petroleum leasing policy were traced. Of particular note is the Outer Continental Shelf Lands Act,[106] which created procedures outside of the Mineral Leasing Act for competitive leasing of off-shore oil reserves.

Further, it may now behoove the United States to look to Canada as a source for leasing precedents. Historically, Canada has given greater emphasis to hard-rock mining laws in deriving leasing principles for the development of its petroleum resources.[107] The United States might well follow that example with respect to its oil shale. In 1963, for instance, production was begun in the Athabascan Tar Sands. Dominion control of Canadian oil lands had been relinquished to the provinces in 1930;[108] therefore, it is Alberta that has been responsible for the formulation of a policy for the development of its tar sands. In 1963 Alberta issued the first production permit for 31,500 barrels per day to Great Canadian Oil and Sand Ltd.[109] The Alberta government in a statement of policy dated October 19, 1962, affirms that production from the oil sands will be authorized at levels so as not to interfere unduly with present or foreseeable markets for conventionally produced Alberta crude oil.

4. Revenues

Along with acreage limitations, the question of revenues is basic to any leasing policy. Further, it is a question which only Congress is authorized to settle. Separate aspects of this basic problem include royalties, taxation and depletion allowances, and the distribution of government income.

Under the existing Mineral Leasing Act, 37.5 per cent of the revenue from oil shale leases would be allocated to the state in which the lands are located, 52.5 percent would go to the Reclamation Fund, and 10 percent would go general receipts.[110] In formulating an oil shale policy, Congress may change this distribution as it sees fit.

Congress also must make an equitable determination with respect to royalties. TOSCO and Governor Love of Colorado have recommended a royalty of 5 percent.[111] As was seen, the Outer Continental Shelf Lands Act prescribes a minimum royalty of 12½ percent for offshore leases.[112]

The issue of depletion allowances on oil revenues is one of foremost importance to the developing oil shale industry. At the present time the Internal Revenue Service has ruled[113] that an allowance of 15 percent, as specified by statute,[114] will be given on shales after mining. Representative Aspinall (D-Colo.) is seeking to clarify this ruling by specifying that the allowance is to come after retorting instead of after mining.[115] In addition, crude oil producers receive a depletion allowance of 27½ per cent, and the developers of oil shale seek to have themselves included in this greater allowance category.[116]

5. New entries

It was pointed out earlier[117] that leaders in the oil shale industry must be careful lest they run afoul of anti-trust laws prohibiting unfair competition practices which would work to the disadvantage of new entrants into the field.

Apart from anti-trust considerations, a concern has also been expressed that the high capital requirements for entry into the oil shale industry will prevent small companies from successfully competing with large, established companies. This is a problem which may exist during the development of any new industry, but it is clear that further delay by the government in opening the industry to development will only serve to entrench more firmly those major companies with private landholdings and experimental sites.

The Atomic Energy Acts of 1946[118] and 1954[119] dealt with this same problem by placing in the public domain certain patent rights acquired by companies who had

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[106] *Cf.* note 49 *supra.*
[107] Thompson, *Basic Contrasts Between Petroleum Land Policies of Canada and the United States*, 36 U. COLO. L. REV. 187 (1964).
[108] *Id.* at 211.
[109] New York Times, April 8, 1963, p. 153.
[110] THE OIL SHALE ADVISORY BOARD, *op. cit. supra* note 77, at 9.
[111] See p. 84 *supra.*
[112] See p. 75 *supra.*
[113] Unpublished.
[114] INT. REV. CODE OF 1954, § 613.
[115] H.R. 10896, 88th Cong., 2d Sess. (1964).
[116] TOSCO, *op. cit. supra* note 68, at 30–32.
[117] See p. 67 *supra.*
[118] 60 Stat. 755 (1946), 42 U.S.C. 2062 (1964).
[119] 60 Stat. 919 (1954), as amended, 42 U.S.C. §§ 2011–2281 (1964).