declaratory statement therefor; but when the township plat is not on file at the date of such improvement, filing must be made within sixty days from the receipt of such plat at the district office.

(R.S. § 2349.)

CODIFICATION

R.S. § 2349 derived from act Mar. 3, 1873, ch. 279, § 3, 17 Stat. 607.

TRANSFER OF FUNCTIONS

Office of register of district land office abolished and all functions of register transferred to Secretary of the Interior, or to officers and agencies of Department of the Interior as Secretary may designate, by Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

See also note set out under section 1 of this title.

INDIAN LANDS EXCEPTED

See note set out under section 71 of this title.

§ 74. Number of coal land entries; other entries upon noncompliance with conditions

Sections 71 to 73 of this title shall be held to authorize only one entry by the same person or

association of persons; and no association of persons any member of which shall have taken the benefit of such sections, either as an individual or as a member of any other association, shall enter or hold any other lands under the provisions thereof; and no member of any association which shall have taken the benefit of such sections shall enter or hold any other lands under their provisions; and all persons claiming under section 72 of this title shall be required to prove their respective rights and pay for the lands filed upon within one year from the time prescribed for filing their respective claims; and upon failure to file the proper notice, or to pay for the land within the required period, the same shall be subject to entry by any other qualified applicant.

(R.S. § 2350.)

CODIFICATION

R.S. § 2350 derived from act Mar. 3, 1873, ch. 279, § 4, 17 Stat. 607.

INDIAN LANDS EXCEPTED

See note set out under section 71 of this title.

§ 75. Conflicting claims upon coal lands; rules and regulations

In case of conflicting claims upon coal lands where the improvements shall be commenced, after the third day of March, 1873, priority of possession and improvement, followed by proper filing and continued good faith, shall determine the preference right to purchase. And also where improvements have already been made prior to the third day of March, 1873, division of the land claimed may be made by legal subdivisions, to include, as near as may be, the valuable improvements of the respective parties. The Director of the Bureau of Land Management is authorized to issue all needful rules and regulations for carrying into effect the provisions of this section and sections 71 to 74 of this title.

(R.S. § 2351; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 2351 derived from act Mar. 3, 1873, ch. 279, § 5, 17 Stat. 608.

TRANSFER OF FUNCTIONS

“Director of the Bureau of Land Management” substituted in text for “Commissioner of the 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.

See also note set out under section 1 of this title.

INDIAN LANDS EXCEPTED

See note set out under section 71 of this title.

§ 76. Reservation of rights upon coal lands; sale of certain mining lands

Nothing in sections 71 to 75 of this title shall be construed to destroy or impair any rights which may have attached prior to the third day of March, 1873, or to authorize the sale of lands valuable for mines of gold, silver, or copper.

(R.S. § 2352.)

CODIFICATION

R.S. § 2352 derived from act Mar. 3, 1873, ch. 279, § 6, 17 Stat. 608.

INDIAN LANDS EXCEPTED

See note set out under section 71 of this title.

§ 77. Alabama coal lands; agricultural entry

Unreserved public lands containing coal deposits in the State of Alabama which on April 23, 1912, were being withheld from homestead entry under the provisions of section 171 of this title, may be entered under the homestead laws of the United States subject to the provisions, terms, conditions, and limitations prescribed in sections 83 to 85 of this title.

(Apr. 23, 1912, ch. 87, 37 Stat. 90.)

SUBCHAPTER II—COAL LAND ENTRIES
UNDER NONMINERAL LAND LAWS WITH
RESERVATION OF COAL TO UNITED
STATES**§ 81. Rights of entrymen of lands subsequently classified as coal lands; disposal of coal deposits**

Any person who has in good faith located, selected, or entered under the nonmineral land laws of the United States any lands which subsequently are classified, claimed, or reported as being valuable for coal, may, if he shall so elect, and upon making satisfactory proof of compliance with the laws under which such lands are claimed, receive a patent therefor, which shall contain a reservation to the United States of all coal in said lands, and the right to prospect for, mine, and remove the same. The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal land laws in force at the time of such disposal, but no person shall enter upon said lands to prospect for, or mine and remove coal therefrom, without previous consent of the owner under such patent, except upon such conditions as to security for and payment of all damages to such owner caused thereby as may be determined by a court of competent jurisdiction. The owner under such patent shall have the right to mine coal for use on the land for domestic purposes prior to the disposal by the United States of the coal deposit. Nothing herein contained shall be held to affect or abridge the right of any locator, selector, or entryman to a hearing for the purpose of determining the character of the land located, selected, or entered by him. Such locator, selector, or entryman who has made or shall make final proof showing good faith and satisfactory compliance with the law under which his land is claimed shall be entitled to a patent without reservation unless at the time of such final proof and entry it shall be shown that the land is chiefly valuable for coal.

(Mar. 3, 1909, ch. 270, 35 Stat. 844.)

PROTECTION OF SANCTITY OF CONTRACTS AND LEASES
OF SURFACE PATENT HOLDERS WITH RESPECT TO
COALBED METHANE GAS

Pub. L. 105-367, §1, Nov. 10, 1998, 112 Stat. 3313, provided that:

“(a) IN GENERAL.—Subject to subsection (b), the United States shall recognize as not infringing upon any ownership rights of the United States to coalbed methane any—

“(1) contract or lease covering any land that was conveyed by the United States under the Act entitled ‘An Act for the protection of surface rights of entrymen’, approved March 3, 1909 (30 U.S.C. 81), or the Act entitled ‘An Act to provide for agricultural entries on coal lands’, approved June 22, 1910 (30 U.S.C. 83 et seq.), that was—

“(A) entered into by a person who has title to said land derived under said Acts, and

“(B) that conveys rights to explore for, extract, and sell coalbed methane from said land; or

“(2) coalbed methane production from the lands described in subsection (a)(1) by a person who has title to said land and who, on or before the date of enactment of this Act [Nov. 10, 1998], has filed an application with the State oil and gas regulating agency for a permit to drill an oil and gas well to a completion target located in a coal formation.

“(b) APPLICATION.—Subsection (a)—

“(1) shall apply only to a valid contract or lease described in subsection (a) that is in effect on the date of enactment of this Act;

“(2) shall not otherwise change the terms or conditions of, or affect the rights or obligations of any person under such a contract or lease;

“(3) shall apply only to land with respect to which the United States is the owner of coal reserved to the United States in a patent issued under the Act of March 3, 1909 (30 U.S.C. 81), or the Act of June 22, 1910 (30 U.S.C. 83 et seq.), the position of the United States as the owner of the coal not having passed to a third party by deed, patent or other conveyance by the United States;

“(4) shall not apply to any interest in coal or land conveyed, restored, or transferred by the United States to a federally recognized Indian tribe, including any conveyance, restoration, or transfer made pursuant to the Indian Reorganization Act, June 18, 1934 (c. 576, 48 Stat. 984, as amended) [25 U.S.C. 5101 et seq.]; the Act of June 28, 1938 (c. 776, 52 Stat. 1209 as implemented by the order of September 14, 1938, 3 Fed. Reg. 1425); and including the area described in section 3 of Public Law 98-290 [former 25 U.S.C. 668 note]; or any executive order;

“(5) shall not be construed to constitute a waiver of any rights of the United States with respect to coalbed methane production that is not subject to subsection (a); and

“(6) shall not limit the right of any person who entered into a contract or lease before the date of enactment of this Act [Nov. 10, 1998], or enters into a contract or lease on or after the date of enactment of this Act, for coal owned by the United States, to mine and remove the coal and to release coalbed methane without liability to any person referred to in subsection (a)(1)(A) or (a)(2).”

Similar provisions were contained in Pub. L. 105-277, div. A, §101(e) [title III, §349], Oct. 21, 1998, 112 Stat. 2681-231, 2681-300.

LANDS IN NORTH PLATTE RECLAMATION PROJECT;
MINERAL RIGHTS

Patents for lands in North Platte Reclamation Project not to contain reservations of minerals in certain cases, see section 125 of this title.

**§ 82. New or supplemental patents, in case of
lands subsequently classified as noncoal**

The Secretary of the Interior is authorized and directed in cases where patents for public lands have been issued to entrymen under the provisions of sections 81 and 83 to 85 of this title, reserving to the United States all coal deposits therein, and lands so patented are subsequently classified as noncoal in character, to issue new or supplemental patents without such reservation.

(Apr. 14, 1914, ch. 55, 38 Stat. 335.)