THE CODE OF FEDERAL REGULATIONS

OF THE

UNITED STATES OF AMERICA

Having General Applicability and Legal Effect
in Force June 1, 1938

FIRST EDITION

Published by the Division of the Federal Register, the National Archives, Pursuant to Section 11 of the Federal Register Act as Amended June 19, 1937

TITLE 22—FOREIGN RELATIONS
TITLE 23—HIGHWAYS
TITLE 24—HOUSING CREDIT
TITLE 25—INDIANS

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1939

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removed. This prohibition, however, shall not apply to lands which such field clerks may have legally acquired before their employment in the Indian Service. Field clerks shall report to the Superintendent at the end of each month the work performed during such period and special reports shall be made immediately of any apparently illegal transaction involving the estates or allotments of allottees.*† [Sec. 46]

183.47 Forms. Leases, assignments, and other papers must be upon forms prepared by the Department, and upon application the Superintendent of the Five Civilized Tribes Agency at Muskogee, Oklahoma, will furnish prospective lessees with such forms at a cost of $1 per set.

Form 5–154.	Lease for minerals other than oil and gas.
Form 5–154a.	Lessee's personal bond supported by Government securities.
Form 5–154b.	Bond for separate leases.
Form 5–154c.	Affidavit of Indian lessor, proof of bonus, etc.
Form 5–157d.	Authority of Officers to execute papers.
Form 5–154g.	Affidavit of personal surety to accompany bond.
Form 5–154h.	Oil and gas mining lease.
Form 5–154i.	Stipulation modifying terms of oil and gas lease.
Form 5–154m.	Bond covering assignment.
Form 5–154u.	$15,000 collective bond.
Form F.	Proof of heirship.
Form G.	Assignment.
Form I.	Coal and asphalt lease.

*†[Sec. 47]

183.48 Effective date. The regulations in this part shall become effective and in full force from and after the date of approval, and shall be subject to change or alteration at any time by the Secretary of the Interior: Provided, That no regulations made after the approval of any lease shall operate to affect the term of the lease, rate of royalty, rental, or acreage unless agreed to by both parties to the lease. All former regulations governing the leasing of individually owned lands of the Five Civilized Tribes for mining purposes are superseded by the regulations in this part.*† [Sec. 48, par. 1]

183.49 Scope of regulations. The regulations in this part shall apply in so far as practicable to land purchased for Indians under the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C., Sup., 501–509), as well as to other lands of individual Indians of the Five Civilized Tribes.*† [Sec. 48, par. 2]

PART 186—LEASING OF TRIBAL LANDS FOR MINING

Sec.	
186.1	Definitions.
	How to acquire leases
186.2	Tribal Council may authorize leases to be made.
186.3	Sale of oil and gas leases.
186.4	Government employees cannot acquire leases.
186.5	Corporations and corporate information.
186.6	Bond.
186.7	Lessees to furnish additional information.
186.8	Lands to be in compact body.
186.9	Acreage limitation.
186.10	Term of leases.
186.11	Government reserves right to buy minerals produced.

*†For statutory and source citations, see note to § 183.1.

HeinOnline -- 0 Fed. Reg. 1004 1935

Sec.
Rents and royalties
186.12 Manner of payments.
186.13 Rates of rentals and royalties under oil and gas leases.
186.14 Annual rentals and expenditures for development on leases other than oil and gas.
186.15 Royalty rates for minerals other than oil and gas.
186.16 Time of making royalty payments.
186.17 Division orders.
Operations
186.18 Inspection of premises, books and accounts.
186.19 Diligence and prevention of waste.
186.20 Permission to start operations.
186.21 Restrictions on operations.
186.22 Penalties.
186.23 Mines to be timbered properly.
186.24 Surrender of leased premises in good condition.
186.25 Fees.
186.26 Assignments.
186.27 Cancellation.
186.28 Effective date of regulations.
186.29 Exemption of leases made by organized tribes.
186.30 Forms.

Section 186.1 Definitions. The term "Superintendent" in this part refers to the Superintendent or other officer of the Indian Service or of the Government who may have jurisdiction over the lands involved.

The term "supervisor" in this part refers to a representative of the Secretary of the Interior, under direction of the United States Geological Survey, authorized and empowered to supervise and direct operations under oil and gas or other mining leases, to furnish scientific and technical information and advice, to ascertain and record the amount and value of production, and to determine and record rentals and royalties due and paid.*† [Sec. 1]

*§§ 186.1 to 186.30, inclusive, (with the exceptions noted in the text,) issued under the authority contained in secs. 16, 17, 48 Stat. 987, 988, secs. 1, 2, 49 Stat. 1250, secs. 1, 3, 49 Stat. 1967, 52 Stat. 347; 25 U.S.C. 476, 477, 48 U.S.C., Sup., 358a, 362, 25 U.S.C., Sup., 501, 503, 396a–396f.

†In §§ 186.1 to 186.30, inclusive, the numbers to the right of the decimal point correspond with the respective section numbers in Regulations governing the leasing of tribal lands for mining purposes, Secretary of the Interior, May 31, 1938.

CROSS REFERENCE: For rules and regulations of the Geological Survey, see 30 CFR Chapter II.

HOW TO ACQUIRE LEASES

186.2 Tribal Council may authorize leases to be made. The Tribal Council of any Indian tribe, speaking for such Indians by resolution properly authenticated, may authorize the Secretary of the Interior to advertise the sale of leases for mining purposes on their tribal lands not needed for farming or agricultural purposes. Except where a tribe is authorized to execute its own leases pursuant to tribal constitution or charter adopted and approved pursuant to provisions contained in the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461–479), the Act of May 1, 1936 (49 Stat. 1250; 48 U.S.C., Sup., 362, 358a), or the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C., Sup., 501–509), the Secretary of the Interior may thereafter authorize and empower any person to be by him designated to execute for and on behalf of any tribe, and subject to his approval, all leases on such lands for oil and gas or other mining purposes.*†

186.3 Sale of oil and gas leases. At such times as the Secretary of the Interior may direct, after being authorized by the tribal council,

*†For statutory and source citations, see note to § 186.1.

102571—39—TITLE 25——66

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the Superintendent shall publish and distribute notices, at least 15 days prior to the sale, that oil and gas leases on specific tracts, each of which shall be in a compact body, will be offered at public auction to the highest responsible bidder. The successful bidder must deposit with the Superintendent, on the day of the sale, a certified check or bank draft on a solvent bank in an amount equal to 20 percent of the bonus bid and of the first year's rental as a guaranty of good faith. The balance of the bonus and of the first year's rental shall be paid and the lease in completed form shall be filed with the superintendent within 20 days after the lease is forwarded to the lessee for execution, unless such period shall have been extended by the Superintendent for good and sufficient reason. If the successful bidder fails to complete the lease or pay the full consideration within said period or extension thereof, or if the lease is disapproved through no fault of the lessor or of the Department, the amount of bonus and rental deposited will be forfeited, as liquidated damages, for the use and benefit of the Indian lessor.

All notices or advertisements of sales of oil and gas leases shall reserve to the Secretary of the Interior the right to reject all bids when in his judgment the interests of the Indians will be best served by so doing, and that if no satisfactory bid is received, or if the accepted bidder fails to complete the lease, or if the Secretary of the Interior shall determine that it is unwise in the interests of the Indians to accept the highest bid, the Secretary may readvertise such lease for sale, or if deemed advisable, with the consent of the Tribal Council or other governing tribal authorities, a lease may be made by private negotiations.*†

186.4 Government employees cannot acquire leases. No lease, assignment thereof, or interest therein will be approved to any employee or employees of the United States Government whether connected with the Indian Service or otherwise, and no employee of the Interior Department shall be permitted to acquire any interest in any mineral lease covering restricted Indian lands by ownership of stock in corporations having such leases or in any other manner.*† (R.S. 2078; 25 U.S.C. 68)

186.5 Corporations and corporate information. If the applicant for a lease is a corporation, it shall file evidence of authority of its officers to execute papers; and with its first application it shall also file a certified copy of its articles of incorporation, and, if foreign to the State in which the lands are located, evidence showing compliance with the corporation laws thereof. Statements of changes in officers and stockholders shall be furnished by a corporation lessee to the Superintendent January 1 of each year, and at such other times as may be requested.

Whenever deemed advisable in any case the Superintendent may require a corporation applicant or lessee to file:

(a) Lists of officers, principal stockholders, and directors, with post-office addresses and number of shares held by each.

(b) A sworn statement of the proper officer showing:

(1) The total number of shares of the capital stock actually issued and the amount of cash paid into the treasury on each share sold; or,

*†For statutory and source citations, see note to § 186.1.

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if paid in property, the kind, quantity, and value of the same paid per share.

(2) Of the stock sold, how much remains unpaid and subject to assessment.

(3) The amount of cash the company has in its treasury and elsewhere.

(4) The property, exclusive of cash, owned by the company and its value.

(5) The total indebtedness of the company and the nature of its obligations.

(6) Whether the applicant or any person controlling, controlled by or under common control with the applicant has filed any registration statement, application for registration, prospectus or offering sheet with the Securities and Exchange Commission pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934 or said Commission's rules and regulations under said Acts; if so, under what provisions of said Acts or rules and regulations; and what disposition of any such statement, application, prospectus or offering sheet has been made.

(c) Affidavits of individual stockholders, setting forth in what corporations or with what persons, firms, or associations such individual stockholders are interested in mining leases on restricted lands within the State, and whether they hold such interests for themselves or in trust.*† (48 Stat. 74, 48 Stat. 881; 15 U.S.C. 77a–77aa, 78a–78jj)

CROSS REFERENCE: For rules and regulations of the Securities and Exchange Commission, see 17 CFR Chapter II.

186.6 Bond. Lessee shall furnish with each lease, a bond (Form 5–157c)[22] with an acceptable company authorized to act as sole surety. Such bond shall be in amount as follows: For less than 80 acres, $1,000; for 80 acres and less than 120 acres, $1,500; for 120 acres and not more than 160 acres, $2,000; and for each additional 40 acres, or part thereof, above 160 acres, $500: Provided, That a lessee may file one bond (Form 5–157f)[22] in the sum of $15,000, covering all leases of a particular class in any one State up to 10,240 acres, to which he is or may become a party. The right is reserved at any time before or after approval of the lease to increase the amount of a bond above the sum named, in any case where the Secretary of the Interior deems it proper to do so. Personal surety bonds may be accepted where the sureties deposit as collateral with the said Secretary of the Interior any public-debt obligations of the United States guaranteed as to principal and interest by the United States equal to the full amount of such bonds, or other collateral satisfactory to the Secretary of the Interior, or show ownership of unencumbered real estate of a value equal to twice the amount of the bonds. In lieu of other bonds, lessees may execute their own surety contracts upon deposit, with the Secretary of the Interior, of Government bonds, equal in value to the full amount of the bond, as collateral (Form 5–154a).[22] *† (Sec. 1, 28 Stat. 279, sec. 1126, 44 Stat. 122; 6 U.S.C. 6, 15)

[22] For further information regarding forms, see § 186.30.

*†For statutory and source citations, see note to § 186.1.

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186.7 Lessees to furnish additional information. The Superintendent may, either before or after approval of a lease, call for any additional information desired to carry out the regulations in this part. If a lessee shall fail to furnish the papers necessary to put his lease and bond in proper form for consideration, the Superintendent shall forward such lease for disapproval.*†

186.8 Lands to be in compact body. The area covered by a lease shall be in a reasonably compact body and shall conform to the system of public-land surveys, except that leases covering lode ground may consist of one or more adjoining parallelograms 1,500 feet in length by 600 feet in width, as provided by the United States mining laws. No lease under the regulations in this part shall convey any extralateral rights, and no coal lease shall have a length exceeding 1 mile along the outcrop.*†

186.9 Acreage limitation. (a) Except in the State of Oklahoma, no individual, corporation, partnership, company, or association shall be permitted to hold under leases for oil and/or gas mining purposes, restricted allotted or unallotted Indian lands in any one State in excess of 10,240 acres in the aggregate: Provided, That any such individual, corporation, partnership, company, or association may hold leases on not to exceed 10,240 acres of tribal lands within that part of the Navajo Reservation lying within the State of New Mexico, irrespective of other holdings in said State: Provided further, That the acreage leased by any officer or director of a company shall be charged against the company, and vice versa, and the acreage shall also be charged in the case of stockholders owning 40 or more percent of the stock. The acreage of companies having common stockholders owning a majority of the stock of each company shall be charged against each other, or in case such companies have one or more common officers or directors. In all other cases each corporation will be considered a separate and distinct entity.

(b) On deposits of the nature of lodes or veins, containing ores of gold, silver, copper, lead, zinc, or other useful metals, not more than 640 acres.

(c) For beds of placer gold, gypsum, asphaltum, phosphate, iron ores, or other useful minerals other than coal, oil, and gas, not more than 960 acres.

(d) For coal, not more than 10,240 acres.*†

186.10 Term of leases. Oil and gas mining leases shall be made for periods of ten years from the date of approval by the Secretary of the Interior and as much longer as the substances specified in the lease are produced in paying quantities. Leases for minerals other than oil and gas shall be for a period of 10 years.*†

186.11 Government reserves right to buy minerals produced. In time of war or other public emergency all of the executive departments of the United States Government shall have the option to purchase at the posted market price on the date of sale all or any part of the substance or substances produced under any lease.*†

*†For statutory and source citations, see note to § 186.1.

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RENTS AND ROYALTIES

186.12 Manner of payments. Except where otherwise provided by the terms of leases where the tribes are organized under the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461–479), all rents and other payments due under leases which have been or may be approved by the Secretary of the Interior shall be paid to the Superintendent or to such other person as may be designated by the Secretary of the Interior, for the benefit of the lessors. Except advance payments for the first year which shall be sent direct to the Superintendent at the time of filing leases, payments of rental and royalty under leases shall be transmitted through the supervisor, shall be accompanied by a statement by the lessee, in triplicate, showing the specific items of rental or royalty that the remittance is intended to cover, and shall be made at such time or times as the lease provides.

In the event of the discovery of minerals in paying quantities all advance payments shall be allowed as credit on stipulated royalties for the year for which such advance payments have been made. No refund will be made under oil, gas, or other mining leases, in the event that royalty from production is not sufficient to equal the advance payment, nor will any part of the moneys so paid be refunded to the lessee because of any subsequent surrender or cancellation of the lease, nor shall the lessee be relieved from the obligation to pay said advance rental annually when it becomes due, by reason of any subsequent surrender or cancellation of the lease.*†

186.13 Rates of rentals and royalties under oil and gas leases. The lessee shall pay, beginning with the date of approval of oil and gas leases by the Secretary of the Interior, a rental of $1.25 per acre per annum in advance during the continuance thereof, together with a royalty of 12½ percent of the value or amount of all oil, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and saved from the land leased, save and except oil, and/or gas used by the lessee for development and operation purposes on the lease, which oil or gas shall be royalty free. During the period of supervision, "value" for the purposes of the lease may, in the discretion of the Secretary of the Interior, be calculated on the basis of the highest price paid or offered (whether calculated on the basis of short or actual volume) at the time of production for the major portion of the oil of the same gravity, and gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and sold from the field where the leased lands are situated, and the actual volume of the marketable product less the content of foreign substances as determined by the supervisor. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary of the Interior, be deemed mere evidence of or conclusive evidence of such value. When paid in value, such royalties shall be due and payable monthly on the last day of the calendar month following the calendar month in which produced; when royalty on oil produced is paid in kind, such royalty oil shall be delivered in tanks provided by the lessee on the premises where produced without cost to the lessor unless otherwise agreed to by the parties thereto, at

*†For statutory and source citations, see note to § 186.1.

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such time as may be required by the lessor. The lessee shall not be required to hold such royalty oil in storage longer than 30 days after the end of the calendar month in which said oil is produced. The lessee shall be in no manner responsible or held liable for loss or destruction of such oil in storage by causes beyond the lessee's control. In determining the value for royalty purposes of products, such as natural gasoline, that are derived from treatment of gas, a reasonable allowance for the cost of manufacture shall be made, such allowance to be two-thirds of the value of the marketable product unless otherwise determined by the Secretary of the Interior on application of the lessee or on his own initiative, and that royalty will be computed on the value of gas or casing-head gas, or on the products thereof (such as residue gas, natural gasoline, propane, butane, etc.), whichever is the greater.

If the leased premises produce gas in excess of the lessee's requirements for the development and operation of said premises, then the lessor may use sufficient gas, free of charge, for any desired school or other buildings belonging to the tribe, by making his own connections to a regulator installed, connected to the well and maintained by the lessee, and the lessee shall not be required to pay royalty on gas so used. The use of such gas shall be at the lessor's risk at all times.*†

186.14 Annual rentals and expenditures for development on leases other than oil and gas. Lessees other than oil and gas lessees shall pay on all leases annually in advance for the first calendar year or fraction thereof a rent of 25 cents per acre; for the second and third years, 50 cents per acre; and for the fourth and each succeeding calendar year $1 per acre.

On all leases of class (b) referred to in § 186.9, there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than $5 per acre.

On all leases of class (c) referred to in § 186.9, there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than $100 for each 160 acres or fraction thereof included in the lease.

On all leases of class (d) referred to in § 186.9, there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than $10 per acre.

Each lessee of a nonproducing lease designated in class (b), (c), or (d) in § 186.9, shall file with the Superintendent an itemized statement in duplicate within 20 days after the close of each calendar year of the amount and character of said expenditure during such year, the statement to be certified under oath by the lessee or his agent having personal knowledge of the facts contained therein.*†

186.15 Royalty rates for minerals other than oil and gas. For substances other than gold, silver, copper, lead, zinc, tungsten, coal, asphaltum and allied substances, oil, and gas, the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less

*†For statutory and source citations, see note to § 186.1.

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than 10 percent of the value, at the nearest shipping point, of all ores, metals, or minerals marketed.

For gold, silver, copper, lead, zinc, and tungsten, the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten percent, to be computed on the value of bullion as shown by mint returns after deducting forwarding charges to the point of sale, than 10 percent, to be computed on the value of bullion as shown by reduction returns after deducting freight charges to the point of sale. Duplicate returns shall be filed by the lessee with the Superintendent within 10 days after the ending of the quarter or other period specified in the lease within which such returns are made: Provided, however, That the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 percent of the value of ores and concentrates sold at the mine.

For coal the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 cents per ton of 2,000 pounds of mine run, or coal as taken from the mine, including what is commonly called "slack."

For asphaltum and allied substances the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 cents per ton of 2,000 pounds on crude material and of not less than 60 cents per ton on refined substances.*†

186.16 Time of making royalty payments. Royalty payments under producing oil and gas leases shall be made monthly on or before the last day of the calendar month following the calendar month for which such payment is to be made.*†

186.17 Division orders. Lessees may make arrangements with the purchasers of oil for the payment of the royalties to the Superintendent by such purchasers, but such arrangement, if made, shall not operate to relieve a lessee from responsibility should the purchaser fail or refuse to pay royalties when due. Where lessees avail themselves of this privilege, division orders permitting the pipe line companies or other purchasers of the oil to withhold the royalty interest shall be executed and forwarded to the supervisor for approval, as pipe line companies are not permitted to accept or run oil from leased Indian lands until after the approval of a division order showing that the lessee has a lease regularly approved and in effect. When the lessee company runs its own oil, it shall execute an intra-company division order and forward it to the supervisor for his consideration. The right is reserved for the supervisor to cancel a division order at any time or require the pipe line company to discontinue to run the oil of any lessee who fails to operate the lease properly or otherwise violates the provisions of the lease, of the regulations in this part, or of the operating regulations.

When oil is taken by authority of a division order, the lessee or his representative shall be actually present when the oil is gauged and records are made of the temperature, gravity, and impurities. The lessee will be held responsible for the correctness and the correct recording and reporting of all of the foregoing measurements; which, except lowest gauge, shall be made at the time the oil is turned into

*†For statutory and source citations, see note to § 186.1.

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the pipeline. Failure of the lessee to perform properly these duties will subject the division order to revocation.*†

CROSS REFERENCE: For oil and gas operating regulations of the Geological Survey, see 30 CFR Part 221.

186.18 Inspection of premises, books and accounts. Lessees shall agree to allow the lessors and their agents or any authorized representative of the Interior Department to enter, from time to time, upon and into all parts of the leased premises for the purpose of inspection, and shall further agree to keep a full and correct account of all operations and make reports thereof, as required by the regulations of the Department governing operations on public and restricted Indian lands; and their books and records, showing manner of operations and persons interested, shall be open at all times for examination of such officers of the Department as shall be instructed in writing by the Secretary of the Interior or authorized by regulations to make such examination.*†

CROSS REFERENCE: For oil and gas operating regulations of the Geological Survey, see 30 CFR Part 221.

186.19 Diligence and prevention of waste. The lessee shall exercise diligence in drilling and operating wells for oil and gas on the leased lands while such products can be secured in paying quantities; carry on all operations in a good and workmanlike manner in accordance with approved methods and practice, having due regard for the prevention of waste of oil or gas developed on the land, or the entrance of water through wells drilled by the lessee to the productive sands or oil or gas-bearing strata to the destruction or injury of the oil or gas deposits, the preservation and conservation of the property for future productive operations, and to the health and safety of workmen and employees; plug securely all wells before abandoning the same and to shut off effectually all water from the oil or gas-bearing strata; not drill any well within 200 feet of any house or barn on the premises without the lessor's written consent approved by the Superintendent; carry out at his expense all reasonable orders and requirements of the supervisor relative to prevention of waste, and preservation of the property and the health and safety of workmen; bury all pipelines crossing tillable lands below plow depth unless other arrangements therefor are made with the Superintendent; pay the lessor all damages to crops, buildings, and other improvements of the lessor occasioned by the lessee's operations: Provided, That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond the lessee's control.*†

186.20 Permission to start operations. No operations will be permitted on any lease before it is approved by the Secretary of the Interior.

Written permission must be secured from the supervisor before any operations are started on the leased premises. After such permission is secured the operations must be in accordance with the operating regulations promulgated by the Secretary of the Interior. Copies of the regulations in this part may be secured from either the supervisor

*†For statutory and source citations, see note to § 186.1.

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or the Superintendent and no operations shall be attempted without a study of the operating regulations.*†

CROSS REFERENCE: For oil and gas operating regulations of the Geological Survey, see 30 CFR Part 221.

186.21 Restrictions on operations. Oil and gas leases issued under the provisions of the regulations in this part shall be subject to imposition by the Secretary of the Interior of such restrictions as to time or times for the drilling of wells and as to the production from any well or wells as in his judgment may be necessary or proper for the protection of the natural resources of the leased land and in the interest of the lessor. In the exercise of his judgment the Secretary of the Interior may take into consideration, among other things, the Federal laws, State laws, regulations by competent Federal or State authorities, lawful agreements among operators regulating either drilling or production, or both, and any regulatory action desired by tribal authorities.

All such leases shall be subject to any cooperative or unit development plan affecting the leased lands that may be required by the Secretary of the Interior, but no lease shall be included in any cooperative or unit plan without prior approval of the Secretary of the Interior, and consent of the Indian tribe affected.*†

186.22 Penalties. Failure of the lessee to comply with any provisions of the lease, of the operating regulations, of the regulations in this part, order of the Superintendent or his representative, or of the orders of the supervisor or his representative, shall subject the lease to cancellation by the Secretary of the Interior or the lessee to a penalty of not more than $500 per day for each and every day the terms of the lease, the regulations, or such orders are violated; or to both such penalty and cancellation: Provided, That the lessee shall be entitled to notice and hearing, within 30 days after such notice, with respect to the terms of the lease, regulations, or orders violated, which hearing shall be held by the supervisor, whose findings shall be conclusive unless an appeal be taken to the Secretary of the Interior within 30 days after notice of the supervisor's decision, and the decision of the Secretary of the Interior upon appeal shall be conclusive.*†

CROSS REFERENCE: For oil and gas operating regulations of the Geological Survey, see 30 CFR Part 221.

186.23 Mines to be timbered properly. In mining operations the lessee shall keep the mine well and sufficiently timbered at all points where necessary, in accordance with good mining practice, and in such manner as may be necessary to the proper preservation of the leased property and safety of the workmen.*†

186.24 Surrender of leased premises in good condition. On expiration of the term of a lease, or when a lease is surrendered, the lessee shall deliver to the Government the leased ground with the mine workings in good order and condition, and bondsmen will be held for such delivery in good order and condition, unless relieved by the Secretary of the Interior for cause. It shall, however, be stipulated that the machinery necessary to operate the mine is the property of the lessee, but that it may be removed by him only after the condition

*†For statutory and source citations, see note to § 186.1.

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of the property has been ascertained by inspection by the Secretary of the Interior or his authorized agents, to be in satisfactory condition.*†

186.25 Fees. All leases and assignments shall be executed in sextuplet and when filed with the Superintendent shall be accompanied by a filing fee of $5 which is hereby required pursuant to provisions contained in the Act of February 14, 1920, as amended by the Act of March 1, 1933 (47 Stat. 1417; 25 U.S.C. 413). This fee will be refunded in case the instrument is disapproved.† (47 Stat. 1417; 25 U.S.C. 413)

186.26 Assignments. (a) Approved leases or any interest therein may be assigned or transferred only with the approval of the Secretary of the Interior, and to procure such approval the assignee must be qualified to hold such lease under existing rules and regulations and shall furnish a satisfactory bond conditioned for the faithful performance of the covenants and conditions thereof: Provided, That in order for such assignment to receive favorable consideration the lessee shall assign either his whole interest or an undivided interest in the whole lease.

(b) No lease or interest therein or the use of such lease shall be assigned, sublet, or transferred, directly or indirectly, by working or drilling contract, or otherwise, without the consent of the Secretary of the Interior.

(c) Assignments of leases, and stipulations modifying the terms of existing leases, which stipulations are also subject to the approval of the Secretary of the Interior, shall be filed with the Superintendent within 30 days after the date of execution.*†

186.27 Cancellation. When, in the opinion of the Secretary of the Interior, the lessee has violated any of the terms and conditions of a lease or of the applicable regulations, the Secretary of the Interior shall have the right at any time after 30 days' notice to the lessee specifying the terms and conditions violated, and after a hearing, if the lessee shall so request within 30 days after issuance of the notice, to declare such lease null and void, and the lessor shall then be entitled and authorized to take immediate possession of the land.

On the following conditions, the lessee may, on approval of the Secretary of the Interior, surrender a lease or any part of it:

(a) That he make application for cancellation to the Superintendent having jurisdiction over the land.

(b) That he pay a surrender fee of $1 at the time the application is made.

(c) That he pay all royalties and rentals due to the date of such application.

(d) That he make a satisfactory showing that full provision has been made for conservation and protection of the property and that all wells, drilled on the portion of the lease surrendered, have been properly abandoned.

(e) If the lease has been recorded, that he file, with his application, a recorded release of the acreage covered by the application.

(f) If the application is for the cancellation of the entire lease or the entire undivided portion, that he surrender the lease: Provided, That where the application is made by an assignee to whom no copy

*†For statutory and source citations, see note to § 186.1.

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of the lease was delivered, he will be required to surrender only his copy of the assignment.

(g) If the lease (or portion being surrendered or canceled) is owned in undivided interests by more than one party, then all parties shall join in the application for cancellation.

(h) That all required fees and papers must be in the mail or received on or before the date upon which rents and royalties become due, in order for the lessee and his surety to be relieved from liability for the payment of such royalties and rentals.

(i) If there has been a contest respecting a lease or leases, the approved, the disapproved, or the canceled parts thereof will be held in the office of the superintendent for 5 days after the Department's decision has been promulgated, by mail or delivery, and will not be delivered, if within that period a motion for review and reconsideration be filed, until such motion is passed upon by the Department.

(j) In the event oil or gas is being drained from the leased premises by wells not covered by a lease; the lease, or any part of it, may be surrendered, only on such terms and conditions as the Secretary of the Interior may determine to be reasonable and equitable.

No part of any advance rental shall be refunded to the lessee nor shall he be relieved, by reason of any subsequent surrender or cancellation of the lease, from the obligation to pay said advance rental when it becomes due.*†

186.28 Effective date of regulations. The regulations in this part shall become effective and in full force from and after the date of approval, and shall be subject to change or alteration at any time by the Secretary of the Interior: Provided, That no regulations made after the approval of any lease shall operate to affect the term of the lease, rate of royalty, rental, or acreage unless agreed to by both parties to the lease. All former regulations governing the leasing of tribal lands for mining purposes are superseded by the regulations in this part.*†

186.29 Exemption of leases made by organized tribes. The regulations in this part may be superseded by the provisions of any tribal constitution, bylaw or charter issued pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461–479), the Alaska Act of May 1, 1936 (49 Stat. 1250; 48 U.S.C., Sup., 362, 358a), or the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C., Sup., 501–509), or by ordinance, resolution or other action authorized under such constitution, bylaw or charter. The regulations in this part, in so far as they are not so superseded, shall apply to leases made by organized tribes if the validity of the lease depends upon the approval of the Secretary of the Interior.*†

186.30 Forms. Applications, leases, and other papers must be upon forms prescribed by the Secretary of the Interior, and the Superintendent will furnish prospective lessees with such forms at a cost of ten cents each or $1 per set.

Form 5–154a. Lessee's personal bond supported by Government securities.

Form 5–157. Oil and gas lease.

Form 5–157b. Mining lease other than oil and gas.

*†For statutory and source citations, see note to § 186.1.

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Form 5–157c. Bond for separate leases.
Form 5–157d. Authority of officers to execute papers.
Form 5–157e. Assignment.
Form 5–157f. Collective bond.
Form 5–157g. Stipulation.

Moneys received from the sale of forms should be deposited as Miscellaneous Receipts to the credit of Receipt Account 145060 "Sale of Forms" unless the expense of printing the forms was paid from tribal moneys, in which event, the receipts from the sale of the forms should be deposited to the credit of the tribe.*†

PART 189—LEASING OF CERTAIN RESTRICTED ALLOTTED INDIAN LANDS FOR MINING

Sec.
189.1 Definitions.
189.2 Applications.
189.3 No leases made to Government employees.
189.4 Sale of leases.
189.5 Execution of leases for incompetents.
189.6 Leases for minerals other than oil and gas.
189.7 Requirements of corporate lessees.
189.8 Information; corporate lessees and stockholders.
189.9 Leases of undivided, inherited lands.
189.10 Bond.
189.11 Additional information.
189.12 Term of leases.
189.13 Acreage limitation.
189.14 Payment of advance rentals and royalties.
189.15 Annual rentals on leases for minerals other than oil and gas.
189.16 Rentals and royalties for oil and gas leases.
189.17 Preference of Government to purchase oil.
189.18 Royalties for minerals other than oil and gas.
189.19 Payment of royalties by purchasers of oil; division orders.
189.20 Time of royalty payments.
189.21 Stipulations.
189.22 Assignments.
189.23 Cancellations.
189.24 Operation and development regulations.
189.25 Inspection of books and accounts.
189.26 Leases on unrestricted lands.
189.27 Leases executed before removal of restrictions.
189.28 Removal of restrictions.
189.29 Terms applying after relinquishment.
189.30 Removal of restrictions upon part of acreage.
189.31 Fees.
189.32 Forms.
189.33 Individual tribal assignments excluded.

Section 189.1 Definitions. The term "Superintendent" in this part refers to the Superintendent or other officer of the Indian Service or of the Government who may have jurisdiction over the allotments involved.

The term "supervisor" in this part refers to a representative of the Secretary of the Interior, under direction of the Director of the United States Geological Survey, authorized and empowered to supervise and direct operations under oil and gas or other mining leases, to furnish scientific and technical information and advice, to ascertain and record the amount and value of production, and to determine and record rentals and royalties due and paid.*† [Sec. 1, pars. 2, 3]

*§§ 189.1 to 189.33, inclusive, (with the exceptions noted in the text,) issued under the authority contained in 35 Stat. 783; 25 U.S.C. 396.

†The source of §§ 189.1 to 189.33, inclusive, is Regulations governing the leasing of restricted allotted Indian lands for mining purposes, applicable to all allotted lands except Five Civilized Tribes and Osage Nation, Secretary of the Interior, Oct. 8, 1937, 2 F.R. 2456.

CROSS REFERENCE: For rules and regulations of the Geological Survey, see 30 CFR Chapter II.

*†For statutory and source citations, see note to § 186.1.

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