

II. Senator Peter H. Dominick, letter of June 8, 1967

The departments affirmative position for permitting private enterprise to carry out R & D is a step forward. The regulations are overly cautious. An onerous responsibility and too much discretion is placed in the Secretary. Specific comments are directed to—

A. Obtaining a Commercial lease:

1. no firm assurances by the government that one will receive a production lease.
2. the requirement that a leasee shall have "developed" a mining and processing method is most objectionable. No guidelines are given as to what constitutes a "method."
3. the only manner in which you can acquire production lease is to first complete an R&D lease. This restricts those who may already have developed advance techniques to forego production.

B. Disclosure of Patents:

1. techniques invented during R&D should not be placed in public domain without compensation. Should be subject to licensing a specified royalty.
2. regulations are silent as to whether inventor will have exclusive rights to inventions during production phase.
3. regulations permitting access to all facilities on and off site and all books and records is far too sweeping.
4. the prohibition or limitation to publication or communication concerning research work would stifle or encumber free exchange of ideas in trade journals and between professional groups.

C. Acreage:

1. the regulations are ambiguous about the acreage or area containing "reasonable reserves" and what guidelines will be used to make this determination.
2. to place the sole discretion with a single individual (the Secretary) for the determination of the quantity of mineral deposit needed for commercial production is unwise.
3. only a half a dozen leases would be available if only 5,120 acre leases were issued.
4. the regulations should clarify whether the production acreage would be adjacent to and include the R & D acreage.

D. Royalties:

1. the proposed royalty structure needs reconsideration.
2. gross value "at the point of shipment to market" needs clarification.
3. royalty payment period should be adjusted to tax period.
4. clarification of rephrasing is needed to specify the time within which lessee must file objection and offer to negotiate a proposed re-adjustment of royalties.
5. why publish a notice of intention to reduce royalties and not publish a notice of intention to increase royalties.

E. *Diligence in Plan of Research*: The effect of regulation is to tie production lessee to his original plan of research instead of competitive and more efficient techniques which may be developed.

F. *Application for lease*: The requirement in the application for a statement of need for federally leased land is ambiguous and susceptible to abuse.

G. *Drafting*: The frequent use of the word "will" instead of "shall" or "may" will lead to problems in interpretation.

FEDERAL AGENCIES

I. Federal Water Pollution Control Administration June 8, 1967

Require notice to prospect lessees that they will be required to include adequate research, development and implementation measures for water pollution. The FWPCA proposes amendments to the regulations to insure strict water and air pollution control.

II. Bureau of Sports Fisheries and Wildlife May 25, 1969

The Bureau proposes re-phrasing to insure protection of environment, including air and ground and surface water.