

(b) Lessee shall submit applications on forms to be furnished by the Superintendent and secure his approval before:

(1) Well drilling, treating, or work-over operations are started on the leased premises.

(2) Removing casing from any well.

(c) Lessee shall notify the Superintendent a reasonable time in advance of starting work, of intention to drill, redrill, deepen, plug, or abandon a well.

**§ 226.17 How to acquire permission to begin operations on a restricted homestead allotment.**

(a) Lessee may conduct operations within or upon a restricted homestead selection only with the written consent of the Superintendent.

(b) If the allottee is unwilling to permit operations on his homestead, the Superintendent will cause an examination of the premises to be made with the allottee and lessee or his representative. Upon finding that the interests of the Osage Tribe require that the tract be developed, the Superintendent will endeavor to have the parties agree upon the terms under which operations on the homestead may be conducted.

(c) In the event the allottee and lessee cannot reach an agreement, the matter shall be presented by all parties before the Osage Tribal Council, and the Council shall make its recommendations. Such recommendations shall be considered as final and binding upon the allottee and lessee. A guardian may represent the allottee. Where no one is authorized or where no person is deemed by the Superintendent to be a proper party to speak for a person of unsound mind or feeble understanding, the Principal Chief of the Osage Tribe shall represent him.

(d) If the allottee or his representative does not appear before the Osage Tribal Council when notified by the Superintendent, or if the Council fails to act within 10 days after the matter is referred to it, the Superintendent may authorize lessee to proceed with operations in conformity with the provisions of his lease and the regulations in this part.

**§ 226.18 Information to be given surface owners prior to commencement of drilling operations.**

Except for the surveying and staking of a well, no operations of any kind shall commence until the lessee or his/her authorized representative shall meet with the surface owner or his/her representative, if a resident of and present in Osage County, Oklahoma. Unless waived by the Superintendent or otherwise agreed to between the lessee and surface owner, such meeting shall be held at least 10 days prior to the commencement of any operations, except for the surveying and staking of the well. At such meeting lessee or his/her authorized representative shall comply with the following requirements:

(a) Indicate the location of the well or wells to be drilled.

(b) Arrange for route of ingress and egress. Upon failure to agree on route ingress and egress, said route shall be set by the Superintendent.

(c) Impart to said surface owners the name and address of the party or representative upon whom the surface owner shall serve any claim for damages which he may sustain from mineral development or operations, and as to the procedure for settlement thereof as provided in § 226.21

(d) Where the drilling is to be on restricted land, lessee or his authorized representative in the manner provided above shall meet with the Superintendent.

(e) When the surface owner or his/her representative is not a resident of, or is not physically present in, Osage County, Oklahoma, or cannot be contacted at the last known address, the Superintendent may authorize lessee to proceed with operations.

[39 FR 22254, June 21, 1974, as amended at 41 FR 50648, Nov. 17, 1976; 43 FR 8136, Feb. 28, 1978. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 55 FR 33115, Aug. 14, 1990]

**§ 226.19 Use of surface of land.**

(a) Lessee or his/her authorized representative shall have the right to use so much of the surface of the land within the Osage Mineral Estate as may be reasonable for operations and marketing. This includes but is not

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limited to the right to lay and maintain pipelines, electric lines, pull rods, other appliances necessary for operations and marketing, and the right-of-way for ingress and egress to any point of operations. If Lessee and surface owner are unable to agree as to the routing of pipelines, electric lines, etc., said routing shall be set by the Superintendent. The right to use water for lease operations is established by § 226.24. Lessee shall conduct his/her operations in a workmanlike manner, commit no waste and allow none to be committed upon the land, nor permit any unavoidable nuisance to be maintained on the premises under his/her control.

(b) Before commencing a drilling operation, Lessee shall pay or tender to the surface owner commencement money in the amount of \$25 per seismic shot hole and commencement money in the amount of \$300 for each well, after which Lessee shall be entitled to immediate possession of the drilling site. Commencement money will not be required for the redrilling of a well which was originally drilled under the currently lease. A drilling site shall be held to the minimum area essential for operations and shall not exceed one and one-half acres in area unless authorized by the Superintendent. Commencement money shall be a credit toward the settlement of the total damages. Acceptance of commencement money by the surface owner does not affect his/her right to compensation for damages as described in § 226.20, occasioned by the drilling and completion of the well for which it was paid. Since actual damage to the surface from operations cannot necessarily be ascertained prior to the completion of a well as a serviceable well or dry hole, a damage settlement covering the drilling operation need not be made until after completion of drilling operations.

(c) Where the surface is restricted land, commencement money shall be paid to the Superintendent for the landowner. All other surface owners shall be paid or tendered such commencement money direct. Where such surface owners are not residents of Osage County nor have a representative located therein, such payment

shall be made or tendered to the last known address of the surface owner at least 5 days before commencing drilling operation on any well: *Provided*, That should lessee be unable to reach the owner of the surface of the land for the purpose of tendering the commencement money or if the owner of the surface of the land shall refuse to accept the same, lessee shall deposit such amount with the Superintendent by check payable to the Bureau of Indian Affairs. The superintendent shall thereupon advise the owner of the surface of the land by mail at his last known address that the commencement money is being held for payment to him upon his written request.

(d) Lessee shall also pay fees for tank sites not exceeding 50 feet square at the rate of \$100 per tank site or other vessel: *Provided*, That no payment shall be due for a tank temporarily set on a well location site for drilling, completing, or testing. The sum to be paid for a tank occupying more than 50 feet square shall be agreed upon between the surface owner and lessee or, on failure to agree, the same shall be determined by arbitration as provided by § 226.21.

[39 FR 22254, June 22, 1974, as amended at 43 FR 8136, Feb. 28, 1978; 43 FR 11815, Mar. 22, 1978. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 55 FR 33115, Aug. 14, 1990]

**§ 226.20 Settlement of damages claimed.**

(a) Lessee or his authorized representative or geophysical permittee shall pay for all damages to growing crops, any improvements on the lands, and all other surface damages as may be occasioned by operations. Commencement money shall be a credit toward the settlement of the total damages occasioned by the drilling and completion of the well for which it was paid. Such damages shall be paid to the owner of the surface and by him apportioned among the parties interested in the surface, whether as owner, surface lessee, or otherwise, as the parties may mutually agree or as their interests may appear. If lessee or his authorized representative and surface owner are unable to agree concerning damages, the same shall be determined by arbitration. Nothing herein contained shall