

one State. For” for “except that with respect to leases for”, and added par. (5).

1982—Subsecs. (c), (d). Pub. L. 97-394 added subsecs. (c) and (d).

1981—Subsec. (a). Pub. L. 97-78 substituted “and gilsonite (including all vein-type solid hydrocarbons)” and “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)”.

Subsec. (c). 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 designated existing provisions as subsec. (a) and added subsecs. (b) and (c). Other changes included addition of native asphalt, solid and semisolid bitumen, and bituminous rock within the scope of the section, and insertion of the limitation upon such holdings.

#### TRANSFER OF FUNCTIONS

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 Section 7152(b) of Title 42 was repealed by Pub.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

### § 242. Oil shale claims

#### (a) Notice

Notwithstanding any other provision of law, within 60 days from October 24, 1992, the Secretary of the Interior shall provide notice to each holder of an unpatented oil shale mining claim of the requirements of this Act. Such notice shall be made by registered mail and by publication in a newspaper of general circulation in the areas in which such claims are located.

#### (b) Full patent

The holder of a valid oil shale mining claim who has filed a patent application and received first half final certificate for patent by October 24, 1992, may obtain a patent pursuant to the general mining laws of the United States.

#### (c) Patent

(1) Notwithstanding any other provision of law, the holder of a valid oil shale mining claim who has filed a patent application which has been accepted for processing by the Department of the Interior by October 24, 1992, but has not received first half final certificate for patent by October 24, 1992, may receive only a patent limited to the oil shale and associated minerals, upon payment of \$2.50 per acre. Title to the surface and to all other minerals, including, but not limited to, oil, gas, and coal, shall remain in the United States. Patents issued pursuant to this subsection shall provide for surface use to the same extent as is provided under applicable law prior to October 24, 1992, with respect to oil shale mining claims, subject to the requirements of subsection (f).

(2) Maintenance of claims referred to in this subsection prior to patent issuance shall be in accordance with the requirements of applicable law prior to October 24, 1992.

(3) Any holder of a valid oil shale mining claim referred to in this subsection may maintain such claim in accordance with the requirements set forth in subsection (e)(2) in lieu of receiving a patent under this section.

(4) Notwithstanding any other provision of law, any person referred to in paragraph (1) who obtains compensation from the United States as a result of the application of this section being declared to be a taking of property within the meaning of the Fifth Amendment to the United States Constitution, may obtain a full patent upon tender to the Secretary of the amount of such compensation, not including interest, and upon the receipt of such amount, the Secretary shall convey to such person a patent in the form and manner provided under the general mining laws of the United States. Such tender may only be made within 3 years of obtaining such compensation.

#### (d) Election

(1) Notwithstanding any other provision of law, within 180 days from the date of which the Secretary provided notice under subsection (a), a holder of a valid oil shale mining claim for which a patent application was not filed and accepted for processing by the Department of the Interior prior to October 24, 1992, shall file with the Secretary a notice of election to—

(A) proceed to limited patent as provided in subsection (e)(1); or

(B) maintain the unpatented claim as provided for in subsection (e)(2).

(2) Failure to file the notice of election as required by paragraph (1) shall be deemed conclusively to constitute an abandonment of the claim by operation of law.

(3) Any claim holder who elects to proceed under paragraph (1)(A) must apply for a patent within 2 years from the date of election or notify the Secretary in writing prior to expiration of the 2-year period of a decision to maintain such claim as provided in paragraph (1)(B) or such claim shall be deemed conclusively to have been abandoned by operation of law.

(4) The provisions of this subsection shall be in addition to the requirements of section 1744 of title 43.

#### (e) Effect of election

(1) Notwithstanding any other provisions of law, a claim holder subject to the election requirements of subsection (d) who elects to receive a limited patent shall receive title only to the oil shale associated minerals, upon payment of fair market value for the oil shale and associated minerals. Title to the surface and to all other minerals, including, but not limited to, oil, gas, and coal, shall remain in the United States. Patents issued pursuant to this subsection shall provide for surface use to the same extent as is provided under applicable law prior to October 24, 1992, with respect to oil shale mining claims, subject to the requirements of subsection (f).

(2) Notwithstanding any other provision of law, a claim holder referred to in subsection (c)

or a claim holder subject to the election requirements of subsection (d) who maintains or elects to maintain an unpatented claim shall maintain such claim by complying with the general mining laws of the United States, and with the provisions of this section, except that the claim holder shall no longer be required to perform annual labor, and instead shall pay to the Secretary \$550 per claim per year for deposit as miscellaneous receipts in the general fund of the Treasury, commencing with calendar year 1993. Such fee shall accompany the filing made by the claim holder with the Bureau of Land Management pursuant to section 1744(a)(2) of title 43.

**(f) Reclamation**

In addition to other applicable requirements, any person who holds a limited patent or maintains a claim pursuant to this section shall be required to carry out reclamation as prescribed by the Secretary and to furnish a bond or other appropriate financial guarantee in an amount sufficient to ensure adequate reclamation of the lands to be disturbed by any aspect of the proposed mining activities.

**(g) Reaffirmation of requirements**

Without comment on the adequacy of current or former standards for determining validity of oil shale claims, Congress reaffirms the requirements of law that a patent may issue only to persons who hold valid claims and the need for careful review of any applications.

**(h) Issuance of patents**

Notwithstanding any other provision of law, with respect to any oil shale mining claim located under the general mining laws of the United States, no patent for such claim shall be issued except as provided by this section.

(Pub. L. 102-486, title XXV, §2511, Oct. 24, 1992, 106 Stat. 3109.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 102-486, Oct. 24, 1992, 106 Stat. 2776, known as the Energy Policy Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of Title 42, The Public Health and Welfare, and Tables.

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

SUBCHAPTER VI—ALASKA OIL PROVISIO

**§ 251. Leases to claimants of withdrawn lands; terms and conditions; acreage; annual rentals and royalties; fraud of claimants**

Any bona fide occupant or claimant of oil or gas bearing lands in the Territory of Alaska, who, or whose predecessors in interest, prior to withdrawal had complied otherwise with the requirements of the mining laws, but had made no discovery of oil or gas in wells and who prior to withdrawal had made substantial improvements for the discovery of oil or gas on or for each location or had prior to February 25, 1920 expended not less than \$250 in improvements on or for each location shall be entitled, upon relinquish-

ment or surrender to the United States within one year from February 25, 1920, or within six months after final denial or withdrawal of application for patent, to a lease or leases, under this chapter covering such lands, not exceeding five leases in number and not exceeding an aggregate of one thousand two hundred and eighty acres in each: *Provided*, That the annual lease rentals for lands in the Territory of Alaska not within any known geological structure of a producing oil or gas field and the royalty payments from production of oil or gas sold or removed from such lands shall be identical with those prescribed for such leases covering similar lands in the States of the United States, except that leases which may issue pursuant to applications or offers to lease such lands, which applications or offers were filed prior to and were pending on May 3, 1958, shall require the payment of 25 cents per acre as lease rental for the first year of such leases; but the aforesaid exception shall not apply in any way to royalties to be required under leases which may issue pursuant to offers or applications filed prior to May 3, 1958.

The Secretary of the Interior shall neither prescribe nor approve any cooperative or unit plan of development or operation nor any operating, drilling, or development contract establishing different royalty or rental rates for Alaska lands than for similar lands within the States of the United States.

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

(Feb. 25, 1920, ch. 85, §22, 41 Stat. 446; Pub. L. 85-505, §10, July 3, 1958, 72 Stat. 324.)

AMENDMENTS

1958—Pub. L. 85-505 struck out provisions which related to prospecting permits, provided that the annual lease rentals and royalty payments shall be identical with those prescribed for leases covering similar lands in the States of the United States, permitted a payment of 25 cents per acre as lease rental for the first year of the lease in those leases issued pursuant to applications or offers filed prior to and pending on May 3, 1958, and prohibited the Secretary from prescribing or approving any cooperative or unit plan of development or operation or any operating, drilling, or development contract establishing different royalty or rental rates for Alaska lands than for similar lands within the States of the United States.

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.

SUBCHAPTER VII—SODIUM

**§ 261. Prospecting permits; lands included; acreage**

The Secretary of the Interior is hereby authorized, under such rules and regulations as he may prescribe, to grant to any qualified applicant a prospecting permit which shall give the exclusive right to prospect for chlorides, sulphates, carbonates, borates, silicates, or ni-