

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Manage- ment, Department of the Interior

Circular No. 1781

PART 191—GENERAL REGULATIONS APPLI- CABLE TO MINERAL PERMITS, LEASES AND LICENSES

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AUTHORITY: §§ 191.1 to 191.40 issued under sec. 32, 41 Stat. 450, sec. 1, 44 Stat. 301; 30 U. S. C. 189, 271. Interpret or apply sec. 5, 44 Stat. 1058, as amended; 30 U. S. C. 285.

GENERAL PROVISIONS

§ 191.1 *Purpose of the leasing acts.* The act of February 25, 1920 (41 Stat. 437; 30 U. S. C. 181), as amended and supplemented, including the amendatory act of August 8, 1946 (60 Stat. 950), the act of February 7, 1927 (44 Stat. 1057; 30 U. S. C. 281-287) and the act of April 17, 1926 (44 Stat. 301; 30 U. S. C. 271-276) as amended, hereinafter called "the act," provide for the leasing of oil and gas, coal, potassium, sodium, phosphate, and oil shale, and lands containing such deposits owned by the United States in the public domain and deposits of sulphur and

the public lands containing such deposits in the States of Louisiana and New Mexico, except as stated in § 191.2.¹

[Circ. 1623, Oct. 28, 1946]

§ 191.2 *Lands and deposits to which mineral leasing act does not apply.* The mineral leasing act does not apply (a) to lands containing the mineral deposits named in § 191.1 where such lands are situated in (1) national parks and monuments; (2) Indian reservations; (3) incorporated cities, towns and villages, or (4) naval petroleum and oil shale reserves; nor (b) to lands acquired under the act of March 1, 1911 (36 Stat. 961; 16 U. S. C. 513-519) known as the Appalachian Forest Reserve Act, or other acquired lands.

[Circ. 1623, Oct. 28, 1946]

§ 191.3 *Who may hold leases and permits.* Mineral prospecting permits and mineral leases may be issued only to (a) citizens of the United States; (b) associations of such citizens; (c) corporations organized under the laws of the United States or of any State or Territory thereof; or (d) in the case of coal, oil, oil shale, or gas, municipalities. A mineral lease or permit will not be issued to a minor.

[Circ. 1623, Oct. 28, 1946;
Circ. 1723, Jan. 19, 1949]

§ 191.4 *Rights of aliens.* Aliens may not acquire or hold any direct or indirect interest in permits or leases, except that they may own or control stock in corporations holding permits or leases, if the laws of their country do not deny similar or like privileges to citizens of the United States. A corporation is required to file a certified copy of its articles of incorporation and it must furnish a statement showing the percentage of each class of its stock, and the percentage of all of its stock, which is owned or controlled by or on behalf of persons

¹ Coal deposits in Alaska are not covered by these acts but may be disposed of under the act of October 20, 1914 (38 Stat. 742; 48 U. S. C. 434), as amended by the act of March 4, 1921 (41 Stat. 1363; 48 U. S. C. 444), relating solely to Alaska, and the regulations in §§ 70.2 to 70.29 of this chapter.

whom the corporation knows to be or who the corporation has reason to believe are aliens, or who have addresses outside of the United States, indicating which classes of stock have voting rights. If more than 10 percent of the voting stock, or of all the stock, is owned or controlled by or on behalf of such persons, the corporation must give their names and addresses, the amount and class of stock held by each, and, to the extent known to the corporation or which can be reasonably ascertained by it, the facts as to the citizenship of each such person. If any appreciable percentage of the stock of the corporation is held by aliens of the excepted class, its application will be denied. (41 Stat. 450, 44 Stat. 302, 1058; 30 U. S. C. 189, 275, 285)

[Circ. 1727, Apr. 5, 1949]

§ 191.5 *Reserved or segregated lands.* With respect to lands embraced in a reservation or segregated for any particular purpose the lessee shall conduct operations in conformity with such requirements as may be made by the Director, Bureau of Land Management, for the protection and use of the land for the purpose for which it was reserved or segregated, so far as may be consistent with the use of the land for the purpose of the lease, which latter shall be regarded as the dominant use unless otherwise provided or separately stipulated.

[Circ. 1623, Oct. 28, 1946]

§ 191.6 *Special stipulations for lands in national forests or reclamation projects.* Offerors for noncompetitive oil and gas leases and applicants for permits, leases, and licenses for lands in national forests will be required to consent to the inclusion therein of the stipulation on Form 4-216. Where the land has been withdrawn for reclamation purposes the applicant or offeror may be required to consent to the inclusion of a stipulation on Form 4-467 if the lands are potentially irrigable, or Form 4-467 (a) if the lands are within the flow limits of a reservoir site, or Form 4-467 (b) if the lands are within the drainage area of a constructed reservoir.

Reprint, January 29, 1951, of Circular No. 1623, October 28, 1946, as amended by Circular No. 1623a, June 6, 1947, Circular No. 1655, September 5, 1947, Circular No. 1696, September 17, 1948, Circular No. 1723, January 19, 1949, Circular No. 1727, April 5, 1949, and Circular 1772, November 29, 1950.

Other conditions may be imposed, if deemed necessary, to protect land withdrawn for reclamation purposes.

Circ. 1772, Nov. 29, 1950

§ 191.7 Multiple development or other disposition of land. The granting of a permit or lease for the prospecting, development, or production of deposits of any one mineral will not preclude the issuance of other permits or leases for the same land for deposits of other minerals with suitable stipulations for simultaneous operation, nor the allowance of applicable entries, locations, or selections of the leased lands with a reservation of the mineral deposits to the United States.

Circ. 1623, Oct. 28, 1946

§ 191.8 Interests held in common. An association shall not be deemed to exist between the parties to a contract for development of leased lands, whether or not coupled with an interest in the lease, nor between co-lessees, but each party to any such contract or each co-lessee will be charged with his proportionate interest in the lease. No holding of acreage in common by the same persons in excess of the maximum acreage specified in the law for any one lessee or permittee for the particular mineral deposit so held will be permitted.

Circ. 1623a, June 6, 1947

§ 191.9 Survey of lands for leasing. Unsurveyed lands containing oil shale, and unsurveyed lands embraced in applications for lease based upon discovery of valuable deposits of potassium, sodium or sulphur under a prospecting permit, must be surveyed by the Government at the expense of the applicant prior to the issuance of a lease of the lands. To secure such a survey, the applicant must obtain from the appropriate regional cadastral engineer an estimate of the cost of the survey and deposit with him the estimated amount. After the survey has been accepted and the plat filed in the district land office the application will be adjusted to the resulting subdivisions and the cost of the survey will be ascertained by prorating the total cost of surveying the township to the area to be leased. The amount thus ascertained will be credited to the appropriation for surveying the public lands and the balance of the deposit, if any, returned to the depositor or his authorized representative. The survey of unsurveyed lands for any coal lease, or for a competitive lease for phosphate, potassium, sodium, oil, or gas, or sulphur will be made at the expense of the Government prior to the issuance of a lease of the lands.

Circ. 1696, Sept. 17, 1948

§ 191.10 Simultaneous applications or offers for lease. Where applications or offers received by mail or filed over the counter at the same time are in conflict, the right of priority of filing will be determined by public drawing in the manner provided in § 295.8 (b) of this chapter. Notice of the conflict and of the date and hour of the drawing shall be mailed to each applicant or offeror five days prior to such date, and the manager will post notice showing the date and hour of the drawing in a conspicuous place in his office for a period of five days prior to such date.

Circ. 1772, Nov. 29, 1950

§ 191.11 Filing fees. Offers for non-competitive oil and gas leases and all applications for prospecting permits, licenses, or noncompetitive leases, excepting phosphate lease applications, must be accompanied by a filing fee of \$10 for each application or offer. Such a fee will be retained as a service charge even though the application or offer should be rejected or withdrawn in whole or in part.

Circ. 1772, Nov. 29, 1950

§ 191.12 Disposition of fees.
Deleted by Circ. 1723,
Jan. 19, 1949.

§ 191.13 Payments of rentals and royalties. Unless otherwise directed by the Secretary, rentals and royalties under all leases and permits issued under the act shall be paid to the manager of the land office for the land district in which the leased lands are situated. In States where there are no land offices, the payments required with applications and offers shall be made to the Director, Bureau of Land Management. In such States all payments which subsequently become due must be made to the proper regional administrator. All remittances shall be made payable to the Treasurer of the United States.

Circ. 1772, Nov. 29, 1950

§ 191.14 Bonds with individual sureties. Where surety bonds are tendered with individuals as sureties they must be executed by not less than two qualified individual sureties to cover compliance with all terms and conditions of the lease or permit or the applicable law or regulations. Each surety must execute a statement showing that he is worth in real property not exempt from execution, double the sum specified in the undertaking, over and above his just debts and liabilities and that he is either a resident of the same State and the United States Judicial District as the principal on the bond, or of the State and the Judicial District in which the lands involved are located. There also must be furnished

a certificate by a judge or clerk of a court of record, a United States attorney, a United States Commissioner, or a United States postmaster, as to the identity, signature, and financial competency of the sureties. All bonds furnished with individual sureties will be examined every two years, or at any other time when found advisable, and the principal on the bond will be required to furnish new statements of justification by the sureties and a new certificate of financial competency, and if such sureties are unable to qualify additional security will be required. The statement of justification required to be furnished by the sureties, and the certificate of competency should be on Form 4-215.

Circ. 1623, Oct. 28, 1946

§ 191.15 Reinstatement of rejected applications for lands restored from withdrawal or use for war purposes. Hereafter, upon publication of a revocation of a withdrawal or of a use permit made or granted in connection with the prosecution of World War II, a mineral permit or lease applicant whose application was rejected solely because of the subsequent withdrawal of the land for use in connection with the prosecution of the war or because, either before or after the application was filed, a permit was granted to use the land for war purposes, may apply for and obtain a reinstatement of his application. If the application for reinstatement is for lands restored from a withdrawal it must be filed prior to the date fixed for the filing of applications by the general public; if for land affected by the revocation of permits, within 60 days from the date of publication of such revocation. No application for reinstatement will be considered unless it is timely filed and accompanied by the proper filing fee and the full amount of the first year's rental.

Circ. 1655, Sept. 5, 1947

ROYALTY AND RENTAL RELIEF; SUSPENSION OF OPERATIONS AND PRODUCTION

§ 191.25 Waiver, suspension, or reduction of rental or minimum royalty or reduction of royalty on mineral leases. (a) In order to encourage the greatest ultimate recovery of coal, phosphate, potassium, sodium, oil shale, oil, or gas and sulphur, and in the interest of conservation, the Secretary of the Interior whenever he determines it necessary to promote development or finds that the leases cannot be successfully operated under the terms provided therein may waive, suspend, or reduce the rental or minimum royalty or reduce the royalty on an entire leasehold, or on any deposit, tract, or portion thereof segregated for royalty purposes.

(b) An application for any of the above benefits shall be filed in triplicate in the office of the oil and gas supervisor for oil and gas leases or the office of the mining supervisor for coal, phosphate, potassium, sodium, oil shale and sulphur leases. It must contain the serial number of the leases, the land district, the name of the record title holder and operator or sublessee and the description of the lands by legal subdivision.

(1) Each application involving oil or gas shall show the number, location, and status of each well that has been drilled, a tabulated statement for each month covering a period of not less than six months prior to the date of filing the application of the aggregate amount of oil or gas subject to royalty computed in accordance with the oil and gas operating regulations, the number of wells counted as producing each month, and the average production per well per day.

(2) Each application involving coal, phosphate, potassium, sodium, oil shale and sulphur shall show the number and location of each mine, a map showing the extent of the mining operations, a tabulated statement of the minerals mined and subject to royalty for each month covering a period of not less than 12 months next prior to the date of filing of the application, and the average production per day mined for each month and complete information as to why the minimum production was not attained.

(c) Every application must contain a detailed statement of expenses and costs of operating the entire lease, the income from the sale of any leased products, and all facts tending to show whether the wells or mines can be successfully operated upon the royalty or rental fixed in the lease. Where the application is for a reduction in royalty full information shall be furnished as to whether royalties or payments out of production are paid to others than the United States, the amounts so paid and efforts made to reduce them. The applicant must also file agreements of the holders of the lease and of the royalty holders to a permanent reduction of all other royalties from the leasehold to an aggregate not in excess of one-half the Government royalties.

Circ. 1696, Sept. 17, 1948

§ 191.26 Suspension of operations and production and suspension of rental payments. (a) When the Secretary of the Interior in the interest of conservation directs or assents to the suspension of all operations and production on any lease issued under the act no payment of acreage rental or minimum royalty prescribed in the lease is required during such period of suspension. Any such suspension if granted shall be effective beginning with the first day of the lease month following the date of filing of written application for such suspension in triplicate in the office of the oil and gas supervisor for oil and gas leases and the mining supervisor for all other mineral leases, and ending with the first day

of the lease month in which relief is terminated in writing by the Secretary of the Interior or the respective supervisor. Where rentals have been paid in advance proper credit will be allowed on the next rental or royalty payment due under the lease. Complete information must be furnished showing the necessity for suspension of operation and production in the interest of conservation.

(b) As to oil and gas leases, no suspension of operations and production and consequent suspension of rentals will be granted on any lease in the absence of a well capable of production on the leasehold except where the Secretary directs a suspension of operations in the interest of conservation.

(c) The term of a lease shall be extended by adding thereto any period of suspension of operations and production assented to or directed by the Secretary of the Interior.

(d) The minimum annual production requirements of a lease issued under the act for coal, phosphate, potassium, sodium, oil shale or sulphur shall be proportionately reduced for that portion of a lease year for which suspension of operations and production is directed or granted by the Secretary of the Interior in the interest of conservation.

Circ. 1623, Oct. 28, 1946;
Circ. 1696, Sept. 17, 1948

§ 191.27 Applicability of relief. The relief authorized under §§ 191.25 and 191.26 may also be obtained for any oil and gas leases included within an approved unit or cooperative plan of development and operation.

Circ. 1623, Oct. 28, 1946

LEASING OF MINERALS DEVELOPED BY GOVERNMENTAL AGENCY TO AID IN PROSECUTING WORLD WAR II

§ 191.40 Leases to Governmental agency or its assigns. Except as otherwise provided by law, any mineral deposits (other than for oil and gas) and public lands containing such deposits which are subject to disposition under the provisions of the act, the production from which has been used by any Federal agency in connection with the prosecution of World War II, may be leased to the agency controlling the facilities using such production, or to any purchaser or lessee of such facilities, by negotiation, or by requiring the agency, its purchaser or lessee to meet the highest competitive bid received under sealed bids for such lease.

Circ. 1623, Oct. 28, 1946

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