

otherwise as prescribed in section 226 of this title for leases issued prior to August 21, 1935. The permittee shall also be entitled to a preference right to a lease for the remainder of the land in his prospecting permit at a royalty of not less than 12½ per centum in amount or value of the production nor more than the royalty rate prescribed by regulation in force on January 1, 1935, for secondary leases issued under this section, and under such other conditions as are fixed for oil or gas leases issued under section 226 of this title the royalty to be determined by competitive bidding or fixed by such other method as the Secretary may by regulations prescribe: *Provided further*, That the Secretary shall have the right to reject any or all bids.

(Feb. 25, 1920, ch. 85, §14, 41 Stat. 442; Aug. 21, 1935, ch. 599, §1, 49 Stat. 676.)

#### Editorial Notes

##### AMENDMENTS

1935—Act Aug. 21, 1935, inserted “reasonably” before “compact form” and substituted “and shall continue in force otherwise as prescribed in section 226 of this title for leases issued prior to August 21, 1935” and “oil or gas leases issued under section 226 of this title” for “with the right of renewal as prescribed in section 226 of this title” and “oil or gas leases in this chapter”, respectively.

#### Statutory Notes and Related Subsidiaries

##### LIMITATION OF ROYALTY ON DISCOVERIES DURING WAR PERIOD

Act Dec. 24, 1942, ch. 812, 56 Stat. 1080, limiting royalty obligation of oil or gas lessee who drills well resulting in discovery of new deposit on public domain during the national emergency was repealed by Joint Res. July 25, 1947, ch. 327, §1, 61 Stat. 449.

##### OUTER CONTINENTAL SHELF; LEASES

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

#### § 223a. Repealed. Aug. 8, 1946, ch. 916, §14, 60 Stat. 958

Section, act Aug. 21, 1935, ch. 599, §2, 49 Stat. 679, related to new oil and gas leases in lieu of old.

#### Statutory Notes and Related Subsidiaries

##### SAVINGS PROVISION

See note set out under section 181 of this title.

#### § 224. Payments for oil or gas taken prior to application for lease

Until the permittee shall apply for lease to the one quarter of the permit area heretofore provided for he shall pay to the United States 20 per centum of the gross value of all oil or gas secured by him from the lands embraced within his permit and sold or otherwise disposed of or held by him for sale or other disposition.

(Feb. 25, 1920, ch. 85, §15, 41 Stat. 442.)

#### § 225. Condition of lease, forfeiture for violation

All leases of lands containing oil or gas, made or issued under the provisions of this chapter,

shall be subject to the condition that the lessee will, in conducting his explorations and mining operations, use all reasonable precautions to prevent waste of oil or gas developed in the land, or the entrance of water through wells drilled by him to the oil sands or oil-bearing strata, to the destruction or injury of the oil deposits. Violations of the provisions of this section shall constitute grounds for the forfeiture of the lease, to be enforced as provided in this chapter.

(Feb. 25, 1920, ch. 85, §16, 41 Stat. 443; Aug. 8, 1946, ch. 916, §2, 60 Stat. 951.)

#### Editorial Notes

##### AMENDMENTS

1946—Act Aug. 8, 1946, omitted condition that no wells should be drilled within two hundred feet of boundaries of leased lands.

#### Statutory Notes and Related Subsidiaries

##### SAVINGS PROVISION

See note set out under section 181 of this title.

##### OUTER CONTINENTAL SHELF; TERMS AND CONDITIONS OF LEASES

Terms and conditions of mineral leases on submerged lands of outer Continental Shelf, see section 1337 of Title 43, Public Lands.

#### § 226. Lease of oil and gas lands

##### (a) Authority of Secretary

All lands subject to disposition under this chapter which are known or believed to contain oil or gas deposits may be leased by the Secretary.

##### (b) Lands within known geologic structure of a producing oil or gas field; lands within special tar sand areas; competitive bidding; royalties

(1)(A) All lands to be leased which are not subject to leasing under paragraphs (2) and (3) of this subsection shall be leased as provided in this paragraph to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 2,560 acres, except in Alaska, where units shall be not more than 5,760 acres. Such units shall be as nearly compact as possible. Lease sales shall be conducted by oral bidding, except as provided in subparagraph (C). Lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary. A lease shall be conditioned upon the payment of a royalty at a rate of not less than 12.5 percent in amount or value of the production removed or sold from the lease. The Secretary shall accept the highest bid from a responsible qualified bidder which is equal to or greater than the national minimum acceptable bid, without evaluation of the value of the lands proposed for lease. Leases shall be issued within 60 days following payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year. All bids for less than the national minimum acceptable bid shall be rejected. Lands for which no bids are received or for which the highest bid is

less than the national minimum acceptable bid shall be offered promptly within 30 days for leasing under subsection (c) of this section and shall remain available for leasing for a period of 2 years after the competitive lease sale.

(B) The national minimum acceptable bid shall be \$2 per acre for a period of 2 years from December 22, 1987. Thereafter, the Secretary, subject to paragraph (2)(B), may establish by regulation a higher national minimum acceptable bid for all leases based upon a finding that such action is necessary: (i) to enhance financial returns to the United States; and (ii) to promote more efficient management of oil and gas resources on Federal lands. Ninety days before the Secretary makes any change in the national minimum acceptable bid, the Secretary shall 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. The proposal or promulgation of any regulation to establish a national minimum acceptable bid shall not be considered a major Federal action subject to the requirements of section 4332(2)(C) of title 42.

(C) In order to diversify and expand the Nation's onshore leasing program to ensure the best return to the Federal taxpayer, reduce fraud, and secure the leasing process, the Secretary may conduct onshore lease sales through Internet-based bidding methods. Each individual Internet-based lease sale shall conclude within 7 days.

(2)(A)(i) If the lands to be leased are within a special tar sand area, they shall be leased to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 5,760 acres, which shall be as nearly compact as possible, upon the payment by the lessee of such bonus as may be accepted by the Secretary.

(ii) Royalty shall be 12½ per centum in amount or value of production removed or sold from the lease, subject to subsection (k)(1)(c).<sup>1</sup>

(iii) The Secretary may lease such additional lands in special tar sand areas as may be required in support of any operations necessary for the recovery of tar sands.

(iv) No lease issued under this paragraph shall be included in any chargeability limitation associated with oil and gas leases.

(B) For any area that contains any combination of tar sand and oil or gas (or both), the Secretary may issue under this chapter, separately—

(i) a lease for exploration for and extraction of tar sand; and

(ii) a lease for exploration for and development of oil and gas.

(C) A lease issued for tar sand shall be issued using the same bidding process, annual rental, and posting period as a lease issued for oil and gas, except that the minimum acceptable bid required for a lease issued for tar sand shall be \$2 per acre.

(D) The Secretary may waive, suspend, or alter any requirement under section 183 of this

title that a permittee under a permit authorizing prospecting for tar sand must exercise due diligence, to promote any resource covered by a combined hydrocarbon lease.

(3)(A) If the United States held a vested future interest in a mineral estate that, immediately prior to becoming a vested present interest, was subject to a lease under which oil or gas was being produced, or had a well capable of producing, in paying quantities at an annual average production volume per well per day of either not more than 15 barrels per day of oil or condensate, or not more than 60,000 cubic feet of gas, the holder of the lease may elect to continue the lease as a noncompetitive lease under subsection (c)(1).

(B) An election under this paragraph is effective—

(i) in the case of an interest which vested after January 1, 1990, and on or before October 24, 1992, if the election is made before the date that is 1 year after October 24, 1992;

(ii) in the case of an interest which vests within 1 year after October 24, 1992, if the election is made before the date that is 2 years after October 24, 1992; and

(iii) in any case other than those described in clause (i) or (ii), if the election is made prior to the interest becoming a vested present interest.

(C) Notwithstanding the consent requirement referenced in section 352 of this title, the Secretary shall issue a noncompetitive lease under subsection (c)(1) to a holder who makes an election under subparagraph (A) and who is qualified to hold a lease under this chapter. Such lease shall be subject to all terms and conditions under this chapter that are applicable to leases issued under subsection (c)(1).

(D) A lease issued pursuant to this paragraph shall continue so long as oil or gas continues to be produced in paying quantities.

(E) This paragraph shall apply only to those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following).

**(c) Lands subject to leasing under subsection (b); first qualified applicant**

(1) If the lands to be leased are not leased under subsection (b)(1) of this section or are not subject to competitive leasing under subsection (b)(2) of this section, the person first making application for the lease who is qualified to hold a lease under this chapter shall be entitled to a lease of such lands without competitive bidding, upon payment of a non-refundable application fee of at least \$75. A lease under this subsection shall be conditioned upon the payment of a royalty at a rate of 12.5 percent in amount or value of the production removed or sold from the lease. Leases shall be issued within 60 days of the date on which the Secretary identifies the first responsible qualified applicant.

(2)(A) Lands (i) which were posted for sale under subsection (b)(1) of this section but for which no bids were received or for which the highest bid was less than the national minimum acceptable bid and (ii) for which, at the end of the period referred to in subsection (b)(1) of this

<sup>1</sup> So in original. Probably should be subsection "(k)(1)(C).".

section no lease has been issued and no lease application is pending under paragraph (1) of this subsection, shall again be available for leasing only in accordance with subsection (b)(1) of this section.

(B) The land in any lease which is issued under paragraph (1) of this subsection or under subsection (b)(1) of this section which lease terminates, expires, is cancelled or is relinquished shall again be available for leasing only in accordance with subsection (b)(1) of this section.

**(d) Annual rentals**

All leases issued under this section, as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, shall be conditioned upon payment by the lessee of a rental of not less than \$1.50 per acre per year for the first through fifth years of the lease and not less than \$2 per acre per year for each year thereafter. A minimum royalty in lieu of rental of not less than the rental which otherwise would be required for that lease year shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.

**(e) Primary terms**

Competitive and noncompetitive leases issued under this section shall be for a primary term of 10 years: *Provided, however,* That competitive leases issued in special tar sand areas shall also be for a primary term of ten years. Each such lease shall continue so long after its primary term as oil or gas is produced in paying quantities. Any lease issued under this section for land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for two years and so long thereafter as oil or gas is produced in paying quantities.

**(f) Notice of proposed action; posting of notice; terms and maps**

At least 45 days before offering lands for lease under this section, and at least 30 days before approving applications for permits to drill under the provisions of a lease or substantially modifying the terms of any lease issued under this section, the Secretary shall provide notice of the proposed action. Such notice shall be posted in the appropriate local office of the leasing and land management agencies. Such notice shall include the terms or modified lease terms and maps or a narrative description of the affected lands. Where the inclusion of maps in such notice is not practicable, maps of the affected lands shall be made available to the public for review. Such maps shall show the location of all tracts to be leased, and of all leases already issued in the general area. The requirements of this subsection are in addition to any public notice required by other law.

**(g) Regulation of surface-disturbing activities; approval of plan of operations; bond or surety; failure to comply with reclamation requirements as barring lease; opportunity to comply with requirements**

The Secretary of the Interior, or for National Forest lands, the Secretary of Agriculture, shall

regulate all surface-disturbing activities conducted pursuant to any lease issued under this chapter, and shall determine reclamation and other actions as required in the interest of conservation of surface resources. No permit to drill on an oil and gas lease issued under this chapter may be granted without the analysis and approval by the Secretary concerned of a plan of operations covering proposed surface-disturbing activities within the lease area. The Secretary concerned shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface-disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. The Secretary shall not issue a lease or leases or approve the assignment of any lease or leases under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the Secretary of the Interior or Secretary of Agriculture, such entity has failed or refused to comply in any material respect with the reclamation requirements and other standards established under this section for any prior lease to which such requirements and standards applied. Prior to making such determination with respect to any such entity the concerned Secretary shall provide such entity with adequate notification and an opportunity to comply with such reclamation requirements and other standards and shall consider whether any administrative or judicial appeal is pending. Once the entity has complied with the reclamation requirement or other standard concerned an oil or gas lease may be issued to such entity under this chapter.

**(h) National Forest System Lands**

The Secretary of the Interior may not issue any lease on National Forest System Lands reserved from the public domain over the objection of the Secretary of Agriculture.

**(i) Termination**

No lease issued under this section which is subject to termination because of cessation of production shall be terminated for this cause so long as reworking or drilling operations which were commenced on the land prior to or within sixty days after cessation of production are conducted thereon with reasonable diligence, or so long as oil or gas is produced in paying quantities as a result of such operations. No lease issued under this section shall expire because operations or production is suspended under any order, or with the consent, of the Secretary. No lease issued under this section covering lands on which there is a well capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same unless the lessee is allowed a reasonable time, which shall be not less than sixty days after notice by registered or certified mail, within which to place such well in producing status or unless, after such status

is established, production is discontinued on the leased premises without permission granted by the Secretary under the provisions of this chapter.

**(j) Drainage agreements; primary term of lease, extension**

Whenever it appears to the Secretary that lands owned by the United States are being drained of oil or gas by wells drilled on adjacent lands, he may negotiate agreements whereby the United States, or the United States and its lessees, shall be compensated for such drainage. Such agreements shall be made with the consent of the lessees, if any, affected thereby. If such agreement is entered into, the primary term of any lease for which compensatory royalty is being paid, or any extension of such primary term, shall be extended for the period during which such compensatory royalty is paid and for a period of one year from discontinuance of such payment and so long thereafter as oil or gas is produced in paying quantities.

**(k) Mining claims; suspension of running time of lease**

If, during the primary term or any extended term of any lease issued under this section, a verified statement is filed by any mining claimant pursuant to subsection (c) of section 527 of this title, whether such filing occur prior to September 2, 1960 or thereafter, asserting the existence of a conflicting unpatented mining claim or claims upon which diligent work is being prosecuted as to any lands covered by the lease, the running of time under such lease shall be suspended as to the lands involved from the first day of the month following the filing of such verified statement until a final decision is rendered in the matter.

**(l) Exchange of leases; conditions**

The Secretary of the Interior shall, upon timely application therefor, issue a new lease in exchange for any lease issued for a term of twenty years, or any renewal thereof, or any lease issued prior to August 8, 1946, in exchange for a twenty-year lease, such new lease to be for a primary term of five years and so long thereafter as oil or gas is produced in paying quantities and at a royalty rate of not less than 12½ per centum in amount or value of the production removed or sold from such leases, except that the royalty rate shall be 12½ per centum in amount or value of the production removed or sold from said leases as to (1) such leases, or such parts of the lands subject thereto and the deposits underlying the same, as are not believed to be within the productive limits of any producing oil or gas deposit, as such productive limits are found by the Secretary to have existed on August 8, 1946; and (2) any production on a lease from an oil or gas deposit which was discovered after May 27, 1941, by a well or wells drilled within the boundaries of the lease, and which is determined by the Secretary to be a new deposit; and (3) any production on or allocated to a lease pursuant to an approved cooperative or unit plan of development or operation from an oil or gas deposit which was discovered after May 27, 1941, on land committed to such plan, and which is determined by the Secretary to be

a new deposit, where such lease, or a lease for which it is exchanged, was included in such plan at the time of discovery or was included in a duly executed and filed application for the approval of such plan at the time of discovery.

**(m) Cooperative or unit plan; authority of Secretary of the Interior to alter or modify; communitization or drilling agreements; term of lease, conditions; Secretary to approve operating, drilling or development contracts, and subsurface storage**

For the purpose of more properly conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof (whether or not any part of said oil or gas pool, field, or like area, is then subject to any cooperative or unit plan of development or operation), lessees thereof and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of such pool, field, or like area, or any part thereof, whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest. The Secretary is thereunto authorized, in his discretion, with the consent of the holders of leases involved, to establish, alter, change, or revoke drilling, producing, rental, minimum royalty, and royalty requirements of such leases and to make such regulations with reference to such leases, with like consent on the part of the lessees, in connection with the institution and operation of any such cooperative or unit plan as he may deem necessary or proper to secure the proper protection of the public interest. The Secretary may provide that oil and gas leases hereafter issued under this chapter shall contain a provision requiring the lessee to operate under such a reasonable cooperative or unit plan, and he may prescribe such a plan under which such lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

Any plan authorized by the preceding paragraph which includes lands owned by the United States may, in the discretion of the Secretary, contain a provision whereby authority is vested in the Secretary of the Interior, or any such person, committee, or State or Federal officer or agency as may be designated in the plan, to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such plan. All leases operated under any such plan approved or prescribed by the Secretary shall be excepted in determining holdings or control under the provisions of any section of this chapter.

When separate tracts cannot be independently developed and operated in conformity with an established well-spacing or development program, any lease, or a portion thereof, may be pooled with other lands, whether or not owned by the United States, under a communitization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the Secretary of the Interior to be in the public interest, and operations or production pursuant to

such an agreement shall be deemed to be operations or production as to each such lease committed thereto.

Any lease issued for a term of twenty years, or any renewal thereof, or any portion of such lease that has become the subject of a cooperative or unit plan of development or operation of a pool, field, or like area, which plan has the approval of the Secretary of the Interior, shall continue in force until the termination of such plan. Any other lease issued under any section of this chapter which has heretofore or may hereafter be committed to any such plan that contains a general provision for allocation of oil or gas shall continue in force and effect as to the land committed so long as the lease remains subject to the plan: *Provided*, That production is had in paying quantities under the plan prior to the expiration date of the term of such lease. Any lease heretofore or hereafter committed to any such plan embracing lands that are in part within and in part outside of the area covered by any such plan shall be segregated into separate leases as to the lands committed and the lands not committed as of the effective date of unitization: *Provided, however*, That any such lease as to the nonunitized portion shall continue in force and effect for the term thereof but for not less than two years from the date of such segregation and so long thereafter as oil or gas is produced in paying quantities. The minimum royalty or discovery rental under any lease that has become subject to any cooperative or unit plan of development or operation, or other plan that contains a general provision for allocation of oil or gas, shall be payable only with respect to the lands subject to such lease to which oil or gas shall be allocated under such plan. Any lease which shall be eliminated from any such approved or prescribed plan, or from any communitization or drilling agreement authorized by this section, and any lease which shall be in effect at the termination of any such approved or prescribed plan, or at the termination of any such communitization or drilling agreement, unless relinquished, shall continue in effect for the original term thereof, but for not less than two years, and so long thereafter as oil or gas is produced in paying quantities.

The Secretary of the Interior is hereby authorized, on such conditions as he may prescribe, to approve operating, drilling, or development contracts made by one or more lessees of oil or gas leases, with one or more persons, associations, or corporations whenever, in his discretion, the conservation of natural products or the public convenience or necessity may require it or the interests of the United States may be best subserved thereby. All leases operated under such approved operating, drilling, or development contracts, and interests thereunder, shall be excepted in determining holdings or control under the provisions of this chapter.

The Secretary of the Interior, to avoid waste or to promote conservation of natural resources, may authorize the subsurface storage of oil or gas, whether or not produced from federally owned lands, in lands leased or subject to lease under this chapter. Such authorization may provide for the payment of a storage fee or rental on such stored oil or gas or, in lieu of such fee

or rental, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced. Any lease on which storage is so authorized shall be extended at least for the period of storage and so long thereafter as oil or gas not previously produced is produced in paying quantities.

**(n) Conversion of oil and gas leases and claims on hydrocarbon resources to combined hydrocarbon leases for primary term of 10 years; application**

(1)(A) The owner of (1) an oil and gas lease issued prior to November 16, 1981, or (2) a valid claim to any hydrocarbon resources leaseable under this section based on a mineral location made prior to January 21, 1926, and located within a special tar sand area shall be entitled to convert such lease or claim to a combined hydrocarbon lease for a primary term of ten years upon the filing of an application within two years from November 16, 1981, containing an acceptable plan of operations which assures reasonable protection of the environment and diligent development of those resources requiring enhanced recovery methods of development or mining. For purposes of conversion, no claim shall be deemed invalid solely because it was located as a placer location rather than a lode location or vice versa, notwithstanding any previous adjudication on that issue.

(B) The Secretary shall issue final regulations to implement this section within six months of November 16, 1981. If any oil and gas lease eligible for conversion under this section would otherwise expire after November 16, 1981, and before six months following the issuance of implementing regulations, the lessee may preserve his conversion right under such lease for a period ending six months after the issuance of implementing regulations by filing with the Secretary, before the expiration of the lease, a notice of intent to file an application for conversion. Upon submission of a complete plan of operations in substantial compliance with the regulations promulgated by the Secretary for the filing of such plans, the Secretary shall suspend the running of the term of any oil and gas lease proposed for conversion until the plan is finally approved or disapproved. The Secretary shall act upon a proposed plan of operations within fifteen months of its submittal.

(C) When an existing oil and gas lease is converted to a combined hydrocarbon lease, the royalty shall be that provided for in the original oil and gas lease and for a converted mining claim, 12½ per centum in amount or value of production removed or sold from the lease.

(2) Except as provided in this section, nothing in the Combined Hydrocarbon Leasing Act of 1981 shall be construed to diminish or increase the rights of any lessee under any oil and gas lease issued prior to November 16, 1981.

**(o) Certain outstanding oil and gas deposits**

(1) Prior to the commencement of surface-disturbing activities relating to the development of oil and gas deposits on lands described under paragraph (5), the Secretary of Agriculture shall require, pursuant to regulations promulgated by the Secretary, that such activities be subject to

terms and conditions as provided under paragraph (2).

(2) The terms and conditions referred to in paragraph (1) shall require that reasonable advance notice be furnished to the Secretary of Agriculture at least 60 days prior to the commencement of surface disturbing activities.

(3) Advance notice under paragraph (2) shall include each of the following items of information:

(A) A designated field representative.

(B) A map showing the location and dimensions of all improvements, including but not limited to, well sites and road and pipeline accesses.

(C) A plan of operations, of an interim character if necessary, setting forth a schedule for construction and drilling.

(D) A plan of erosion and sedimentation control.

(E) Proof of ownership of mineral title.

Nothing in this subsection shall be construed to affect any authority of the State in which the lands concerned are located to impose any requirements with respect to such oil and gas operations.

(4) The person proposing to develop oil and gas deposits on lands described under paragraph (5) shall either—

(A) permit the Secretary to market merchantable timber owned by the United States on lands subject to such activities; or

(B) arrange to purchase merchantable timber on lands subject to such surface disturbing activities from the Secretary of Agriculture, or otherwise arrange for the disposition of such merchantable timber, upon such terms and upon such advance notice of the items referred to in subparagraphs (A) through (E) of paragraph (3) as the Secretary may accept.

(5)(A) The lands referred to in this subsection are those lands referenced in subparagraph (B) which are under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following), but does not have an interest in oil and gas deposits that may be present under such lands. This subsection does not apply to any such lands where, under the provisions of its acquisition of an interest in the lands, the United States is to acquire any oil and gas deposits that may be present under such lands in the future but such interest has not yet vested with the United States.

(B) This subsection shall only apply in the Allegheny National Forest.

**(p) Deadlines for consideration of applications for permits**

**(1) In general**

Not later than 10 days after the date on which the Secretary receives an application for any permit to drill, the Secretary shall—

(A) notify the applicant that the application is complete; or

(B) notify the applicant that information is missing and specify any information that is required to be submitted for the application to be complete.

**(2) Issuance or deferral**

Not later than 30 days after the applicant for a permit has submitted a complete application, the Secretary shall—

(A) issue the permit, if the requirements under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other applicable law have been completed within such timeframe; or

(B) defer the decision on the permit and provide to the applicant a notice—

(i) that specifies any steps that the applicant could take for the permit to be issued; and

(ii) a list of actions that need to be taken by the agency to complete compliance with applicable law together with timelines and deadlines for completing such actions.

**(3) Requirements for deferred applications**

**(A) In general**

If the Secretary provides notice under paragraph (2)(B), the applicant shall have a period of 2 years from the date of receipt of the notice in which to complete all requirements specified by the Secretary, including providing information needed for compliance with the National Environmental Policy Act of 1969.

**(B) Issuance of decision on permit**

If the applicant completes the requirements within the period specified in subparagraph (A), the Secretary shall issue a decision on the permit not later than 10 days after the date of completion of the requirements described in subparagraph (A), unless compliance with the National Environmental Policy Act of 1969 and other applicable law has not been completed within such timeframe.

**(C) Denial of permit**

If the applicant does not complete the requirements within the period specified in subparagraph (A) or if the applicant does not comply with applicable law, the Secretary shall deny the permit.

(Feb. 25, 1920, ch. 85, §17, 41 Stat. 443; July 3, 1930, ch. 854, §1, 46 Stat. 1007; Mar. 4, 1931, ch. 506, 46 Stat. 1523; Aug. 21, 1935, ch. 599, §1, 49 Stat. 676; Aug. 8, 1946, ch. 916, §3, 60 Stat. 951; July 29, 1954, ch. 644, §1(1)–(3), 68 Stat. 583; Pub. L. 86–507, §1(21), June 11, 1960, 74 Stat. 201; Pub. L. 86–705, §2, Sept. 2, 1960, 74 Stat. 781; Pub. L. 97–78, §1(6), (8), Nov. 16, 1981, 95 Stat. 1070, 1071; Pub. L. 100–203, title V, §5102(a)–(d)(1), Dec. 22, 1987, 101 Stat. 1330–256, 1330–257; Pub. L. 102–486, title XXV, §§2507(a), 2508(a), 2509, Oct. 24, 1992, 106 Stat. 3107–3109; Pub. L. 103–437, §11(a)(1), Nov. 2, 1994, 108 Stat. 4589; Pub. L. 104–66, title I, §1081(a), Dec. 21, 1995, 109 Stat. 721; Pub. L. 109–58, title III, §§350(a), (b), 366, 369(j)(1), Aug. 8, 2005, 119 Stat. 711, 726, 730; Pub. L. 113–291, div. B, title XXX, §3022(a), Dec. 19, 2014, 128 Stat. 3762.)

**Editorial Notes**

REFERENCES IN TEXT

Act of March 1, 1911, referred to in subsecs. (b)(3)(E) and (o)(5)(A), is act Mar. 1, 1911, ch. 186, 36 Stat. 961,

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.

The Federal Onshore Oil and Gas Leasing Reform Act of 1987, referred to in subsec. (d), is subtitle B (§§ 5101 to 5113) of title V of Pub. L. 100-203, Dec. 22, 1987, 101 Stat. 1330-256. For complete classification of this Act to the Code, see Short Title of 1987 Amendment note set out under section 181 of this title and Tables.

The Combined Hydrocarbon Leasing Act of 1981, referred to in subsec. (n)(2), is Pub. L. 97-78, Nov. 16, 1981, 95 Stat. 1070, which amended sections 181, 182, 184, 209, 226, 241, 351, and 352 of this title and enacted a provision set out as a note under section 181 of this title. For complete classification of this Act to the Code, see Short Title of 1981 Amendment note set out under section 181 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (p)(2)(A), (3)(A), (B), 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 Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

#### AMENDMENTS

2014—Subsec. (b)(1)(A). Pub. L. 113-291, § 3022(a)(1), inserted “, except as provided in subparagraph (C)” after “by oral bidding”.

Subsec. (b)(1)(C). Pub. L. 113-291, § 3022(a)(2), added subpar. (C).

2005—Subsec. (b)(1)(B). Pub. L. 109-58, § 350(b), inserted “, subject to paragraph (2)(B),” after “Thereafter, the Secretary”.

Subsec. (b)(2). Pub. L. 109-58, § 350(a), designated existing provisions as subpar. (A) and added subpars. (B) to (D).

Subsec. (b)(2)(A). Pub. L. 109-58, § 369(j)(1), designated first sentence as cl. (i), substituted “5,760” for “five thousand one hundred and twenty”, designated second and third sentences as cls. (ii) and (iii), respectively, and added cl. (iv).

Subsec. (p). Pub. L. 109-58, § 366, added subsec. (p).

1995—Subsec. (j). Pub. L. 104-66 struck out at end “The Secretary shall report to Congress at the beginning of each regular session all such agreements entered into during the previous year which involve unleased Government lands.”

1994—Subsec. (b)(1)(B). Pub. L. 103-437 substituted “Natural Resources” for “Interior and Insular Affairs” before “of the United States House”.

1992—Subsec. (b)(1)(A). Pub. L. 102-486, § 2507(a)(1), substituted “under paragraphs (2) and (3)” for “under paragraph (2)”.

Subsec. (b)(3). Pub. L. 102-486, § 2507(a)(2), added par. (3).

Subsec. (e). Pub. L. 102-486, § 2509, substituted “Competitive and noncompetitive leases issued under this section shall be for a primary term of 10 years: *Provided, however,*” for “Competitive leases issued under this section shall be for a primary term of five years and noncompetitive leases for a primary term of ten years: *Provided, however,*”.

Subsec. (o). Pub. L. 102-486, § 2508(a), added subsec. (o).

1987—Subsec. (b)(1). Pub. L. 100-203, § 5102(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “If the lands to be leased are within any known geological structure of a producing oil or gas field, they shall be leased to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than six hundred and forty acres, which shall be as nearly compact in form as possible, upon the payment by the lessee of such bonus as may be accepted by the Secretary and of such royalty as may be fixed in the lease, which shall be not less than 12½ per centum in amount or value of the production removed or sold from the lease.”

Subsec. (c). Pub. L. 100-203, § 5102(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “If the lands to be leased are not subject to leasing under subsection (b) of this section, the person first making application for the lease who is qualified to hold a lease under this chapter shall be entitled to a lease of such lands without competitive bidding. Such leases shall be conditioned upon the payment by the lessee of a royalty of 12½ per centum in amount or value of the production removed or sold from the lease.”

Subsec. (d). Pub. L. 100-203, § 5102(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “All leases issued under this section shall be conditioned upon payment by the lessee of a rental of not less than 50 cents per acre for each year of the lease. Each year’s lease rental shall be paid in advance. A minimum royalty of \$1 per acre in lieu of rental shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.”

Subsecs. (f) to (n). Pub. L. 100-203, § 5102(d)(1), added subsecs. (f) to (h) and redesignated former subsecs. (f) to (k) as (i) to (n), respectively.

1981—Subsec. (b). Pub. L. 97-78, § 1(6)(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 97-78, § 1(6)(b), substituted “subject to leasing under subsection (b) of this section” for “within any known geological structure of a producing oil or gas field”.

Subsec. (e). Pub. L. 97-78, § 1(6)(c), inserted proviso that competitive leases in special tar sand areas be for a primary term of ten years.

Subsec. (k). Pub. L. 97-78, § 1(8), added subsec. (k).

1960—Pub. L. 86-705 generally amended this section and sections 226d and 226e of this title, combining all three sections and subdividing provisions into subsections (a) to (j) of this section. Among other changes were: substitution of a fixed 10-year term for a renewable 5-year term for noncompetitive leases, the addition of subsec. (h) provisions with respect to the running of time against a lease during a contest of the claim, an increase in the minimum yearly rentals from 25 to 50 cents an acre, and striking out provisions that permitted a waiver of second-year and third-year rentals in certain situations.

Pub. L. 86-507 authorized notice of withdrawal to be given by certified mail.

1954—Act July 29, 1954, in second par., provided, that no lease shall terminate for nonproduction (1) if reworking or drilling operations are begun within 60 days after cessation of production, (2) if cessation of production is by order or with consent of the Secretary of the Interior, or (3) unless the lessee is given a reasonable time of at least 60 days to place a well, capable of producing paying quantities of oil or gas, on a producing status.

Act July 29, 1954, in third par., made sure that if a lessee seasonably applies for an extension of the initial five-year term of the lease he will be given such extension for either 5 years or 2 years, depending on whether or not the land is in a producing structure.

Act July 29, 1954, in fifth par., provided that the primary term of a lease which is effected by an agreement under which the United States received compensatory royalty remains in full force and effect for 1 year following discontinuance of compensatory royalty payments.

1946—Act Aug. 8, 1946, principally substituted, with respect to the leasing of lands not within a known geological structure of a producing oil or gas field, a royalty rate of 12½ per cent without further provision as to lease terms or quality of production; substituted a minimum royalty of \$1 per acre per annum after discovery for the advance rental of not less than 25 cents per acre per annum required prior to discovery; provided that all leases shall be for a primary term of 5 years which shall continue thereafter for so long as oil or gas is produced in paying quantities, and that leases, with certain exceptions, shall be subject to one renewal

for 5 years, and, if not subject to renewal, shall extend for an additional 2 years if diligent operations are in progress at the lease expiration date.

1935—Act Aug. 21, 1935, amended section generally.

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

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

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-486, title XXV, §2507(b), Oct. 24, 1992, 106 Stat. 3108, provided that: "The amendments made by subsection (a) [amending this section] apply with respect to those mineral estates in which the interest of the United States becomes a vested present interest after January 1, 1990."

##### REGULATIONS

Pub. L. 109-58, title III, §350(c), Aug. 8, 2005, 119 Stat. 711, provided that: "Not later than 45 days after the date of enactment of this Act [Aug. 8, 2005], the Secretary [of the Interior] shall issue final regulations to implement this section [amending this section]."

Pub. L. 102-486, title XXV, §2508(b), Oct. 24, 1992, 106 Stat. 3109, provided that: "Within 90 days after the enactment of this Act [Oct. 24, 1992] the Secretary of Agriculture shall promulgate regulations to implement the amendment made by subsection (a) [amending this section]."

Pub. L. 100-203, title V, §5107, Dec. 22, 1987, 101 Stat. 1330-259, provided that:

"(a) REGULATIONS.—The Secretary shall issue final regulations to implement this subtitle [subtitle B (§§5101-5113) of title V of Pub. L. 100-203, see Short Title of 1987 Amendment note set out under section 181 of this title] within 180 days after the enactment of this subtitle [Dec. 22, 1987]. The regulations shall be effective when published in the Federal Register.

"(b) TREATMENT UNDER OTHER LAW.—The proposal or promulgation of such regulations shall not be considered a major Federal action subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 [42 U.S.C. 4332(2)(C)].

"(c) TEST SALE.—The Secretary may hold one or more lease sales conducted in accordance with the amendments made by this subtitle before promulgation of regulations referred to in subsection (a). Sale procedures for such sale shall be established in the notice of sale."

##### SAVINGS PROVISION

Pub. L. 86-705, §8, Sept. 2, 1960, 74 Stat. 791, provided that: "No amendment made by this Act [see Short Title of 1960 Amendment note set out under section 181 of this title] shall affect any valid right in existence on the effective date [Sept. 2, 1960] of the Mineral Leasing Act Revision of 1960."

See note set out under section 181 of this title.

##### TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior, referred to in subsec. (j), 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.

##### PENDING APPLICATIONS, OFFERS, AND BIDS

Pub. L. 100-203, title V, §5106, Dec. 22, 1987, 101 Stat. 1330-259, provided that:

"(a) Notwithstanding any other provision of this subtitle [subtitle B (§§5101-5113) of title V of Pub. L.

100-203, see Short Title of 1987 Amendment note set out under section 181 of this title] and except as provided in subsection (b) of this section, all noncompetitive oil and gas lease applications and offers and competitive oil and gas bids pending on the date of enactment of this subtitle [Dec. 22, 1987] shall be processed, and leases shall be issued under the provisions of the Act of February 25, 1920 [this chapter], as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law.

"(b) No noncompetitive lease applications or offers pending on the date of enactment of this subtitle for lands within the Shawnee National Forest, Illinois; the Ouachita National Forest, Arkansas; Fort Chaffee, Arkansas; or Eglin Air Force Base, Florida; shall be processed until these lands are posted for competitive bidding in accordance with section 5102 of this subtitle [amending this section and section 188 of this title]. If any such tract does not receive a bid equal to or greater than the national minimum acceptable bid from a responsible qualified bidder then the noncompetitive applications or offers pending for such a tract shall be reinstated and noncompetitive leases issued under the Act of February 25, 1920, as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law. If competitive leases are issued for any such tract, then the pending noncompetitive application or offer shall be rejected.

"(c) Except as provided in subsections (a) and (b) of this section, all oil and gas leasing pursuant to the Act of February 25, 1920, after the date of enactment of this subtitle shall be conducted in accordance with the provisions of this subtitle."

##### REPORT TO CONGRESS

Pub. L. 100-203, title V, §5110, Dec. 22, 1987, 101 Stat. 1330-261, required the Secretary to submit to Congress, annually for 5 years after Dec. 22, 1987, a report containing appropriate information, as specified by this section, to facilitate congressional monitoring of this subtitle B (§§5101-5113) of title V 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).

##### LAND USE STUDY

Pub. L. 100-203, title V, §5111, Dec. 22, 1987, 101 Stat. 1330-262, provided that: "The National Academy of Sciences and the Comptroller General of the United States shall conduct a study of the manner in which oil and gas resources are considered in the land use plans developed by the Secretary of the Interior in accordance with provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) [Pub. L. 94-579, see Short Title note under 43 U.S.C. 1701] and the Secretary of Agriculture in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476) [Pub. L. 93-378, 16 U.S.C. 1600 et seq.], as amended by the National Forest Management Act of 1976 (90 Stat. 2949) [Pub. L. 94-588, see Short Title of 1976 Amendment note under 16 U.S.C. 1600], and recommend any improvements that may be necessary to ensure that—

"(1) potential oil and gas resources are adequately addressed in planning documents;

"(2) the social, economic, and environmental consequences of exploration and development of oil and gas resources are determined; and

"(3) any stipulations to be applied to oil and gas leases are clearly identified."

##### REINSTATEMENT AND EXTENSION OF CERTAIN TEN-YEAR OIL AND GAS LEASES

Act July 14, 1952, ch. 742, 66 Stat. 630, provided: "That any lease issued for a ten-year term in exchange for an



oil and gas prospecting permit pursuant to sections 13 and 17 of the Act entitled 'An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain', approved February 25, 1920, as amended by the Act of August 21, 1935 (49 Stat. 674) [sections 221 and 226, respectively, of this title], and prior to amendment by the Act of August 8, 1946 [act Aug. 8, 1946, ch. 916, § 3, 60 Stat. 951], and upon which drilling operations were being diligently prosecuted on the expiration date of such lease, prior to the effective date of this Act [July 14, 1952], is hereby reinstated effective from the expiration date of the lease and shall continue in effect for a period of two years after the effective date of this Act and so long thereafter as oil or gas is produced in paying quantities, if, within ninety days after the enactment of this Act, payment is made, under the terms of such lease as reinstated and extended, of any sums due the United States for prior years. This Act shall not be applicable to any lands which, subsequent to such expiration and prior to the enactment of this Act, have been withdrawn from leasing, leased, or otherwise disposed of."

#### OUTER CONTINENTAL SHELF; LEASES

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

### § 226-1. Extension of noncompetitive oil or gas lease issued before September 2, 1960

#### (a) Lands not withdrawn from leasing

Upon the expiration of the initial five-year term of any noncompetitive oil or gas lease which was issued prior to September 2, 1960, and which has been maintained in accordance with applicable statutory requirements and regulations, the record titleholder thereof shall be entitled to a single extension of the lease, unless then otherwise provided by law, for such lands covered by it as are not, on the expiration date of the lease, withdrawn from leasing. A withdrawal, however, shall not affect the right to an extension if actual drilling operations on such lands were commenced prior to the effective date of the withdrawal and were being diligently prosecuted on the expiration date of the lease. No withdrawal shall be effective within the meaning of this section until ninety days after notice thereof has been sent by registered or certified mail to each lessee to be affected by such withdrawal.

#### (b) Known and unknown geologic structures of producing fields

As to lands not within the known geologic structure of a producing oil or gas field, a noncompetitive oil or gas lease to which this section is applicable shall be extended for a period of five years and so long thereafter as oil or gas is produced in paying quantities. As to lands within the known geologic structure of a producing oil or gas field, a noncompetitive lease to which this section is applicable shall be extended for a period of two years and so long thereafter as oil or gas is produced in paying quantities.

#### (c) Application requirement

Any noncompetitive oil or gas lease extended under this section shall be subject to the rules and regulations in force at the expiration of the initial five-year term of the lease. No extension shall be granted, however, unless within a period

of ninety days prior to the expiration date of the lease an application therefor is filed by the record titleholder or an assignee whose assignment has been filed for approval or an operator whose operating agreement has been filed for approval.

#### (d) Commencement of actual drilling operations

Any lease issued prior to September 2, 1960, which has been maintained in accordance with applicable statutory requirements and regulations and which pertains to land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for two years and so long thereafter as oil or gas is produced in paying quantities.

(Pub. L. 86-705, § 4, Sept. 2, 1960, 74 Stat. 789.)

#### Editorial Notes

##### CODIFICATION

Section was enacted as part of Mineral Leasing Act Revision of 1960, and not as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which comprises this chapter.

### § 226-2. Limitations for filing oil and gas contests

No action contesting a decision of the Secretary involving any oil and gas lease shall be maintained unless such action is commenced or taken within ninety days after the final decision of the Secretary relating to such matter. No such action contesting such a decision of the Secretary rendered prior to September 2, 1960 shall be maintained unless the same be commenced or taken within ninety days after September 2, 1960.

(Feb. 25, 1920, ch. 85, § 42, as added Pub. L. 86-705, § 5, Sept. 2, 1960, 74 Stat. 790.)

### § 226-3. Lands not subject to oil and gas leasing

#### (a) Prohibition

The Secretary shall not issue any lease under this chapter or under the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.] on any of the following Federal lands:

- (1) Lands recommended for wilderness allocation by the surface managing agency.
- (2) Lands within Bureau of Land Management wilderness study areas.
- (3) Lands designated by Congress as wilderness study areas, except where oil and gas leasing is specifically allowed to continue by the statute designating the study area.
- (4) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or have been released to uses other than wilderness by an act of Congress.

#### (b) Exploration

In the case of any area of National Forest or public lands subject to this section, nothing in this section shall affect any authority of the