

FEDERAL OIL SHALE PROGRAM

9. Section 3172.5(e) provides for readjustment of royalties after twenty years. The provision is consistent with the statute, but we suggest that additional criteria and provisions are necessary to avert uncertainties vitally affecting a very large investment, such as the date from which such 20 year period would be measured.

10. Section 3172.6 provides for automatic termination at the end of the research term unless the Secretary has previously authorized commencement of the commercial production term. If the Secretary inadvertently failed to extend the lease before expiration of the research term, or if in his opinion a lessee was not entitled to an extension, the lessee would be powerless to avert an automatic termination of the lease on which a substantial investment has been made. We propose that the extension of the lease for a commercial production term should be at the option of the lessee, subject to his having complied with specific requirements, rather than by the unilateral discretion and action of the Secretary. The lease and regulations should also provide specifically for the right of the lessee to remove his plant and facilities upon termination of the lease.

11. Section 3172.9(d) and (e) cover disclosure of information and patent provisions. As discussed above, RMOGA believes that these provisions would discourage competition in the development of techniques for the production of shale oil. In short, these provisions undercut, obstruct and thwart some of the most important purposes of the regulations as set forth in Section 3170.0-1, which are to foster and improve technology and encourage competition in development and use of oil shale and related mineral resources. We refer to the requirements for complete disclosure of all data from the prior research efforts of the applicant as well as that obtained under the research program. The Secretary then owns the information and has sole publication rights. Under these regulations the applicant must go even further and submit conclusions and recommendations derived therefrom, together with proposals for further improvements. He is allowed to retain nothing except the use, along with others, of the information and inventions which have been made at his sole expense and without cost to the others then benefiting therefrom.

The patent provisions are in effect a denial and rejection of the philosophy of the patent laws of the United States, which is to encourage research and development by preventing others from taking without compensation to the inventor, the invention in which he has invested his knowledge, time and money. Under the proposed rules, the lessee's new inventions must be given to the government and to his competitors free of charge—even the inventions owned by the lessee which he had made and patented in years past would in some instances be required to be licensed to others at an undetermined royalty rate.

CONCLUSIONS AND RECOMMENDATIONS

The Rocky Mountain Oil and Gas Association has a membership of 470 individual and company oil and gas operators of all sizes, from the smallest of independents to major oil companies. As we have considered the proposed regulations within our organization, we have found a wide range of individual situations and views. If the oil shale resources are to be effectively developed to meet the needs of the nation, we believe that the proposed rules should be broadened and made more flexible so as not to discourage development of this resource by restricting the entry of a broad variety of companies and other groups into the research and development of oil shale.

We therefore recommend that the rules be further clarified and broadened to offer prospective applicants a choice of the following alternatives:

- (1) We believe that the regulations introduced by tying the research and commercial phases together. Nevertheless, if they are modified to eliminate some of the problems discussed above, there may be some who would desire to proceed under such a program.
- (2) We recommend that tracts of public lands be made available solely for research purposes, limited in size, with the provision that once the research program was completed, the premises would revert to the United States. These tracts should be made available without cost, or at a nominal charge, to any qualified party desiring to do research, with such party re-