

Bureau of Indian Affairs, Interior

§212.3

- 212.23 Corporate qualifications and requests for information.
- 212.24 Bonds.
- 212.25 Acreage limitation.
- 212.26 [Reserved]
- 212.27 Duration of leases.
- 212.28 Unitization and communitization agreements, and well spacing.
- 212.29 [Reserved]
- 212.30 Removal of restrictions.
- 212.31–212.32 [Reserved]
- 212.33 Terms applying after relinquishment.
- 212.34 Individual tribal assignments excluded.

Subpart C—Rents, Royalties, Cancellations, and Appeals

- 212.40 Manner of payments.
- 212.41 Rentals and production royalty on oil and gas leases.
- 212.42 Annual rentals and expenditures for development on leases other than oil and gas, and geothermal resources.
- 212.43 Royalty rates for minerals other than oil and gas.
- 212.44 Suspension of operations.
- 212.45 [Reserved]
- 212.46 Inspection of premises, books and accounts.
- 212.47 Diligence, drainage and prevention of waste.
- 212.48 Permission to start operations.
- 212.49 Restrictions on operations.
- 212.50 [Reserved]
- 212.51 Surrender of leases.
- 212.52 Fees.
- 212.53 Assignments, overriding royalties, and operating agreements.
- 212.54 Lease or permit cancellation; Bureau of Indian Affairs notice of noncompliance.
- 212.55 Penalties.
- 212.56 Geological and geophysical permits.
- 212.57 Forms.
- 212.58 Appeals.

AUTHORITY: Act of March 3, 1909, (35 Stat. 783; 25 U.S.C. 396 (as amended)); Act of May 11, 1938, (Sec. 2, 52 Stat. 347; 25 U.S.C. 396 b-g; Act of August 1, 1956, (70 Stat. 774)); and 25 U.S.C. 2 and 9.

SOURCE: 61 FR 35661, July 8, 1996, unless otherwise noted.

Subpart A—General

§212.1 Purpose and scope.

(a) The regulations in this part govern leases for the development of individual Indian oil and gas, geothermal and solid mineral resources. These regulations are applicable to lands or interests in lands the title to which is held, for any individual Indian, in trust

by the United States or is subject to restriction against alienation imposed by the United States. These regulations are intended to ensure that Indian mineral owners desiring to have their resources developed are assured that they will be developed in a manner that maximizes their best economic interests and minimizes any adverse environmental impacts or cultural impacts resulting from such development.

(b) The regulations in this part shall be subject to amendment at any time by the Secretary of the Interior. No regulation that becomes effective after the date of approval of any lease or permit shall operate to affect the duration of the lease or permit, rate of royalty, rental, or acreage unless agreed to by all parties to the lease or permit.

(c) Nothing in the regulations in this part is intended to prevent Indian tribes from exercising their lawful governmental authority to regulate the conduct of persons, businesses, operations or mining within their territorial jurisdiction.

(d) The regulations of the Bureau of Land Management, the Office of Surface Mining Reclamation and Enforcement, and the Minerals Management Service that are referenced in §§212.4, 212.5, and 212.6 of this part are supplemental to these regulations, and apply to parties holding leases or permits for development of Indian mineral resources unless specifically stated otherwise in this part or in such other Federal regulations.

(e) The regulations in this part do not apply to leasing and development governed by regulations in 25 CFR part 213 (Members of the Five Civilized Tribes of Oklahoma), 226 (Osage), or 227 (Wind River Reservation).

§212.2 Information collection.

The information collection requirements contained in this part do not require a review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501; et seq.).

§212.3 Definitions.

As used in this part, the following words and phrases have the specified meaning except where otherwise indicated:

Applicant means any person seeking a permit, lease, or an assignment from the superintendent or area director.

Approving official means the Bureau of Indian Affairs official with delegated authority to approve a lease or permit.

Area director means the Bureau of Indian Affairs official in charge of an area office.

Authorized officer means any employee of the Bureau of Land Management authorized by law or by lawful delegation of authority to perform the duties described herein and in 43 CFR parts 3160, 3180, 3260, 3280, 3480, and 3590.

Cooperative agreement means a binding arrangement between two or more parties purporting to the act of agreeing or of coming to a mutual arrangement that is accepted by all parties to a transaction (e.g., communitization and unitization).

Director's representative means the Office of Surface Mining Reclamation and Enforcement director's representative authorized by law or lawful delegation of authority to perform the duties described in 30 CFR part 750.

Gas means any fluid, either combustible or non-combustible, that is produced in a natural state from the earth and that maintains a gaseous or rarefied state at ordinary temperature and pressure conditions.

Geological and geophysical permit means a written authorization to conduct on-site surveys to locate potential deposits of oil and gas, geothermal or solid mineral resources on the lands.

Geothermal resources means:

(1) All products of geothermal processes, including indigenous steam, hot water and hot brines;

(2) Steam and other gases, hot water, and hot brines, resulting from water, gas or other fluids artificially introduced into geothermal formations;

(3) Heat or other associated energy found in geothermal formations; and

(4) Any by-product derived therefrom.

In the best interest of the Indian mineral owner refers to the standards to be applied by the Secretary in considering whether to take an administrative action affecting the interests of an Indian mineral owner. In considering whether it is "in the best interest of the Indian mineral owner" to take a certain ac-

tion (such as approval of a lease, permit, unitization or communitization agreement), the Secretary shall consider any relevant factor, including, but not limited to: economic considerations, such as date of lease expiration; probable financial effect on the Indian mineral owner; leasability of land concerned; need for change in the terms of the existing lease; marketability; and potential environmental, social, and cultural effects.

Indian lands means any lands owned by any individual Indian or Alaska Native, Indian tribe, band, nation, pueblo, community, rancheria, colony, or other tribal group which owns lands or interest in the minerals, the title to which is held in trust by the United States or is subject to restriction against alienation imposed by the United States.

Indian mineral owner means any individual Indian or Alaska Native who owns mineral interests in oil and gas, geothermal, or solid mineral resources, title to which is held in trust by the United States, or is subject to the restriction against alienation imposed by the United States.

Indian surface owner means any individual Indian or Indian tribe whose surface estate is held in trust by the United States, or is subject to restriction against alienation imposed by the United States.

Lease means any contract, approved by the Secretary of the Interior under the Act of March 3, 1909 (35 Stat. 783) (25 U.S.C. 396), as amended, and the Act of May 11, 1938 (52 Stat. 347) (25 U.S.C. 396a–396g), as amended, that authorize exploration for, extraction of, or removal of any minerals.

Lessee means a natural person, proprietorship, partnership, corporation, or other entity which has entered into a lease with an Indian mineral owner, or who has been assigned an obligation to make royalty or other payments required by the lease.

Lessor means an Indian mineral owner who is a party to a lease.

Minerals includes both metalliferous and non-metalliferous minerals; all hydrocarbons, including oil, gas, coal and lignite of all ranks; geothermal resources; and includes but is not limited to, sand, gravel, pumice, cinders, granite, building stone, limestone, clay,

Bureau of Indian Affairs, Interior

§212.7

silt, or any other energy or non-energy mineral.

Minerals Management Service official means any employee of the Minerals Management Service (MMS) authorized by law or by lawful delegation of authority to perform the duties described in 30 CFR chapter II, subchapters A and C.

Mining means the science, technique, and business of mineral development including, but not limited to: opencast work, underground work, and in-situ leaching directed to severance and treatment of minerals; *Provided*, when sand, gravel, pumice, cinders, granite, building stone, limestone, clay or silt is the subject mineral, an enterprise is considered "mining" only if the extraction of such a mineral exceeds 5,000 cubic yards in any given year.

Oil means all nongaseous hydrocarbon substances other than those substances leasable as coal, oil shale, or gilsonite (including all vein-type solid hydrocarbons). Oil includes liquefiable hydrocarbon substances such as drip gasoline and other natural condensates recovered or recoverable in a liquid state from produced gas without resorting to a manufacturing process.

Permit means any contract issued by the superintendent and/or area director to conduct exploration on; or removal of less than 5,000 cubic yards per year of common varieties of minerals from Indian lands.

Permittee means a person holding or required by this part to hold a permit to conduct exploration operations on; or remove less than 5,000 cubic yards per year of common varieties of minerals from Indian lands.

Secretary means the Secretary of the Interior or an authorized representative.

Solid minerals means all minerals excluding oil and gas and geothermal resources.

Superintendent means the Bureau of Indian Affairs official in charge of the agency office having jurisdiction over the minerals subject to leasing under this part.

§212.4 Authority and responsibility of the Bureau of Land Management (BLM).

The functions of the Bureau of Land Management are found in 43 CFR part 3160—Onshore Oil and Gas Operations, 43 CFR part 3180—Onshore Oil and Gas Unit Agreements: Unproven Area, 43 CFR part 3260—Geothermal Resources Operations, 43 CFR part 3280—Geothermal Resources Unit Agreements: Unproven Areas, 43 CFR part 3480—Coal Exploration and Mining Operations, and 43 CFR part 3590—Solid Minerals (Other Than Coal) Exploration and Mining Operations, and currently include, but are not limited to, resource evaluation, approval of drilling permits, mining and reclamation, production plans, mineral appraisals, inspection and enforcement, and production verification. Those regulations, apply to leases or permits issued under this part.

§212.5 Authority and responsibility of the Office of Surface Mining Reclamation and Enforcement (OSM).

The OSM is the regulatory authority for surface coal mining and reclamation operations on Indian lands pursuant to the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.). The relevant regulations for surface coal mining and reclamation operations are found in 30 CFR part 750. Those regulations apply to mining and reclamation on leases issued under this part.

§212.6 Authority and responsibility of the Minerals Management Service (MMS).

The functions of the MMS for reporting, accounting, and auditing are found in 30 CFR chapter II, subchapters A and C, which apply to leases approved under this part. To the extent the parties to a lease or permit are able to provide reasonable provisions satisfactorily addressing the functions governed by MMS regulations, the Secretary may approve alternate provisions in a lease or permit.

§212.7 Environmental studies.

The provisions of §211.7 of this subchapter, as amended, are applicable to leases under this part.