

Statutory Notes and Related Subsidiaries

SAVINGS PROVISION

Act June 22, 1948, ch. 605, § 3, 62 Stat. 576, provided that the repeal of these sections is subject to existing valid rights.

§ 233a. Permits or leases of certain lands in Oklahoma; retention of royalties

The Secretary of the Interior is directed to retain in his custody until otherwise directed by law the 12½ per centum and other royalties heretofore or hereafter received by him in pursuance of section 233¹ of this title.

(Mar. 4, 1925, ch. 550, § 2, 43 Stat. 1302.)

Editorial Notes

REFERENCES IN TEXT

Section 233 of this title, referred to in text, was repealed by act June 22, 1948, ch. 605, § 3, 62 Stat. 576.

CODIFICATION

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

§§ 234 to 236. Repealed. June 22, 1948, ch. 605, § 3, 62 Stat. 576

Section 234, act Mar. 4, 1923, ch. 249, § 5, 42 Stat. 1449, provided for application of other laws to leases and permits granted under sections 230 to 233 and 234 to 236 of this title, and for disposition of lands and deposits remaining unappropriated and undisposed of.

Section 235, act Mar. 4, 1923, ch. 249, § 6, 42 Stat. 1449, prohibited interference with certain lands in possession of receivers appointed by the Supreme Court.

Section 236, act Mar. 4, 1923, ch. 249, § 7, 42 Stat. 1450, authorized promulgation of rules and regulations necessary to accomplish purposes of sections 230 to 233 and 234 to 236 of this title.

Statutory Notes and Related Subsidiaries

SAVINGS PROVISION

Act June 22, 1948, ch. 605, § 3, 62 Stat. 576, provided that the repeal of these sections is subject to existing valid rights.

§ 236a. Lands in naval petroleum reserves and naval oil-shale reserves; effect of other laws

Nothing in sections 185, 221,¹ 223, 223a,¹ and 226 of this title and this section shall be construed as affecting any lands within the borders of the naval petroleum reserves and naval oil-shale reserves or agreements concerning operations thereunder or in relation to the same, but the Secretary of the Navy is hereby authorized, with the consent of the President, to enter into agreements such as those provided for under sections 184 and 226 of this title, which agreement shall not, unless expressed therein, operate to extend the terms of any lease affected thereby.

(Aug. 21, 1935, ch. 599, § 3, 49 Stat. 679.)

Editorial Notes

REFERENCES IN TEXT

Section 221 of this title, referred to in text, was omitted from the Code.

¹ See References in Text note below.

¹ See References in Text note below.

Section 223a of this title, referred to in text, was repealed by act Aug. 8, 1946, ch. 916, § 14, 60 Stat. 958.

CODIFICATION

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

§ 236b. Existing leases within naval petroleum reserves not affected

Nothing in this act shall be construed as affecting existing leases within the borders of the naval petroleum reserves, or agreements concerning operations thereunder or in relation thereto.

(Aug. 8, 1946, ch. 916, § 13, 60 Stat. 958; Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 675.)

Editorial Notes

REFERENCES IN TEXT

This act, referred to in text, is act Aug. 8, 1946, ch. 916, 60 Stat. 950, which is classified generally to sections 181, 184, 187a, 187b, 188, 193, 209, 225, 226, 226c to 226e, 236b, and 285 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

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

AMENDMENTS

1956—Act Aug. 10, 1956, repealed the portion of this section after “thereto” which authorized the Secretary of the Navy, with the consent of the President, to enter into agreements such as those provided for in section 236e of this title, which agreements, should not, unless expressed therein, operate to extend the term of any lease affected thereby.

§ 237. Omitted**Editorial Notes**

CODIFICATION

Section, Pub. L. 95-372, title VI, § 602, Sept. 18, 1978, 92 Stat. 694, which required the Secretary of the Interior to submit annual reports to Congress on delinquent royalty accounts under leases issued under any Act regulating development of oil and gas on Federal lands, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 111 of House Document No. 103-7.

SUBCHAPTER V—OIL SHALE

§ 241. Leases of lands**(a) In general**

(1) The Secretary of the Interior is hereby authorized to lease to any person or corporation qualified under this chapter any deposits of oil shale, and gilsonite (including all vein-type solid hydrocarbons) belonging to the United States and the surface of so much of the public lands containing such deposits, or land adjacent thereto, as may be required for the extraction and reduction of the leased minerals, under such rules and regulations, not inconsistent with this chapter, as he may prescribe.

(2) No lease hereunder shall exceed 5,760 acres of land, to be described by the legal subdivisions

of the public-land surveys, or if unsurveyed, to be surveyed by the United States, at the expense of the applicant, in accordance with regulations to be prescribed by the Secretary of the Interior.

(3) Leases may be for indeterminate periods, upon such conditions as may be imposed by the Secretary of the Interior, including covenants relative to methods of mining, prevention of waste, and productive development.

(4) For the privilege of mining, extracting, and disposing of the oil or other minerals covered by a lease under this section the lessee shall pay to the United States such royalties as shall be specified in the lease and an annual rental, payable at the beginning of each year, at the rate of \$2.00 per acre per annum, for the lands included in the lease, the rental paid for any one year to be credited against the royalties accruing for that year; such royalties to be subject to readjustment at the end of each twenty-year period by the Secretary of the Interior. For the purpose of encouraging the production of petroleum products from shales the Secretary may, in his discretion, waive the payment of any royalty and rental during the first five years of any lease. Any person having a valid claim to such minerals under existing laws on January 1, 1919, shall, upon the relinquishment of such claim, be entitled to a lease under the provisions of this section for such area of the land relinquished as shall not exceed the maximum area authorized by this section to be leased to an individual or corporation. 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. No one person, association, or corporation shall acquire or hold more than 50,000 acres of oil shale leases in any one State. For gilsonite (including all vein-type solid hydrocarbons) no person, association, or corporation shall acquire or hold more than seven thousand six hundred eighty acres in any one State without respect to the number of leases.

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

(b) Offer for lease; deposits other than oil shale; questioned validity because of location; preference rights

If an offer for a lease under the provisions of this section for deposits other than oil shale is based upon a mineral location, the validity of which might be questioned because the claim was based on a placer location rather than on a lode location, or vice versa, the offeror shall have a preference right to a lease if the offer is filed not more than one year after September 2, 1960.

(c)¹ Multiple use principal leases; gilsonite including all vein-type solid hydrocarbons

With respect to gilsonite (including all vein-type solid hydrocarbons) a lease under the multiple use principle may issue notwithstanding the existence of an outstanding lease issued under any other provision of this chapter.

(c)¹ Offsite leases

(1) The Secretary may within the State of Colorado lease to the holder of the Federal oil shale lease known as Federal Prototype Tract C—additional lands necessary for the disposal of oil shale wastes and the materials removed from mined lands, and for the building of plants, reduction works, and other facilities connected with oil shale operations (which lease shall be referred to hereinafter as an “offsite lease”). The Secretary may only issue one offsite lease not to exceed six thousand four hundred acres. An offsite lease may not serve more than one Federal oil shale lease and may not be transferred except in conjunction with the transfer of the Federal oil shale lease that it serves.

(2) The Secretary may issue one offsite lease of not more than three hundred and twenty acres to any person, association or corporation which has the right to develop oil shale on non-Federal lands. An offsite lease serving non-Federal oil shale land may not serve more than one oil shale operation and may not be transferred except in conjunction with the transfer of the non-Federal oil shale land that it serves. Not more than two offsite leases may be issued under this paragraph.

(3) An offsite lease shall include no rights to any mineral deposits.

(4) The Secretary may issue offsite leases after consideration of the need for such lands, impacts on the environment and other resource values, and upon a determination that the public interest will be served thereby.

(5) An offsite lease for lands the surface of which is under the jurisdiction of a Federal agency other than the Department of the Interior shall be issued only with the consent of that other Federal agency and shall be subject to such terms and conditions as it may prescribe.

(6) An offsite lease shall be for such periods of time and shall include such lands, subject to the acreage limitations contained in this subsection, as the Secretary determines to be necessary to achieve the purposes for which the lease is issued, and shall contain such provisions as he determines are needed for protection of environmental and other resource values.

(7) An offsite lease shall provide for the payment of an annual rental which shall reflect the fair market value of the rights granted and which shall be subject to such revisions as the Secretary, in his discretion, determines may be needed from time to time to continue to reflect the fair market value.

(8) An offsite lease may, at the option of the lessee, include provisions for payments in any year which payments shall be credited against any portion of the annual rental for a subsequent year to the extent that such payment is payable by the Secretary of the Treasury under section 191 of this title to the State within the boundaries of which the leased lands are located. Such funds shall be paid by the Secretary of the Treasury to the appropriate State in accordance with section 191 of this title, and such funds shall be distributed by the State only to those counties, municipalities, or jurisdictional subdivisions impacted by oil shale development and/or where the lease is sited.

(9) An offsite lease shall remain subject to leasing under the other provisions of this chap-

¹ Two subsecs. (c) have been enacted.

ter where such leasing would not be incompatible with the offsite lease.

(d) Considerations governing issuance of offsite lease

In recognition of the unique character of oil shale development:

(1) In determining whether to offer or issue an offsite lease under subsection (c), the Secretary shall consult with the Governor and appropriate State, local, and tribal officials of the State where the lands to be leased are located, and of any additional State likely to be affected significantly by the social, economic, or environmental effects of development under such lease, in order to coordinate Federal and State planning processes, minimize duplication of permits, avoid delays, and anticipate and mitigate likely impacts of development.

(2) The Secretary may issue an offsite lease under subsection (d)² after consideration of (A) the need for leasing, (B) impacts on the environment and other resource values, (C) socioeconomic factors, and (D) information from consultations with the Governors of the affected States.

(3) Before determining whether to offer an offsite lease under subsection (c), the Secretary shall seek the recommendation of the Governor of the State in which the lands to be leased are located as to whether or not to lease such lands, what alternative actions are available, and what special conditions could be added to the proposed lease to mitigate impacts. The Secretary shall accept the recommendations of the Governor if he determines that they provide for a reasonable balance between the national interest and the State's interests. The Secretary shall communicate to the Governor, in writing, and publish in the Federal Register the reasons for his determination to accept or reject such Governor's recommendations.

(Feb. 25, 1920, ch. 85, §21, 41 Stat. 445; Pub. L. 86-705, §7, Sept. 2, 1960, 74 Stat. 790; Pub. L. 97-78, §1(1), Nov. 16, 1981, 95 Stat. 1070; Pub. L. 97-394, title III, §318, Dec. 30, 1982, 96 Stat. 1999; Pub. L. 109-58, title III, §369(j)(2), Aug. 8, 2005, 119 Stat. 731.)

Editorial Notes

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-58 designated first to third sentences as pars. (1) to (3), respectively, substituted “5,760” for “five thousand one hundred and twenty” in par. (2), designated fourth to eighth sentences as par. (4) and substituted “rate of \$2.00 per acre” for “rate of 50 cents per acre”, “No one person” for “Not more than one lease shall be granted under this section to any one person”, and “shall acquire or hold more than 50,000 acres of oil shale leases in any 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.

Statutory Notes and Related Subsidiaries

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 require-

² So in original. Probably should be subsection “(c)”.

ments 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 an-

nual 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.)

Editorial Notes

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 relinquishment 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