

(Feb. 25, 1920, ch. 85, §8A, as added Pub. L. 94-377, §7, Aug. 4, 1976, 90 Stat. 1087.)

#### REFERENCES IN TEXT

Section 2, referred to in subsec. (a)(1), means section 2 of act Feb. 25, 1920, as amended, and is comprised of subsecs. (a) to (d). Subsecs. (a) and (b) of section 2 are classified to section 201 of this title, subsec. (c) of section 2 is classified to section 202 of this title, and subsec. (d) of section 2, as added by section 5(b) of Pub. L. 94-377, is classified to section 202a of this title.

The date of enactment of this Act, referred to in subsecs. (f) and (g), probably means the date of enactment of Pub. L. 94-377, which was approved Aug. 4, 1976.

#### § 208-2. Repealed. Pub. L. 104-66, title I, § 1091(e), Dec. 21, 1995, 109 Stat. 722

Section, act Feb. 25, 1920, ch. 85, §8B, as added Aug. 4, 1976, Pub. L. 94-377, §8, 90 Stat. 1089, related to reports to Congress on leasing and production of coal lands, contents, recommendations, and reports by Attorney General on competition in the coal industry and on effectiveness of antitrust laws.

#### § 208a. Repealed. Pub. L. 97-468, title VI, § 615(a)(3), Jan. 14, 1983, 96 Stat. 2578

Section, act July 19, 1932, ch. 513, 47 Stat. 707, authorized general manager of Alaska Railroad to purchase coal annually for railroad from two or more operating companies in areas adjacent to railroad.

Section was formerly classified to section 445a of Title 48, Territories and Insular Possessions.

#### EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 97-468 became effective on date of transfer of Alaska Railroad to the State [Jan. 5, 1983], pursuant to section 1203 of Title 45, Railroads, see Pub. L. 97-468, title VI, §615(a), Jan. 14, 1983, 96 Stat. 2577.

#### § 209. Suspension, waiver, or reduction of rents or royalties to promote development or operation; extension of lease on suspension of operations and production

The Secretary of the Interior, for the purpose of encouraging the greatest ultimate recovery of coal, oil, gas, oil shale<sup>1</sup> gilsonite (including all vein-type solid hydrocarbons),<sup>2</sup> phosphate, sodium, potassium and sulfur, and in the interest of conservation of natural resources, is authorized to waive, suspend, or reduce the rental, or minimum royalty, or reduce the royalty on an entire leasehold, or on any tract or portion thereof segregated for royalty purposes, whenever in his judgment it is necessary to do so in order to promote development, or whenever in his judgment the leases cannot be successfully operated under the terms provided therein.<sup>3</sup> *Provided, however,* That in order to promote development and the maximum production of tar sand, at the request of the lessee, the Secretary shall review, prior to commencement of commercial operations, the royalty rates established in each combined hydrocarbon lease issued in special tar sand areas. For purposes of this section, the term "tar sand" means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either: (1) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature,

greater than 10,000 centipoise, or (2) contains a hydrocarbonaceous material and is produced by mining or quarrying. In the event the Secretary of the Interior, in the interest of conservation, shall direct or shall assent to the suspension of operations and production under any lease granted under the terms of this chapter, any payment of acreage rental or of minimum royalty prescribed by such lease likewise shall be suspended during such period of suspension of operations and production; and the term of such lease shall be extended by adding any such suspension period thereto. The provisions of this section shall apply to all oil and gas leases issued under this chapter, including those within an approved or prescribed plan for unit or cooperative development and operation. Nothing in this section shall be construed as granting to the Secretary the authority to waive, suspend, or reduce advance royalties.

(Feb. 25, 1920, ch. 85, §39, as added Feb. 9, 1933, ch. 45, 47 Stat. 798; amended Aug. 8, 1946, ch. 916, §10, 60 Stat. 957; June 3, 1948, ch. 379, §7, 62 Stat. 291; Pub. L. 94-377, §14, Aug. 4, 1976, 90 Stat. 1091; Pub. L. 97-78, §1(3), (7), Nov. 16, 1981, 95 Stat. 1070, 1071.)

#### AMENDMENTS

1981—Pub. L. 97-78 inserted reference to gilsonite (including all vein-type solid hydrocarbons) and inserted proviso that, in order to promote development and the maximum production of tar sand, at the request of the lessee, the Secretary review, prior to commencement of commercial operations, the royalty rates established in each combined hydrocarbon lease issued in special tar sand areas, and that, for purposes of this section, "tar sand" means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise, or contains a hydrocarbonaceous material and is produced by mining or quarrying.

1976—Pub. L. 94-377 inserted sentence at end that nothing in this section shall be construed as granting to the Secretary authority to waive, suspend, or reduce advance royalties.

1948—Act June 3, 1948, extended applicability of section to oil shale, phosphate, sodium, potassium, and sulphur.

1946—Act Aug. 8, 1946, principally inserted first and third sentences relating to waiver, suspension or reduction of royalties or rentals, and applicability of section to cooperative or unit plans, respectively.

#### SAVINGS PROVISION

See note set out under section 181 of this title.

#### SUBCHAPTER III—PHOSPHATES

#### § 211. Phosphate deposits

##### (a) Authorization to lease land; terms and conditions; acreage

The Secretary of the Interior is authorized to lease to any applicant qualified under this chapter, through advertisement, competitive bidding, or such other methods as he may by general regulations adopt, any phosphate deposits of the United States, and lands containing such deposits, including associated and related minerals, when in his judgment the public interest will be best served thereby. The lands shall be leased under such terms and conditions as are herein specified, in units reasonably compact in

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

<sup>2</sup> So in original.

<sup>3</sup> So in original. The period probably should be a colon.

form of not to exceed two thousand five hundred and sixty acres.

**(b) Prospecting permits; issuance; term; acreage; entitlement to lease**

Where prospecting or exploratory work is necessary to determine the existence or workability of phosphate deposits in any unclaimed, undeveloped area, the Secretary of the Interior is authorized to issue, to any applicant qualified under this chapter, a prospecting permit which shall give the exclusive right to prospect for phosphate deposits, including associated minerals, for a period of two years, for not more than two thousand five hundred and sixty acres; and if prior to the expiration of the permit the permittee shows to the Secretary that valuable deposits of phosphate have been discovered within the area covered by his permit, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit.

**(c) Extension of term of permit**

Any phosphate permit issued under this section may be extended by the Secretary for such an additional period, not in excess of four years, as he deems advisable, if he finds that the permittee has been unable, with reasonable diligence, to determine the existence or workability of phosphate deposits in the area covered by the permit and desires to prosecute further prospecting or exploration, or for other reasons warranting such an extension in the opinion of the Secretary.

(Feb. 25, 1920, ch. 85, §9, 41 Stat. 440; June 3, 1948, ch. 379, §2, 62 Stat. 290; Pub. L. 86-391, §1(a), Mar. 18, 1960, 74 Stat. 7.)

AMENDMENTS

1960—Pub. L. 86-391 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

1948—Act June 3, 1948, included provision limiting amount of land in lease.

**§ 212. Surveys; royalties; time payable; annual rentals; term of leases; readjustment on renewals; minimum production; suspension of operation**

Each lease shall describe the leased lands by the legal subdivisions of the public-land surveys. All leases shall be conditioned upon the payment to the United States of such royalties as may be specified in the lease, which shall be fixed by the Secretary of the Interior in advance of offering the same, at not less than 5 per centum of the gross value of the output of phosphates or phosphate rock and associated or related minerals. Royalties shall be due and payable as specified in the lease either monthly or quarterly on the last day of the month next following the month or quarter in which the minerals are sold or removed from the leased land. Each lease shall provide for the payment of a rental payable at the date of the lease and annually thereafter which shall be not less than 25 cents per acre for the first year, 50 cents per acre for the second and third years, respectively, and \$1 per acre for each year thereafter, during the continuance of the lease. The rental paid for any year shall be credited against the royalties for that year. Leases shall be for a term of twen-

ty years and so long thereafter as the lessee complies with the terms and conditions of the lease and upon the further condition that at the end of each twenty-year period succeeding the date of the lease such reasonable readjustment of the terms and conditions thereof may be made therein as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the expiration of such periods. Leases shall be conditioned upon a minimum annual production or the payment of a minimum royalty in lieu thereof, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. The Secretary of the Interior may permit suspension of operations under any such leases when marketing conditions are such that the leases cannot be operated except at a loss.

(Feb. 25, 1920, ch. 85, §10, 41 Stat. 440; June 3, 1948, ch. 379, §3, 62 Stat. 290.)

AMENDMENTS

1948—Act June 3, 1948, amended section generally, omitting provisions relating to amount of lands in lease, and inserting provisions regarding royalties.

**§ 213. Royalties for use of deposits of silica, limestone, or other rock embraced in lease**

Any lease to develop and extract phosphates, phosphate rock, and associated or related minerals under the provisions of sections 211 to 214 of this title shall provide that the lessee may use so much of any deposit of silica or limestone or other rock situated on any public lands embraced in the lease as may be utilized in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or from other lands upon payments of such royalty as may be determined by the Secretary of the Interior, which royalty may be stated in the lease or, as to the leases already issued, may be provided for in an attachment to the lease to be duly executed by the lessor and the lessee.

(Feb. 25, 1920, ch. 85, §11, 41 Stat. 440; June 3, 1948, ch. 379, §4, 62 Stat. 291.)

AMENDMENTS

1948—Act June 3, 1948, amended section generally, omitting provision relating to royalties and annual rents, and inserting provisions relating to use of deposits of silica, limestone or other rock embraced in the lease upon the payment of a suitable royalty.

**§ 214. Use of surface of other public lands; acreage; forest lands exception**

The holder of any lease or permit issued under the provisions of sections 211 to 214 of this title shall have the right to use so much of the surface of unappropriated and unentered public lands not a part of his lease or permit, not exceeding eighty acres in area, as may be determined by the Secretary to be necessary or convenient for the extraction, treatment, and removal of the mineral deposits, but this provision shall not be applicable to national forest lands.

(Feb. 25, 1920, ch. 85, §12, 41 Stat. 441; June 3, 1948, ch. 379, §5, 62 Stat. 291; Pub. L. 86-391, §1(b), Mar. 18, 1960, 74 Stat. 8.)