

## Part 4 Mineral Leases

### **53C-2-401 Coal and mineral deposits reserved -- Exceptions.**

- (1)
  - (a) Except as otherwise expressly provided by law, coal and mineral deposits in trust lands are reserved to the respective trust.
  - (b) Each certificate of sale and patent issued shall contain such a reservation.
  - (c) The purchaser of any lands belonging to the trust:
    - (i) acquires no right, title, or interest in coal or mineral deposits; and
    - (ii) is subject to the conditions and limitations prescribed by law providing for the state and any person authorized by it to:
      - (A) prospect or mine;
      - (B) remove the deposits; and
      - (C) occupy and use as much of the surface of the lands as may be required for any purpose reasonably incident to the mining and removal of the deposits.
  - (d)
    - (i) Coal and mineral deposits in trust lands may be leased on a rental and royalty basis.
    - (ii) The administration may also, with board approval, enter into joint ventures, farmout agreements, exploration agreements, operating agreements, and other business arrangements for the disposition of coal and mineral deposits in trust lands.
    - (iii) The mineral estate in trust lands may not be sold except as authorized in Subsection (2).
    - (iv) Agreements made under Subsection (1)(d)(ii) are not subject to Subsections 53C-2-405(3) and (4).
- (2) Except as otherwise prohibited by the Jones Act of January 25, 1927, 43 U.S.C. Sections 870-871, mineral interests in trust lands may be exchanged for mineral interests of comparable value or otherwise disposed of, if their retention would create a liability exceeding their value.
- (3)
  - (a) Common varieties of sand, gravel, and cinders are not considered to be minerals under this section but may be reserved by specific action of the director.
  - (b) Common varieties do not include deposits which are valuable because the deposit contains characteristics which give it distinct and special value.

Amended by Chapter 192, 2003 General Session

### **53C-2-402 Mineral leases -- Director to establish rules for mineral leases -- Revenues to be deposited in Land Grant Management Fund.**

- (1) Mineral leases of all trust lands owned by the state shall be made exclusively by the director, under rules made by the director.
- (2) Revenues from mineral leases of trust lands shall be deposited in the Land Grant Management Fund.

Enacted by Chapter 294, 1994 General Session

### **53C-2-403 Mineral leases -- Director to establish forms, term, rental, and royalty.**

The director shall establish the:

- (1) form of a mineral lease application;

- (2) form of the lease;
- (3) term of the lease;
- (4) annual rental;
- (5) amount of royalty in addition to or in lieu of rental; and
- (6) basis upon which the royalty shall be computed.

Enacted by Chapter 294, 1994 General Session

**53C-2-404 Applicants for mineral leases -- Qualifications.**

Applicants for mineral leases must, throughout the application period and throughout the duration of the lease, be in full compliance with all of the laws of the state as to qualification to do business within the state and must not be in default under those laws or the rules of the administration.

Amended by Chapter 247, 2011 General Session

**53C-2-405 Mineral leases -- Multiple leases on same land -- Lease terms.**

- (1)
  - (a) Mineral leases, including oil, gas, and hydrocarbon leases, may be issued for prospecting, exploring, developing, and producing minerals described by rule as available for lease on any portion of trust lands or the reserved mineral interests of the trust.
  - (b)
    - (i) Leases may be issued for different types of minerals on the same land.
    - (ii) If leases are issued for different types of minerals on the same land, the leases shall include stipulations for simultaneous operations.
  - (c) Leases may not be issued for the same resource on the same land.
- (2)
  - (a) Each mineral lease issued by the administration shall provide for an annual rental of not less than \$1 per acre per year.
  - (b) However, a lease may provide for a rental credit, minimum rental, or minimum royalty upon commencement of production, as prescribed by rules of the director.
- (3) The primary term of a mineral lease may not exceed 10 years.
- (4) The director shall make rules regarding the continuation of a mineral lease after the primary term has expired.

Amended by Chapter 39, 2005 General Session

**53C-2-407 Mineral lease application procedures.**

- (1) Lands that are not encumbered by a current mineral lease for the same resource, a withdrawal order, or other rule of the director prohibiting the lease of the lands, may be offered for lease as provided in this section or may, with board approval, be committed to another contractual arrangement under Subsection 53C-2-401(1)(d).
- (2)
  - (a) A notice of the land available for leasing shall be posted in the administration's office or on the administration's website.
  - (b) The notice shall:
    - (i) describe the land;
    - (ii) indicate what mineral interest in each tract is available for leasing; and

- (iii) state the last date, which shall be no less than 15 days after the notice is posted, on which bids may be received.
- (3)
- (a) Applications for the lease of lands filed in the administration's office or online before the closing date stated in the notice shall be considered to be filed simultaneously.
  - (b) The applications shall be:
    - (i) submitted in sealed envelopes or as required by the online bidding process; and
    - (ii) disclosed in the administration's office at 10 a.m. of the first business day following the last day on which bids may be received.
  - (c) Leases shall be awarded to the highest responsible, qualified bidder, in terms of the bonus paid in addition to the first year's rental, who submitted a bid in the manner required.
  - (d) In cases of identical bids of successful bidders:
    - (i) the right to lease shall be determined by drawing or oral auction;
    - (ii) the determination of whether to award the lease by drawing or oral auction shall be made at the sole discretion of the director; and
    - (iii) the drawing or oral auction shall be held in public at the administration's office in a manner calculated to optimize the return to the trust land beneficiary.
- (4)
- (a) At the discretion of the director, mineral leases may be offered at an oral public auction.
  - (b) The director may set a minimum bid for a public auction.
- (5) The director may award a mineral lease without following the competitive bidding procedures specified in Subsections (3) and (4) or conducting an oral public auction, if the mineral lessee waives or relinquishes to the trust a prior mining claim, mineral lease, or other right which in the opinion of the director might otherwise:
- (a) defeat or encumber the selection of newly acquired land, either for indemnity or other purposes, or the acquisition by the trust of any land; or
  - (b) cloud the title to any of those lands.
- (6) Following the awarding of a lease to a successful bidder, deposits, except filing fees, made by unsuccessful bidders shall be returned to those bidders.
- (7)
- (a) Subject to Section 53C-2-104, lands acquired through exchange or indemnity selection from the federal government shall be subject to the vested rights of unpatented mining claimants under the Mining Law of 1872, as amended, and other federal vested rights, both surface and minerals.
  - (b) Subsection (7)(a) does not prevent the director from negotiating the accommodation of vested rights through any method acceptable to the parties.
- (8) The director may lease lands for which applications are filed or submitted online if:
- (a) the director offers trust lands for lease for mineral purposes according to the procedures in Subsections (3) through (6) and the lands are not leased; or
  - (b) a period of time of not less than one year but less than three years has elapsed following:
    - (i) a revocation of a withdrawal; or
    - (ii) the date an existing mineral lease is canceled, relinquished, surrendered, or terminated.

Amended by Chapter 389, 2016 General Session

**53C-2-408 Mineral lease covenants.**

Each mineral lease shall contain the following covenants:

- (1) the lessee shall promptly pay any rent annually in advance;

- (2) waste may not be committed on the land;
- (3) the premises shall be surrendered at the expiration of the term;
- (4) the lessee may not assign or sublet without the prior written authorization of the director; and
- (5) if authorized improvements have been placed on the land by any person other than the lessee, the lessee shall allow the owner of the improvements to remove them within 90 days.

Enacted by Chapter 294, 1994 General Session

**53C-2-409 Mineral leases -- Cancellation -- Use of surface land -- Liability for damage.**

- (1) Upon violation by the lessee of any lawful provision in a mineral lease, the director may, without further notice or appeal, cancel the lease after 30 days notice by registered or certified return receipt mail, unless the lessee remedies the violation, rectifies the condition, or requests a hearing pursuant to Section 53C-1-304 within the 30 days or within any extension of time the director grants.
- (2)
  - (a) A mineral lessee, subject to conditions required by the director, has the right at all times to enter upon the leasehold for prospecting, exploring, developing, and producing minerals and shall have reasonable use of the surface.
  - (b) The lessee may not injure, damage, or destroy the improvements of the surface owner or lessee.
  - (c) The lessee is liable to the surface owner or lessee for all damage to the surface of the land and improvements, except for reasonable use.
- (3) Any mineral lessee may occupy as much of the surface of the leased land as may be required for all purposes reasonably incident to the exercise of lessee's rights under the lease by:
  - (a) securing the written consent or waiver of the surface owner or lessee;
  - (b) payment for the damage to the surface of the land and improvements to the surface owner or lessee where there is agreement as to the amount of the damage; or
  - (c) upon the execution of a good and sufficient bond to the director for the use and benefit of the surface owner or lessee of the land to secure the payment of damages as may be determined and fixed by agreement or in an action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties of the bond. The bond shall be in a form and amount as prescribed by the director and shall be filed with the administration.

Amended by Chapter 72, 1997 General Session

**53C-2-410 Shut-in gas wells.**

- (1) Under a mineral lease for oil and gas, gas is considered to be produced in paying quantities from a shut-in gas well if the shut-in gas well is capable of producing gas in paying quantities, but the gas cannot be marketed at a reasonable price due to existing marketing or transportation conditions.
- (2)
  - (a) The director shall make rules establishing:
    - (i) a minimum rental or minimum royalty for a shut-in gas well that is considered to be producing gas in paying quantities; and
    - (ii) the basis upon which the minimum rental or minimum royalty shall be paid.
  - (b) The minimum rental or minimum royalty may not be less than twice the annual lease rental.

Enacted by Chapter 294, 1994 General Session

**53C-2-411 Unitization of mineral leases.**

- (1) Mineral lessees, upon prior written authorization from the director, may commit leased trust lands to unit, cooperative, or other plans of development with other lands.
- (2) The director may, with the consent of the mineral lessee, modify any term of a mineral lease for lands that are committed to a unit, cooperative, or other plan of development.
- (3) Production allocated to leased trust lands under the terms of a unit, cooperative, or other plan of development shall be considered produced from the leased lands whether or not the point of production is located on the leased trust lands.

Enacted by Chapter 294, 1994 General Session

**53C-2-412 Land subject to federal mineral lease.**

- (1) With respect to any tract of land in which the trust acquires or has acquired any interest subject to an outstanding federal mineral lease or prospecting permit, the lessee or permittee may submit a petition seeking extension of the permit or lease or any other action as may be necessary to give to the lessee or permittee any and all rights, privileges, and benefits which he would have had under the permit or lease had the trust not acquired its interest in the tract.
- (2) In consideration of the voluntary termination by the federal lessee or permittee of his lease or permit as it relates to that tract, the director may issue to that lessee or permittee a lease of the acquired tract or any portion of that tract for recovery of the same mineral substances, granting the lessee all the rights, privileges, and benefits with reference to that tract which he would have had by reason of his lease or permit from the United States had the state not acquired its interest in the tract.

Enacted by Chapter 294, 1994 General Session

**53C-2-413 Agreements for the administration of mineral leases by a federal agency.**

- (1) Where this trust has succeeded or will succeed to the position of the United States under a federal mineral or prospecting permit in which only a portion of the lands are subject to the permit, agreements may be entered into with the federal agency having jurisdiction over the remaining portion providing for the continued administration by that agency of the entire lease or permit or any lease pursuant to that permit.
- (2) Consideration for continued administration by the federal agency may not exceed 10% of the revenue allocable to the trust's portion.

Enacted by Chapter 294, 1994 General Session

**53C-2-414 Oil shale and tar sands development -- Participation by the administration -- Credit against future rentals -- Limits.**

- (1) The director may participate with oil shale or tar sands lessees in programs for the development of technology for the economic recovery of fuel substances from oil shale or tar sands.
- (2)
  - (a) A trust land oil shale or tar sands lessee may apply to the director for credit against future rentals by submitting to the director the details of a plan for research, experimentation, or investigation to develop technology for the economic recovery of fuel substances from oil shale or tar sands.
  - (b) The director may prescribe the format of the plan.

- (3)
  - (a) If the submitted plan is meritorious and designed to advance oil shale or tar sands technology, credit may be granted against rentals to become due in the future under any oil shale or tar sands leases held by the lessee, in accordance with rules promulgated by the director.
  - (b) The credit may not be given in an amount which reduces the actual amount payable by the lessee under any oil shale or tar sands lease to less than 50 cents per acre per year.
- (4) Lessees proceeding under a plan approved for director participation shall:
  - (a) maintain accurate books and records;
  - (b) make them available for inspection by the director at all reasonable times; and
  - (c) submit an accounting to the director at the conclusion of the program and at any other times the administration requests.

Enacted by Chapter 294, 1994 General Session