

# 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

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

UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1939

- 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

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**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.

**189.2 Applications.** Applications for leases should be made to the Superintendent having jurisdiction over the lands.\*† [Sec. 1]

**189.3 No leases made to Government employees.** 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 such leases by ownership of stock in corporations having leases or in any other manner.† (R.S. 2078; 25 U.S.C. 68) [Sec. 2, par. 4]

**189.4 Sale of leases.** At such times and in such manner as he may deem appropriate, the Superintendent shall publish notices that oil and gas leases on specific tracts, each of which shall be in a compact body, will be offered to the highest responsible bidder for a bonus consideration, in addition to stipulated rentals and royalties. The successful bidder must deposit with the Superintendent on the day of sale a certified check or bank draft on a solvent bank in an amount equal to 20 percent of the bid as a guaranty of good faith. Balance of the bonus and the first year's rental shall be paid and lease in completed form shall be filed within 20 days after the lease is forwarded to the lessee by the Superintendent 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 the Interior Department, the amount of bonus deposited will be forfeited for the use and benefit of the Indian allottee, in the discretion of the Secretary of the Interior.

The right is reserved by the Secretary of the Interior to reject any and all bids and to disapprove and reject prior to approval any lease made on an accepted bid; and should any bid be rejected after bonus deposit is made by bidder, such deposit shall be immediately returned. The successful bidder or bidders shall pay the costs of advertising lands for oil and gas or other mineral leases.\*† [Sec. 3]

**189.5 Execution of leases for incompetents.** The Superintendent shall execute leases on behalf of allottees who are incompetent by reason of mental incapacity, and of minor allottees, except such persons for whom guardians have been appointed, in accordance with tribal constitutions which provide for the appointment of guardians.\*† [Sec. 4]

**189.6 Leases for minerals other than oil and gas.** Leases for minerals other than oil and gas shall be negotiated with the Indian allottee whose lands are sought to be leased after permission so to do has first been obtained from the Superintendent and, with the papers required, shall be filed with the Superintendent within 30 days from and after the date of execution: Provided, That no such lease on lands of allottees incompetent by reason of mental incapacity, and of minor allottees, shall be made until competitive bids have been invited therefor by advertising for at least two weeks in two or more papers of general circulation in the vicinity; but if a minor or such incompetent person is interested with competent adults in inherited lands, and such adults agree respecting a lease, the Superintendent or properly desig-

\*†For statutory and source citations, see note to § 189.1.

nated guardian may sign for the minor or mentally incompetent person without advertising. The minor's age and date of birth must be shown whenever possible.\*† [Sec. 5]

**189.7 Requirements of corporate lessees.** If the applicant for 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) 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.

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

(c) 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, 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.\*† [Sec. 6]

**189.8 Information; corporate lessees and stockholders.** Statements of changes in officers and stockholders shall be furnished by a corporation lessee to the Superintendent on January 1 of each year, and at such other times as may be requested. Affidavits may also be required of individual stockholders at any time, setting forth in what corporations or with what persons, firms, or associations such individual stockholders are interested in mining leases of restricted Indian lands within the State, and whether they hold such interests for themselves or in trust.\*† [Sec. 7]

**189.9 Leases of undivided, inherited lands.** Except to prevent loss or waste, leases of undivided, inherited lands will be approved only when accompanied by proof that the lessors are the only heirs of the deceased allottee. Heirship must be established in accordance with the terms of the Act of June 25, 1910 as amended by 36 Stat. 855, 37 Stat. 678, 48 Stat. 647; 25 U.S.C. 372, 373, and the regulations prescribed thereunder. If the heirs have already been so determined, the Superintendent when forwarding the lease shall refer to the date and file number of Indian Office letter notifying him of such determination. If the heirs include a life tenant, the lease must be accompanied by an agreement between such life tenant and the remaindermen, providing for the division of the rents and royalties, subject to approval of the Secretary of the Interior.

If the heirs to an allotment are undetermined or cannot be located, or if heirs owning less than one-half interest in the land refuse to sign a lease, and it appears necessary to lease the land to prevent loss or

waste, the Superintendent will report the facts to the Commissioner of Indian Affairs and ask for instructions.\*† [Sec. 8]

CROSS REFERENCE: For regulations relating to the establishment of heirship, see Part 81.

**189.10 Bond.** Lessees shall furnish with each lease a bond (Form 5-154b)<sup>19</sup> with two or more personal sureties, or with an acceptable company authorized to act as sole surety. Such bond shall be in amount as follows: For less than 40 acres, \$500; for 40 acres and 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 5-154f)<sup>28</sup> 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 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. Bonds with personal sureties will be accepted only where the sureties deposit with the Commissioner of Indian Affairs collateral consisting of any public debt obligations of the United States guaranteed as to principal and interest by the United States, equal in value to the full amount of the bond, or other collateral satisfactory in kind and value, to the Secretary of the Interior, or show ownership of unencumbered real estate equal in value to twice the amount of the bond. In lieu of other bonds, lessees may execute their own surety contracts upon deposit of Government bonds as collateral (Form 5-154a).<sup>28\*†</sup> (Sec. 1, 28 Stat. 279, sec. 1126, 44 Stat. 122; 6 U.S.C. 6, 15) [Sec. 9]

**189.11 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.\*† [Sec. 10]

**189.12 Term of leases.** Oil and gas mining leases shall be made for a period of 10 years from the date of approval by the Secretary of the Interior and as much longer thereafter as oil, gas, casing-head gas, or any of them, is produced in paying quantities.

Leases for other minerals shall be for a period of 15 years.\*† [Sec. 11]

**189.13 Acreage limitation.** No individual, corporation, partnership, company, or association shall hold under leases for mining purposes restricted Indian lands in any one State in excess of the following areas, exclusive of holdings in the Five Civilized Tribes and the Osage Nation:

(a) 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.

(b) 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.

<sup>28</sup> For further information concerning forms, see § 189.32.

\*† For statutory and source citations, see note to § 189.1.

(c) For coal, oil, or gas, not more than 10,240 acres, except that in the State of Oklahoma there is no limitation on the number of acres any lessee may acquire, by lease or assignment, for oil or gas mining purposes.\*† [Sec. 12]

**189.14 Payment of advance rentals and royalties.** 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 various 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 oil and gas leases shall be transmitted through the oil and gas 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. No credit will be given any lessee for rents or royalties paid direct to the lessors or their representatives.

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 the payment is made. No refund will be made under oil, gas, or other mining leases, in the event the royalty on production for any year is not sufficient to equal the advance payment for that year, 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 obligations to pay said advance rental annually when it becomes due by reason of any subsequent surrender or cancellation of the lease.

For leases other than oil and gas, all advance rental for the first year shall be paid to the Superintendent at the time of filing the lease, and the amounts so paid shall be and become the property of the lessor if the lease be disapproved because of the lessee's failure to meet the requirements of the law or the regulations in this part, or because of any other fault or defect chargeable to the lessee.\*† [Sec. 13]

**189.15 Annual rentals on leases for minerals other than oil and gas.** Advance annual rentals shall be paid on leases for minerals other than oil and gas at the following rates: Fifteen cents per acre per annum for the first and second years; 30 cents per acre per annum for the third and fourth years; 75 cents per acre per annum for the fifth year; and \$1 per acre per annum for each succeeding year during the term of the lease.\*† [Sec. 14]

**189.16 Rentals and royalties for 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, the rental so paid for any one year to be credited on the royalty for that year, 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,

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 oil and gas 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 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 caused by acts of God. All rental and royalty payments, except as provided in sections 4(c) and 8(a) of the lease (Form 5-154h, revised April 24, 1935),<sup>24</sup> shall be made by check or draft drawn on a solvent bank, open for the transaction of business on the day the check or draft is issued, to the order of the Superintendent. Except the advance rental for the first year, which, as provided in § 189.14, shall be paid to the Superintendent when the lease is filed, payments shall be transmitted through the oil and gas 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 times as the lease provides. 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.\*† [Sec. 15, par. 1]

**189.17 Preference of Government to purchase oil.** In time of war or other public emergency any of the executive departments of the United States Government shall have the option to purchase at the highest posted market price on the date of sale all or any part of the oil produced under any lease.\*† [Sec. 15, par. 2]

**189.18 Royalties for minerals other than oil and gas.** The royalty on coal shall not be less than 10 cents per ton of 2,000 pounds on mine run, or coal as it is taken from the mines, including what is commonly called "slack."

The royalty on asphaltum shall be not less than 10 cents per ton of 2,000 pounds on crude asphalt or 60 cents per ton on refined asphalt.

\* See footnote on page 343.

\*† For statutory and source citations, see note to § 189.1.

For gold, silver, copper, lead, zinc, and tungsten the lessee shall pay quarterly a royalty of not less than 10 percent, to be computed on the gross value of the ores as shown by reduction returns after deducting freight and treatment charges.

For substances other than gold, silver, copper, lead, zinc, tungsten, coal, asphaltum and allied substances, oil, and gas the lessee shall pay quarterly a royalty of not less than 10 percent of the value at the nearest shipping point.\*† [Secs. 16, 17, 18, 19]

**189.19 Payment of royalties by purchasers of oil; division orders.** Lessees may make arrangement 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 oil and gas 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. The right is reserved for the oil and gas 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.

Lessee or his representative shall actually be present when oil taken under division orders is run by pipe line companies and lessee shall be responsible for the correct measurement and report of oil so run; otherwise the approval of division order may be revoked.\*† [Sec. 20]

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

**189.20 Time of royalty payments.** Royalty payments on all 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.\*† [Sec. 21]

**189.21 Stipulations.** The lessee under any lease heretofore approved may, by stipulation (Form 5-154i)<sup>24</sup>, with the consent of the lessor and the approval of the Secretary of the Interior, make such approved lease subject to all the terms, conditions, and provisions contained in the regulations in this part and in the lease form currently in use.\*† [Sec. 22]

**189.22 Assignments.** (a) Leases hereafter approved, 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 for the faithful performance of the covenants and conditions thereof.

(b) No lease or any interest therein or the use of such lease shall be assigned, sublet, or transferred, directly or indirectly, by working

<sup>24</sup> See footnote on page 343.

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 shall be filed with the Superintendent within 30 days after the date of execution.\*† [Sec. 23]

**189.23 Cancellations.** A lease will be cancelled by the Secretary of the Interior for good cause upon application of the lessor or lessee, or if at any time the Secretary is satisfied that the provisions of the lease or of any regulations heretofore or hereafter prescribed have been violated. When the lessee applies for cancellation he must, before the same will be considered, pay a surrender fee of \$1 and all royalties and rents due to the date of completion of such application, surrender all parts of the lease actually delivered to him, and furnish a duly recorded release of the acreage covered by the application if the lease thereon has been recorded: Provided, That where the application is made by an assignee to whom no copy of the lease was delivered he will be required to surrender only his copy of the assignment.

If the lease is owned in undivided interests by more than one person, firm, or corporation all shall join in the application for cancellation.

All required fees and papers must be at least in the mail 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 thereof.

If there has been a contest respecting a lease or leases, the approved, disapproved, or cancelled parts thereof will be held in the office of the Superintendent for 5 days after promulgation by him, by mailing or delivery of the department's decision, and will not be delivered if within that period a motion for review or reconsideration be filed until such motion is passed upon by the department.

No part of any advance rentals shall be refunded to the lessee, nor shall he be relieved from his obligation to pay rentals annually when due by reason of any subsequent surrender or cancellation of the lease. Upon cancellation of a lease the lessor shall be entitled to take immediate possession of the land.\*† [Sec. 24]

**189.24 Operation and development regulations.** Lessees will be required to carry out and observe the operating regulations now or hereafter in force governing oil and gas operations on restricted Indian lands. Operations will not be permitted under any lease requiring approval of the Secretary of the Interior until the approved lease has been delivered.

All leases issued under the provisions of the regulations in this part shall be subject to imposition by the Secretary 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 interests of the Indian lessor. In the exercise of his judgment the Secretary may take into consideration among other things the Federal laws, State laws or regulations by competent Federal or State authorities or lawful agreements among operators regulating either drilling or

\*†For statutory and source citations, see note to § 189.1.

production or both, and also any regulatory action desired by tribal authorities.

All leases issued pursuant to the regulations in this part shall be subject to a co-operative or unit development plan affecting the leased lands if and when required by the Secretary of the Interior.\*† [Sec. 25]

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

**189.25 Inspection of 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 purposes 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 examinations.\*† [Sec. 26]

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

**189.26 Leases on unrestricted lands.** All leases of any description whatever executed by an allottee on land from all of which the restrictions against alienation had been removed before such execution may be executed without any provision for reference to or supervision by the Secretary of the Interior or any official of the Department of the Interior; and the Superintendent shall refuse to accept for consideration any lease covering land from all of which restrictions had been removed before such execution.\*† [Sec. 27]

**189.27 Leases executed before removal of restrictions.** All leases executed before the removal of restrictions against alienation on land from all of which restrictions against alienation shall be removed after such execution, if such leases contain specific provision for approval by the Secretary of the Interior, whether now filed with the department or presented for consideration hereafter, will be considered and acted upon by this department as heretofore.\*† [Sec. 28]

**189.28 Removal of restrictions.** Oil and gas leases heretofore or hereafter approved and leases for other minerals now or hereafter in force on land from all of which restrictions against alienation have been or shall be removed, even if such leases contain provisions authorizing supervision by this department, shall, after such removal of restrictions against alienation, be operated entirely free from such supervision, and the authority and power delegated to the Secretary of the Interior in said leases shall cease, and all payments required to be made to the Superintendent shall thereafter be made to lessor or the then owner of said land; and changes in regulations thereafter made by the Secretary of the Interior applicable to oil and gas leases shall not apply to such leased land from which said restrictions are removed.

In the event restrictions are removed from a part of the land included in any lease to which this section applies the entire lease shall

continue subject to the supervision of the Secretary of the Interior, and all royalties thereunder shall be paid to the Superintendent until such time as the lessor and lessee shall furnish the Secretary of the Interior satisfactory information that adequate arrangements have been made to account for the oil, gas, or mineral upon the restricted land separately from that upon the unrestricted. Thereafter the restricted land only shall be subject to the supervision of the Secretary of the Interior, Provided, That the unrestricted portion shall be relieved from such supervision as in the lease or regulations provided.\*† [Sec. 29]

**189.29 Terms applying after relinquishment.** Sections 8 and 9 of the approved oil and gas lease (Form 5-154h, as revised Apr. 24, 1935),<sup>24</sup> relative to relinquishment of supervision and terms operative after such relinquishment, read as follows:

**8. Relinquishment of supervision by the Secretary of the Interior.** Should the Secretary of the Interior, at any time during the life of this instrument, relinquish supervision as to all or part of the acreage covered hereby, such relinquishment shall not bind lessee until said Secretary shall have given 30 days' written notice. Until said requirements are fulfilled, lessee shall continue to make all payments due hereunder as heretofore in section 3 (c). After notice of relinquishment has been received by lessee, as herein provided, this lease shall be subject to the following further conditions:

(a) All rentals and royalties thereafter accruing shall be paid in the following manner: Rentals and royalties shall be paid to lessor or his successors in title, or to a trustee appointed under the provisions of section 9 hereof. Rentals and royalties shall be paid directly to lessor or his successors in title, or to said trustee as the case may be.

(b) If, at the time supervision is relinquished by the Secretary of the Interior, lessee shall have made all payments then due hereunder, and shall have fully performed all obligations on its part to be performed up to the time of such relinquishment, then the bond given to secure the performance hereof, on file in the Indian Office, shall be of no further force or effect.

(c) Should such relinquishment affect only part of the acreage, then lessee may continue to drill and operate the land covered hereby as an entirety: Provided, That lessee shall pay in the manner prescribed by section 3 (c), for the benefit of lessor such proportion of all rentals and royalties due hereunder as the acreage retained under the supervision of the Secretary of the Interior bears to the entire acreage of the lease, the remainder of such rentals and royalties to be paid directly to lessor or his successors in title or said trustee as the case may be, as provided in subdivision (a) of this section.

**9. Division of fee.** It is covenanted and agreed that should the fee of said land be divided into separate parcels, held by different owners, or should the rental or royalty interests hereunder be so divided in ownership, after the execution of this lease and after the Secretary of the Interior relinquishes supervision hereof, the obligations of lessee hereunder shall not be added to or changed in any manner whatsoever save as specifically provided by the terms of this lease. Notwithstanding such separate ownership, lessee may continue to drill and operate said premises as an entirety: Provided, That each separate owner shall receive such proportion of all rentals and royalties accruing after the vesting of his title as the acreage of the fee, or rental or royalty interest, bears to the entire acreage covered by the lease; or to the entire rental and royalty interest as the case may be: Provided further, That if, at any time after departmental supervision hereof is relinquished, in whole or in part, there shall be four or more parties entitled to rentals or royalties hereunder, whether said parties are so entitled by virtue of undivided interests or by virtue of ownership of separate parcels of the land covered hereby, lessee at his election may withhold the payment of further rentals or royalties (except as to the portion due the Indian lessor while under restric-

\* See footnote on page 343.

\*† For statutory and source citations, see note to § 189.1.

tion), until all of said parties shall agree upon and designate in writing and in a recordable instrument a trustee to receive all payments due hereunder on behalf of said parties and their respective successors in title. Payments to said trustee shall constitute lawful payments hereunder, and the sole risk of an improper or unlawful distribution of said funds by said trustee shall rest upon the parties naming said trustee and their respective successors in title.

These, or similar provisions, will be contained in all leases.\*† [Sec. 30]

**189.30 Removal of restrictions upon part of acreage.** Should the removal of restrictions affect only part of the acreage covered by an oil and gas lease containing provisions to the effect that the royalties accruing under the lease, where the fee is divided into separate parcels, shall be paid to each owner in the proportion which his acreage bears to the entire acreage covered by the lease, the lessee or assignee of such unrestricted portion will be required to make the reports required by the regulations in this part and the operating regulations with respect to the beginning of drilling operations, completion of wells, and production, the same as if the restrictions had not been removed. In the event the unrestricted portion of the leased premises is producing, the owners of the lease thereon will be required to pay the portion of the royalties due the Indian lessor at the time and in the manner specified by the regulations in this part.\*† [Sec. 31]

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

**189.31 Fees.** A fee of \$5 is required upon approval of each lease, sublease, or assignment. This fee shall be paid at the time of filing the lease, sublease, or assignment; and will be refunded in case the instrument is disapproved.† (47 Stat. 1417; 25 U.S.C. 413) [Sec. 32]

**189.32 Forms.** The forms prescribed for use in connection with the regulations in this part are designated as follows, and may be obtained from the Superintendent at a cost of 10 cents each:

5-154. Lease for minerals, other than oil and gas.

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

5-154b. Bond for separate leases.

5-157d. Authority of officers to execute papers.

5-154e. Assignment.

5-154f. \$15,000 collective bond.

5-154g. Affidavit of personal surety to accompany bonds.

5-154h. (Revised Apr. 24, 1935.) Oil and gas lease.

5-154i Stipulation modifying terms of oil and gas mining lease.

\*† [Sec. 33]

**189.33 Individual tribal assignments excluded.** The reference in this part to "allottees" and "allotments" does not include assignments of tribal lands made pursuant to tribal constitutions for the use of individual Indians and assignees of such lands; but such tribal assignments may be leased by Indians to whom mineral rights have been so assigned, subject to the terms of the tribal constitution and subject to the approval of the Secretary of the Interior for such periods of time as are authorized by existing law. In the leasing of such lands preference will be given to Indian cooperative associations and to individual Indians.† (Secs. 16, 17, 48 Stat. 987, 988; 25 U.S.C. 476, 477) [Sec. 34]