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Section 1. Citation

This Title may be cited as the Kickapoo Mineral Leasing Act of 1982.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 2. Definitions

The following terms, when used in this Title, shall have the meanings indicated unless a different meaning is clearly required by the context.

(a) “Business Committee” or “Committee” means the Business Committee of the Kickapoo Nation as defined by Article V of the Tribal Constitution.

(b) “General Council” means the Kickapoo Council of the Kickapoo Nation as defined by Article III of the Tribal Constitution.

(c) The term “geologist” refers to a representative of the Kickapoo Nation under direction of the Business Committee authorized and empowered to supervise and direct operations under oil and gas and other mining leases, to furnish scientific and technical information or advice, to ascertain and record the amount and value of production, and to determine and record rentals and royalties due and paid.

(d) “Superintendent” refers to the superintendent or other officer of the Bureau of Indian Affairs or of the United States Government who may have jurisdiction over the lands involved.

(e) “Supervisor” 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 or advice, to ascertain and record the amount and value of production, and to determine and record rentals and royalties due and paid.

(f) “Secretary” or “Secretary of the Interior” shall mean the Secretary of the United States Department of the Interior or his authorized representative.

(g) “Tribal Secretary” means the Secretary-Treasurer of the Kickapoo Nation as defined by Articles IV of the Tribal Constitution.

(h) “Tribal Court” means the Kickapoo Tribal Courts.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

CHAPTER ONE**LEASES OF TRIBAL LAND FOR MINING PURPOSES****Section 101. Leases Made by the Kickapoo Nation**

The Kickapoo Nation may, with the approval of the Secretary of the Interior or his authorized representative, lease their land for mining purposes. No oil and gas lease shall be approved by the Secretary unless it has first been offered at an advertised sale in accordance with Section 103 of this Title and Section 171.3 of Title 25 of the Code of Federal Regulations (1981). Leases for minerals other than oil and gas shall be advertised for bids as prescribed in Section 103 of this Title and Section 171.3 of Title 25 of the Code of Federal Regulations (1981) unless appropriate officer of the Department of the Interior grants the Kickapoo Nation written permission to negotiate for a lease. Negotiated leases, accompanied by proper bond and other supporting papers, shall be filed with the Superintendent of the Shawnee Indian Agency within 30 days after such permission shall have been granted by the Commissioner to negotiate the lease. The Horton Area Director is authorized in proper cases to grant a reasonable extension of this period prior to its expiration. The right is reserved to the Secretary of the Interior to direct that negotiated leases be rejected and that they be advertised for bids. All leases shall be approved by the Secretary of the Interior or his duly authorized representative.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 102. Leases for Subsurface Storage of Oil and Gas

(a) The Secretary of the Interior may approve, subject to obtaining the prior consent of the Tribe, storage leases, or modifications, amendments, or extensions of oil and gas or other mining leases on Tribal lands subject to lease under the Act of May 11, 1938 (52 Stat. 347; 25 U.S.C. 369a), and on allotted lands subject to lease under the Act of March 3, 1909 (35 Stat. 783; 25 U.S.C. 369), to provide for the subsurface storage of oil or gas, irrespective of the lands from which production is initially obtained. The storage lease, or modification, amendment, or extension, shall provide for the payment of such storage fee or rental on such oil or gas as may be determined adequate in each case, or in lieu thereof, for a royalty other than that prescribed on the oil and gas lease when such stored oil and gas is produced in conjunction with oil or gas not previously produced.

(b) The Secretary of the Interior or his authorized representative may approve, subject to obtaining the prior consent of the Tribe, a provision in an oil and gas lease, under which storage of oil and gas is authorized, for continuance of the lease at least for the period of such storage use and so long thereafter as oil or gas not previously produced is produced in paying quantities.

(c) Applications for subsurface storage of oil or gas shall be filed in triplicate with the oil and gas supervisor and the geologist and shall disclose the ownership of the lands involved, the parties in interest, the storage fee, rental, or royalty offered to be paid for such storage, and all essential information showing the necessity for such project. Enough copies of the final agreement signed by the Committee and other parties in interest shall be submitted for the approval of the Secretary or his authorized representative, to permit retention of five copies by the Department after approval.

(d) No lease for subsurface storage of oil or gas shall be approved by the Secretary pursuant to this provisions unless the approval of the Business Committee shall be first endorsed upon the final agreement. Enough copies of the final agreement signed by the non-Tribal parties in interest shall be submitted to the Business Committee to permit retention of two copies by the Committee after approval and retention of five copies by the Department of the Interior. Upon approval by the Committee, the Committee shall forthwith forward the approved final agreement to the Secretary for his approval.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 103. Sale of Oil and Gas Leases

(a) At such times and in such manner as he may deem appropriate, after being authorized by the General Council of the Tribe, the Superintendent shall publish notices at least thirty days prior to the sale, unless a shorter period is authorized by the Secretary of the Interior or the General Council, that oil and gas leases on specific tracts, each of which shall be in a reasonable compact body, will be offered to the highest responsible bidder for a bonus consideration, in addition to stipulated rentals and royalties. Each bid must be accompanied by a cashiers check, certified check or postal money order, payable to the United States for the use and benefit of the Kickapoo Nation in an amount not less than 25 percent of the bonus bid. Within 30 days after notification of being the successful bidder, said bidder must remit the balance of the bonus, the first year's rental, and his share of the advertising costs, and shall file with the Superintendent the lease in completed form. The Superintendent may, for good sufficient reasons, extend the time for the completion and submission of the lease form, but no extension shall be granted for remitting the balance of moneys due. If the successful bidder fails to pay the full consideration within said period, or fails to file the completed lease within said period or extension thereof, or if the lease is disapproved through no fault of the lessor or the Department of the Interior 25 percent of the bonus bid will be forfeited for the use and benefit of the Kickapoo Nation.

(b) All notices or advertisement 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 interest of the Kickapoo Nation will be best served by doing so, 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 Kickapoo Nation to accept the highest bid, the Secretary may readvertise such lease for sale, or if deemed advisable,

with the consent of the General Council or Business Committee, a lease may be made by private negotiations. The successful bidder or bidders will be required to pay his or their share of the advertising costs. Amounts received from unsuccessful bidders will be returned, but when no bid is accepted on a tract, the costs of advertising will be assessed against the applicant for lease who requested that said tract be advertised.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 104. Government Employees Cannot Acquire Leases

(a) No lease, assignment thereof, or interest therein will be approved to any employee or employees of the United States Government whether connected with the Bureau of Indian Affairs 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.

(b) No lease, assignment thereof, or interest therein regarding any oil gas, or other mineral interests owned by the Kickapoo Nation shall be approved to any officer, employee, or employees of the Kickapoo Tribe shall be permitted to acquire any interest in any mineral lease covering Tribal lands whether held in trust or otherwise by ownership of stock in corporation having such leases or in any other manner.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 105. 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 of Kansas and/or the Kickapoo Nation evidence showing compliance with the corporation laws thereof. Statements of changes in officers and stockholders shall be furnished by a corporate lease to the Superintendent and the Business Committee January 1, of each year, and at such other times as may be requested. Whenever deemed advisable in any case the Superintendent of the Business Committee may require a corporation applicant or lessee to file:

(a) List 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 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 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 in restricted lands within the State, and whether they hold such interests for themselves or in trust.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 106. Bonds

(a) Lessee shall furnish with each lease a bond (BIA Form 5-154b), and an assignee of a lease shall furnish with each assignment a bond (BIA Form 5-154m), with an acceptable company authorized to act as sole surety, or with two or more personal sureties and a deposit as collateral security and 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 and the Business Committee, or show ownership of unencumbered real estate of the value equal to twice the amount of the bonds. Lessee may file a bond on BIA Form 5-514a without sureties and a deposit as collateral security of Government bonds equal in value to the full amount of the bond. Lease bonds shall not be less than the following amounts:

For less than 80 acres	\$10,000.00
For 80 acres and less than 120 acres	\$15,000.00
For 120 acres and not more than 160 acres	\$20,000.00
For each additional 40 acres, or Part thereof above 160 acres	\$5,000.00

Provided, that for any lease which has entered production, the bond shall be renewed by January 30 of each year in an amount not less than the gross amount of rentals and royalties due and payable during the next preceding year.

Provided further, that for leases for mineral other than oil and gas the Secretary of the Interior or his authorized representative with the consent of the Business Committee may authorize a bond for a lessor amount if, in his opinion, the circumstances warrant and the interest of the Indian landowners are fully protected.

(b) The right is specifically reserved to increase the amount of the bonds and the collateral security prescribed in paragraph (a) of this Section in any particular case when the officer in charge or the geologist deems it proper to do so.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 107. Leases to Furnish Additional Information

The Superintendent or the Business Committee may, either before or after approval of a lease, call for any additional information desired to carry out the provisions in this Title. If a lessee shall fail to furnish the papers necessary to put his lease and bond in proper form for consideration, the Superintendent or Business Committee shall forward such lease for disapproval or cancellation.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 108. 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 survey, 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 provisions in this Title shall convey any extra-lateral rights, and no coal lease shall have a length exceeding 1 mile along the outcrop.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 109. Acreage Limitation

A lessee may acquire more than one lease but no single lease shall be granted for mining purposes on Tribal or restricted Indian lands, in excess of the following acreage except where the rule of approximation applies:

(a) For oil and gas and all other minerals, except coal, 160 acres.

(b) Coal.

(1) For coal, a lease shall ordinarily be limited to 640 acres. The Secretary may with the consent of the Business Committee, upon application, approve the combining of leases held by one or more lessees, or approve the issuance of a single lease for more than 640 acres in a reasonably compact form, if he shall find that the approval of such larger acreage is in the interest of the lessor and is necessary to permit the establishment or construction of thermal electric power plants or other industrial facilities on or near the reservation. He may prescribe provisions in such larger leases to require relinquishment of acreage in the event of failure to construct facilities, or may require advance rental or minimum royalty payments on a part of the acreage as a condition for combining leases or issuance of a single lease in excess of 640 acres.

(2) The Secretary with the consent of the Business Committee may alter, change, or modify the development and producing requirements of the several leases and provide that operations and production on one lease shall be deemed to satisfy the development and producing requirements as to each lease combined.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 110. Term of Leases

Mining leases may be made for a specified term not to exceed two years from the date of approval by the Secretary of the Interior, or his authorized representative, and as much longer as the substances specified in the lease are produced in paying quantities.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 111. Government Reserves Right to Buy Mineral Produced

All leases under this Title shall contain a provision stating that 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 substances produced under any lease.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 112. Manner of Payments of Rents and Royalties

(a) Except where otherwise provided by the terms of a lease, 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 for 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. Provided, that two copies of the payment of rental and royalty and the statement showing the specific items of rental or royalty that the remittance is intended to cover shall be delivered to the geologist at the same time such documents are submitted to the supervisor.

(b) 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.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 113. Rates of Rentals and Royalties Under Oil and Gas Leases

(a) The lessees shall pay, beginning with the date of approval of oil and gas leases by the Secretary of the Interior a minimum rental of \$12.50 per acre per annum in advance during the continuance thereof, together with a minimum royalty of 20 percent of the value or amount of all oil, gas, and/or natural gasolines, 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. A higher rate of rental or royalty may be fixed by the Secretary of the Interior or the Business Committee, prior to the advertisement of land for oil and gas leases. During the period of supervision, "Value" for the purposes of the lessee may, in the discretion of the Secretary of the Interior or the Business Committee 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 or the geologist. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary of the Interior or the Business Committee 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 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, 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.

(b) 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 building 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.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 114. Annual Rentals and Expenditures for Development on Leases Other Than Oil and Gas

(a) Unless otherwise authorized by the Secretary or his authorized representative (1) a lease for minerals other than oil and gas shall provide for a yearly development expenditure of not less than \$100.00 per acre and 92) all such leases shall provide for a rental payment of not less than \$10.00 for each acre or fraction of an acre payable on or before the first day of each lease year.

(b) Within 20 days after the lease year, an itemized statement, in duplicate, of the expenditure for development under a lease for minerals other than oil and gas shall be filed with the Superintendent and the Business Committee. The lessee must certify the statement under oath.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 115. Suspension of Operations and Production on Leases for Minerals Other Than Oil and Gas

The Secretary of the Interior or his authorized representative, after obtaining the consent of the Tribe, may authorize suspension of operating and producing requirements on mining leases for minerals other than oil and gas whenever during the primary term of the leases, it is considered that marketing facilities are inadequate or economic conditions unsatisfactory. Applications by lessees for relief from all operating and producing requirements on such mineral leases shall be filed in triplicate, in the office of the Regional Mining Supervisor of the Geological Survey and a copy thereof filed with Superintendent and the Business Committee. Complete information must be furnished showing the necessity for such relief. Suspension of operations and production shall not relieve the lessee from the obligations of continued payment of the annual rental or the minimum royalty.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 116. Royalty Rates for Minerals Other Than Oil and Gas

Unless otherwise authorized by the Secretary of the Interior, and the Business Committee, the minimum rates for minerals other than oil and gas shall be as follows:

(a) 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 than 15 percent of the value, at the nearest shipping point, of all ores, metals, or minerals, marketed.

(b) For gold and silver the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 20 percent to be computed on the value of bullion as shown by the mint returns after deducting forwarding charges to the point of sale; and for copper, lead, zinc, and tungsten, a royalty of not less than 20 percent to be computed on the value of ores and concentrates as shown by reduction returns after deducting freight charges to the point of sale. Duplicate return shall be filed by the lessee with the Superintendent and the Business Committee 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 a royalty of not less than 20 percent of the value of the ore or concentrates sold at the mine unless otherwise provided by the lease.

(c) For coal the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than \$1.00 per ton of 2,000 pounds of mine run, or coal as taken from the mine, including what is commonly called "slack".

(d) For asphaltum and allied substances the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than \$1.00 per ton of 2,000 pounds on crude material or not less than \$6.00 per ton on refined substances.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 117. 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.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 118. Division Orders

(a) Lessee may make arrangements with the purchasers of oil for the payment of the royalties to the Superintendent by such purchases, 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 and the geologist 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 intracompany division order and forward it to the Supervisor and the geologist for his consideration. The right is reserved for the supervisor or the geologist 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, the provisions in this Title, or of the operating regulations.

(b) 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 the pipe line. The lessee shall notify the geologist in writing not less than 24 hours before any oil is taken by authority of a division order stating the time and place of such. Failure to the lessee to perform properly these duties will subject the division order to revocation.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 119. 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 and the Tribe 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 or the Tribe as shall be instructed in writing by the Secretary of the Interior or the Tribe or authorized by regulations to make such examination.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 120. 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 stata; not drill

any well within 200 feet of any house or barn or other permanent improvement 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 of the geologist relative to the 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 and the lessor; 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.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 121. Permission to Start Operations

(a) No operations will be permitted on any lease before it is approved by the Secretary of the Interior.

(b) Written permission must be secured from the supervisor and the geologist 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 and the Tribe. Copies of the provisions in this Title and applicable regulations may be secured from either the supervisor, the geologist, or the Superintendent and no operations shall be attempted without a study of the operating regulations.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 122. Restrictions on Operations

(a) Oil and gas leases issued under the provisions of this Title shall be subject to imposition by the Secretary of the Interior and the Business Committee of such restrictions as to time or times for the drilling wells and as to the production from any well or wells as in their 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 their judgment the Secretary of the Interior and the Business Committee may take into consideration, among other things, the Federal laws, State laws, and Tribal laws by competent Federal, State, or Tribal authorities, lawful agreements among operators regulating either drilling or production, or both, and the Secretary of the Interior shall consider any regulatory actions taken or desired by the Tribal authorities.

(b) 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 of the Tribe, 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 Kickapoo Nation.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 123. Penalties

(a) Failure of the lessee to comply with any provisions of the lease, of the operating regulations, of the regulations of Title 25 Part 171 of the Code of Federal Regulations, order of the Superintendent of his representative, or of the orders of the supervisor or his representative, or, of the provisions contained in this Title, or any lawful order of the Business Committee or its authorized representative, or the geologist or his authorized representative, shall subject the lease to cancellation by the Secretary of the Interior or the lessee to a penalty of not more than \$500.00 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 finding 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.

(b) Failure of the lessee to comply with any provisions of the lease, of the operating regulations, of the regulations of Title 25, Part 171 of the Code of Federal regulations, order of the Superintendent or his representative, or of the supervisor or his representative or, of the regulations contained in this Title, or any lawful order of the Business Committee or its authorized representative, or the geologist or his authorized representative shall subject the lease to cancellation by the Business Committee or the lessee to a penalty of not more than \$500.00 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 upon request, within thirty days after such notice, with respect to the terms of the lease, regulations, or orders violated, which hearing shall be conclusive, unless an appeal be taken, within 30 days after notice of the Business Committee's decision, to the Tribal Court which may review the proceedings of the Business Committee for error in law. The decision of the Tribal Court upon appeal shall be conclusive.

(c) Remedies of the lessor pursuant to this Section shall be alternative remedies and the lessor may proceed pursuant to subsection (a) or subsection (b) of this Section at its sole option, provided that the Bureau of Indian Affairs, upon receiving a final order pursuant to subsection (b) of this Section, shall assist the Tribe in the enforcement of any penalties imposed.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 124. Mines To Be Timbered Properly

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

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 125. Surrender of Leased Premises in Good Condition

On expiration of the term of a lease, or when a lease is surrendered or canceled the lessee shall deliver to the Tribal 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 with the approval of the Business Committee 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 of the property has been ascertained by inspection by the Secretary of the Interior or his authorized agents and the Business Committee or its authorized agents to be in satisfactory condition.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 126. Fees

Each lease, mining, permit, sublease, or assignment shall be accompanied at the time of filing with the Tribe by a fee of \$50.00 payable to the Kickapoo Nation. This fee shall be in addition to the Bureau of Indian Affairs filing fee required by Section 171.25 of Title 25 of the Code of Federal Regulations.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 127. Assignments and Overriding Royalties

(a) Approved leases or any interest therein may be assigned or transferred only with the approval of the Secretary of the Interior, and the Business Committee, 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, designation of operator, or otherwise, without the consent of the Secretary of the Interior, and the Business Committee.

(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 and the Business Committee shall be filed with the Superintendent and the Tribal Secretary within 30 days after the date of execution.

(d) Agreements creating overriding royalties or payments out of production on oil and gas leases shall be considered as interests in the lease as such term is used in this Section. Such agreements shall be subject to the condition that nothing in any such agreements shall be construed as modifying any of the obligations of the lessee, including, but not limited to, obligations for diligent development and operation, protection against drainage, compliance with oil and gas operating regulations (30 C.F.R. Part 221), and the requirement for departmental approval before abandonment of any well. All such obligations are to remain in full force and effect, the same as if free of any such royalties or payments. The existence of agreements creating overriding royalties or payments out of production, whether or not actually paid, shall not be considered as justification for the approval of abandonment of any well. Nothing in this paragraph revokes the requirement for approval of assignments and other instruments which is required in this Section. Any overriding royalties or payments out of production created by the terms of such assignments or instruments shall be subject to the condition stated above. Agreements creating overriding royalties or payments out of production need not be filed with the Superintendent unless incorporated in assignments or instruments required to be filed pursuant to this Section, however, all such agreements shall be filed in the Tribal Secretaries Office and shall be subject to approval by the Business Committee as is any other assignment of any interest in a mineral lease.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 128. Cancellation

(a) When, in the option 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.

(b) When, in the option of the Business Committee, the lessee has violated any of the terms and conditions of a lease or of the applicable regulations, the Business Committee 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.

(c) On the following conditions, the lessee may, on approval of the Secretary of the Interior, and the Business Committee, surrender a lease or any part of it:

(1) That the make application for cancellation to the Superintendent of the Horton Indian Agency with one copy of such application delivered to the Business Committee.

(2) That he pay a surrender fee of \$10.00 to the Tribe in addition to the fee required by 25 C.F.R. §171.27(b)(2) at the time the application is made.

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

(4) 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 that portion of the lease surrendered, have been properly abandoned.

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

(6) If the application is for the cancellation of the entire lease or the entire undivided portion, the he surrender the lease. 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.

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

(8) That all required fees and papers must be in the mail and postmarked 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.

(9) If there has been a contest before the Department of the Interior respecting a lease or leases, the approved, the disapproved, or the canceled parts thereof will be held in the office of the Superintendent for five (5) days the Department of the Interior'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 field, until such motion is passed upon by the Department.

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

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

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 129. Prospecting Permits

Within the consent of the Business Committee the Superintendent may issue permits to prospect for minerals other than oil and gas upon Tribal lands. Such permits must describe the area to be prospected and definitely state the period of time within which such work is permitted. No ores shall be removed from the reservation under such permits, except samples for assay and experimental purposes. A prospecting permit will not give the permittee any preference right to a lease, unless specifically so stated in the permit, and all permits granting a preference right to a lease must comply with all laws and regulations applicable to mineral leases on Tribal Indian lands, including this Title.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 130. Forms

Leases, assignments, and other instruments shall be on forms prescribed by the Secretary of the Interior or his authorized representative and may be obtained from the Superintendent or other officer having jurisdiction over the lands.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 131. Distribution of this Act

A certified copy of this Title, and any amendments thereto, shall be filed in the Office of the Tribal Secretary, the Office of the Tribal Court Clerk, and the office of the Superintendent of the Horton Indian Agency. Certified copies of this Title shall be delivered by certified mail, return receipt requested, to each and every person having a valid and approved lease or a valid and approved assignment of a lease to any oil and gas or other mineral interest owned by the Kickapoo Nation. Any person may obtain a copy of this Title upon request and payment of the costs of reproduction. The Superintendent shall deliver a copy of this Title to any bidder or other person interested in acquiring an interest in the Tribal mineral estate.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 132. Sale, Lease, Other Disposition Subject to Business Committee Approval

From and after the date of this act no sale, disposition, lease, sublease, assignment, or other transfer of an interest of any kind or character in the mineral estate of the Kickapoo Tribe shall be made or approved by the Secretary of the Interior absent the approval, previously obtained of the Business Committee and any such attempted sale, disposition, lease, sublease, assignment or other transfer to any interest in the Tribal mineral estate shall be absolutely null and void and of no force.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 133. Jurisdictional Stipulation

From and after the date of this act, no sale, disposition, lease sublease, assignment or other transfer of any interest of any kind or character in the mineral estate of the Kickapoo Tribe shall be made or approved unless the instrument making such transfer or creating such interest contains the following stipulation:

Section _____. Jurisdictional Stipulations

(a) The parties hereto mutually agree, that all the parties hereto shall be bound by the laws, now or hereafter in force, of the Kickapoo Nation, not prohibited by federal law, respecting the interests created or transferred by this instrument, and respecting any operation of the parties within the Tribal jurisdiction.

(b) The parties stipulate that the Courts of the Kickapoo Nation shall have jurisdiction and hereby expressly stipulate and submit themselves, and all those claiming under, by, or through them to the jurisdiction of the Courts of the Kickapoo Nation for any and all acts of omission or commission concerning the use of or occurring upon the leased land or premises or otherwise arising under the laws of the Kickapoo Nation now or hereafter in force.

(c) Each Lessee, sublessee, assignee, or other party to whom any interest is conveyed by this instrument shall cause each and every further lease, sublease, assignment, or other conveyance of any interest in the mineral estate of the Tribe created by this instrument to contain a clause in substantially the same form as this Section and specifically providing that such sublease, assignee, or other holder of any interest shall be subject to and bound by the provisions of this Section.

(d) The mutual agreements, stipulations, and covenants contained in this Section are material and substantial stipulations, and covenants contained in this instrument and violation of this Section shall subject this instrument to disapproval or cancellation as provided by the laws of the Kickapoo Nation or by the Secretary of the Interior.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 134. Code of Federal Regulations not Superseded

This Title is not intended nor to be construed as superseding the provisions contained in Part 171 of Title 25 of the Code of Federal Regulations except insofar as they are mutually inconsistent, and the provisions of this Title provide more protections for the rights of the Kickapoo Nation or provide for Tribal regulation and approval in addition to the regulations and approval authority of the Secretary.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

Section 135. Effective Date

The regulations in this Title shall become effective and in full force from and after the date of approval by the Business Committee, and shall be subject to change or alteration at any time by the Business Committee; 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.

(History: PUBLIC LAW #KT 90-14, February 6, 1990)

1. This reference is to the 1981 version of the Code of Federal Regulations. Part 171 of Title 25 of the Code of Federal Regulations has since been redesignated. The reference is to the Federal Indian Mineral Leasing Regulations applicable to Indian Tribal lands.

