Indian Affairs - Office of Public Affairs

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For Immediate Release: December 15, 1958
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Amendments to Federal regulations which are designed to bring the oil and gas leasing of Indian lands more into conformity with present industrial practices and still provide Indian owners with adequate protection have been approved, the Department of the Interior announced today.

The amendments, as first proposed, were published in the Federal Register May 10, 1958. As the result of comments submitted to the Department by Bureau of Indian Affairs officials, tribal attorneys, oil company representatives and other persons, the amendments were slightly revised before final approval by the Secretary for republication in the Register this week.

The purpose of the amendments is to authorize overriding royalties or payments out of production on oil and gas leases of Indian lands. Such royalties or payments are those paid to a lessee or leaseholder when a lease is assigned and are in addition to the royalties or payments paid to the lessor or landowner. While such "farming out" or releasing of Indian leased land to a third party does not increase the royalty rate received by the lessor or owner, it may promote greater production under the lease and generally tends to increase the negotiable value of such leases. The practice of paying overriding royalties has become common as a method of financing oil and gas developments.

The new amendments safeguard the interests of Indian landowners by placing all parties on notice that agreements creating overriding royalties or payments out of production shall be subject to the condition that all lease requirements must be met. "The existence of agreements creating overriding royalties or payments out of production, whether or not actually paid," the new language directs, "shall not be construed as justification for the approval of abandonment of any well." This should insure diligent development and operation of wells and the plugging abandonment of wells only after possibilities for commercial production have been exhausted, which is the conservation objective desired.

The major change between the proposed amendments and those finally approved by the Secretary lies in the elimination of a proposed requirement that all agreements creating overriding royalties be subject to approval by the Secretary. Comments received on the proposed amendments recommended against this provision as burdensome and unnecessary. The Department agreed that adequate protection would be provided by requiring that "such agreements shall be subject to the condition that nothing in any such agreement 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 gas and oil operating regulations and the requirement for departmental approval before abandonment of any well." At the same time regulations requiring the Secretary's approval of assignment of leases have been strengthened by the new amendments.