

paragraph (3), on a finding by the Secretary under paragraph (2), any person" for "Any person" and "secure modifications of the original coal lease by including additional coal lands or coal deposits contiguous or cornering to those embraced in the lease" for "upon a finding by him that it would be in the interest of the United States, secure modifications of the original coal lease by including additional coal lands or coal deposits contiguous or cornering to those embraced in such lease, but in no event shall the total area added by such modifications to an existing coal lease exceed one hundred sixty acres, or add acreage larger than that in the original lease", added pars. (2) and (3), and designated second and third sentences as subsecs. (b) and (c), respectively.

1978—Pub. L. 95-554 authorized modification of leases to include coal lands or coal deposits cornering to those embraced in the leases and inserted provision respecting application of production or mining plan requirements of sections 202a(2) and 207(c) and minimum royalty provisions of section 207(a) of this title.

1976—Pub. L. 94-377 struck out the advantage to the lessee as one of the conditions for modification of the original lease, substituted provision prohibiting the addition of total area in excess of 160 acres or adding acreage larger than that in the original lease for provision limiting the total area embraced in such modified lease to an aggregate of 2560 acres, and inserted provision authorizing the Secretary to prescribe terms and conditions consistent with this chapter which shall be applicable to the total acreage in the modified lease.

Statutory Notes and Related Subsidiaries

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.

SAVINGS PROVISION

Pub. L. 94-377, §13(b), Aug. 4, 1976, 90 Stat. 1090, provided that the amendment made by that section is subject to valid existing rights.

§ 204. Repealed. Pub. L. 94-377, § 13(a), Aug. 4, 1976, 90 Stat. 1090

Section, act Feb. 25, 1920, ch. 85, §4, 41 Stat. 439, provided for the leasing of an additional tract of land or coal deposit, not to exceed 2560 acres, upon a showing by a lessee that all workable deposits of coal would be exhausted, worked out, or removed within three years thereafter.

Statutory Notes and Related Subsidiaries

SAVINGS PROVISION

Pub. L. 94-377, §13(a), Aug. 4, 1976, 90 Stat. 1090, provided that the repeal of this section is subject to valid existing rights.

§ 205. Consolidation of leases

If, in the judgment of the Secretary of the Interior, the public interest will be subserved thereby, lessees holding under lease areas not exceeding the maximum permitted under this chapter may consolidate their leases through the surrender of the original leases and the inclusion of such areas in a new lease of not to exceed two thousand five hundred and sixty acres of contiguous lands.

(Feb. 25, 1920, ch. 85, §5, 41 Stat. 439.)

§ 206. Noncontiguous coal or phosphate tracts in single lease

Where coal or phosphate lands aggregating two thousand five hundred and sixty acres and

subject to lease hereunder do not exist as contiguous areas, the Secretary of the Interior is authorized, if, in his opinion the interests of the public and of the lessee will be thereby subserved, to embrace in a single lease noncontiguous tracts which can be operated as a single mine or unit.

(Feb. 25, 1920, ch. 85, §6, 41 Stat. 439.)

§ 207. Conditions of lease

(a) Term of lease; annual rentals; royalties; readjustment of conditions

A coal lease shall be for a term of twenty years and for so long thereafter as coal is produced annually in commercial quantities from that lease. Any lease which is not producing in commercial quantities at the end of ten years shall be terminated. The Secretary shall by regulation prescribe annual rentals on leases. A lease shall require payment of a royalty in such amount as the Secretary shall determine of not less than 12½ per centum of the value of coal as defined by regulation, except the Secretary may determine a lesser amount in the case of coal recovered by underground mining operations. The lease shall include such other terms and conditions as the Secretary shall determine. Such rentals and royalties and other terms and conditions of the lease will be subject to readjustment at the end of its primary term of twenty years and at the end of each ten-year period thereafter if the lease is extended.

(b) Diligent development and continued operation; suspension of condition on payment of advance royalties

(1) Each lease shall be subject to the conditions of diligent development and continued operation of the mine or mines, except where operations under the lease are interrupted by strikes, the elements, or casualties not attributable to the lessee.

(2) The Secretary of the Interior, upon determining that the public interest will be served thereby, may suspend the condition of continued operation upon the payment of advance royalties.

(3) Advance royalties described in paragraph (2) shall be no less than the production royalty which would otherwise be paid and shall be computed on a fixed reserve to production ratio (determined by the Secretary).

(4) Advance royalties described in paragraph (2) shall be computed—

(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)¹ 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)¹ 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.)

Editorial Notes

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".

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).

Statutory Notes and Related Subsidiaries

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 designed to obtain sufficient data and information to evaluate the extent, location, and potential for developing the known recoverable coal resources within the coal lands subject to this chapter. This program shall be designed to obtain the resource information necessary for determining whether commercial quantities of coal are present and the geographical extent of the coal fields and for estimating the amount of

¹ So in original. Two pars. (6) have been enacted.