

(A) based on—

(i) the average price in the spot market for sales of comparable coal from the same region during the last month of each applicable continued operation year; or

(ii) in the absence of a spot market for comparable coal from the same region, by using a comparable method established by the Secretary of the Interior to capture the commercial value of coal; and

(B) based on commercial quantities, as defined by regulation by the Secretary of the Interior.

(5) The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed 20 years.

(6)<sup>1</sup> The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advance royalties paid under a lease described in paragraph (5) to the extent that the advance royalties have not been used to reduce production royalties for a prior year.

(6)<sup>1</sup> The Secretary may, upon six months' notification to the lessee cease to accept advance royalties in lieu of the requirement of continued operation.

(7) Nothing in this subsection shall be construed to affect the requirement contained in the second sentence of subsection (a) relating to commencement of production at the end of ten years.

**(c) Operation and reclamation plan**

Prior to taking any action on a leasehold which might cause a significant disturbance of the environment, the lessee shall submit for the Secretary's approval an operation and reclamation plan. The Secretary shall approve or disapprove the plan or require that it be modified. Where the land involved is under the surface jurisdiction of another Federal agency, that other agency must consent to the terms of such approval.

(Feb. 25, 1920, ch. 85, § 7, 41 Stat. 439; Pub. L. 94-377, § 6, Aug. 4, 1976, 90 Stat. 1087; Pub. L. 109-58, title IV, §§ 434, 435, Aug. 8, 2005, 119 Stat. 761, 762.)

AMENDMENTS

2005—Subsec. (b). Pub. L. 109-58, § 434, designated first to third and seventh and eighth sentences as pars. (1) to (3) and (6) and (7), respectively, substituted "Advance royalties described in paragraph (2)" for "Such advance royalties" in par. (3), added pars. (4), (5), and (6) related to amount of any production royalty paid, and struck out fourth to sixth sentences which read as follows: "The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed ten. The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advance royalties paid under such lease to the extent that such advance royalties have not been used to reduce production royalties for a prior year. No advance royalty paid during the initial twenty-year term of a lease shall be used to reduce a production royalty after the twentieth year of a lease."

Subsec. (c). Pub. L. 109-58, § 435, struck out "and not later than three years after a lease is issued," before "the lessee shall submit".

<sup>1</sup> So in original. Two pars. (6) have been enacted.

1976—Pub. L. 94-377 designated existing provisions as subsec. (a), substituted provisions limiting the lease term to 20 years and for so long thereafter as coal is produced annually in commercial quantities for provision authorizing leases for indeterminate periods upon condition of diligent development and continued operation except for strikes, the elements, or casualties not attributable to lessees; provisions for payment of royalties as determined by the Secretary of not less than 12½ per centum of coal value, except as reduced for coal from underground mining operations for provisions specifying royalties as stated in the lease, but not less than 5 cents per ton; provision for rentals as prescribed by regulation for provision setting rentals as fixed by the Secretary at not less than 25 cents per acre for the first year, 50 cents for the second, third, fourth and fifth years, and \$1 for each year thereafter, and provision for readjustment of royalties and terms and conditions after primary period of twenty years and subsequent ten year intervals for provision for readjustment after twenty years unless otherwise provided by law, and added subsecs. (b) and (c).

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-58 applicable with respect to any coal lease issued before, on, or after Aug. 8, 2005, see section 438 of Pub. L. 109-58, set out as a note under section 201 of this title.

**§ 208. Permits to take coal for local domestic needs without royalty payments; corporation exclusion; area to municipalities for household use without profit**

In order to provide for the supply of strictly local domestic needs for fuel, the Secretary of the Interior may, under such rules and regulations as he may prescribe in advance, issue limited licenses or permits to individuals or associations of individuals to prospect for, mine, and take for their use but not for sale, coal from the public lands without payment of royalty for the coal mined or the land occupied, on such conditions not inconsistent with this chapter as in his opinion will safeguard the public interests. This privilege shall not extend to any corporations. In the case of municipal corporations the Secretary of the Interior may issue such limited license or permit, for not to exceed three hundred and twenty acres for a municipality of less than one hundred thousand population, and not to exceed one thousand two hundred and eighty acres for a municipality of not less than one hundred thousand and not more than one hundred and fifty thousand population; and not to exceed two thousand five hundred and sixty acres for a municipality of one hundred and fifty thousand population or more, the land to be selected within the State wherein the municipal applicant may be located, upon condition that such municipal corporations will mine the coal therein under proper conditions and dispose of the same without profit to residents of such municipality for household use: *Provided*, That the acquisition or holding of a lease under sections 181, 201, and 202 to 207 of this title shall be no bar to the holding of such tract or operation of such mine under said limited license.

(Feb. 25, 1920, ch. 85, § 8, 41 Stat. 440.)

**§ 208-1. Exploratory program for evaluation of known recoverable coal resources**

**(a) Authorization; purpose**

The Secretary is authorized and directed to conduct a comprehensive exploratory program