

## Showing Current Law as amended by Committee Print

[new text highlighted in yellow; text to be deleted bracketed and highlighted in blue]

Section 3003 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act (16 USC 539p)

### §539p. Southeast Arizona land exchange and conservation

#### (a) Purpose

The purpose of this section is to authorize, direct, facilitate, and expedite the exchange of land between Resolution Copper and the United States.

#### (b) Definitions

In this section:

##### (1) Apache Leap

The term "Apache Leap" means the approximately 807 acres of land depicted on the map entitled "Southeast Arizona Land Exchange and Conservation Act of 2011–Apache Leap" and dated March 2011.

##### (2) Federal land

The term "Federal land" means the approximately 2,422 acres of land located in Pinal County, Arizona, depicted on the map entitled "Southeast Arizona Land Exchange and Conservation Act of 2011–Federal Parcel–Oak Flat" and dated March 2011.

##### (3) Indian tribe

The term "Indian tribe" has the meaning given the term in section 5304 of title 25.

##### (4) Non-Federal land

The term "non-Federal land" means the parcels of land owned by Resolution Copper that are described in subsection (d)(1) and, if necessary to equalize the land exchange under subsection (c), subsection (c)(5)(B)(i)(I).

##### (5) Oak Flat Campground

The term "Oak Flat Campground" means the approximately 50 acres of land comprising approximately 16 developed campsites depicted on the map entitled "Southeast Arizona Land Exchange and Conservation Act of 2011–Oak Flat Campground" and dated March 2011.

##### (6) Oak Flat Withdrawal Area

The term "Oak Flat Withdrawal Area" means the approximately 760 acres of land depicted on the map entitled "Southeast Arizona Land Exchange and Conservation Act of 2011–Oak Flat Withdrawal Area" and dated March 2011.

##### (7) Resolution Copper

The term "Resolution Copper" means Resolution Copper Mining, LLC, a Delaware limited liability company, including any successor, assign, affiliate, member, or joint venturer of Resolution Copper Mining, LLC.

##### (8) Secretary

The term "Secretary" means the Secretary of Agriculture.

##### (9) State

The term "State" means the State of Arizona.

**(10) Town**

The term "Town" means the incorporated town of Superior, Arizona.

**(11) Resolution mine plan of operations**

The term "Resolution mine plan of operations" means the mine plan of operations submitted to the Secretary by Resolution Copper in November, 2013, including any amendments or supplements.

**(c) Land exchange**

**(1) In general**

Subject to the provisions of this section, if Resolution Copper offers to convey to the United States all right, title, and interest of Resolution Copper in and to the non-Federal land, the Secretary is authorized and directed to convey to Resolution Copper, all right, title, and interest of the United States in and to the Federal land.

**(2) Conditions on acceptance**

Title to any non-Federal land conveyed by Resolution Copper to the United States under this section shall be in a form that-

(A) is acceptable to the Secretary, for land to be administered by the Forest Service and the Secretary of the Interior, for land to be administered by the Bureau of Land Management; and

(B) conforms to the title approval standards of the Attorney General of the United States applicable to land acquisitions by the Federal Government.

**(3) Consultation with Indian tribes**

**(A) In general**

The Secretary shall engage in government-to-government consultation with affected Indian tribes concerning issues of concern to the affected Indian tribes related to the land exchange.

**(B) Implementation**

Following the consultations under paragraph (A), the Secretary shall consult with Resolution Copper and seek to find mutually acceptable measures to-

(i) address the concerns of the affected Indian tribes; and

(ii) minimize the adverse effects on the affected Indian tribes resulting from mining and related activities on the Federal land conveyed to Resolution Copper under this section.

**(4) Appraisals**

**(A) In general**

As soon as practicable after December 19, 2014, the Secretary and Resolution Copper shall select an appraiser to conduct appraisals of the Federal land and non-Federal land in compliance with the requirements of section 254.9 of title 36, Code of Federal Regulations.

**(B) Requirements**

**(i) In general**

Except as provided in clause (ii), an appraisal prepared under this paragraph shall be conducted in accordance with nationally recognized appraisal standards, including-

(I) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(II) the Uniform Standards of Professional Appraisal Practice.

*(ii) Final appraised value*

After the final appraised values of the Federal land and non-Federal land are determined and approved by the Secretary, the Secretary shall not be required to reappraise or update the final appraised value-

(I) for a period of 3 years beginning on the date of the approval by the Secretary of the final appraised value; or

(II) at all, in accordance with section 254.14 of title 36, Code of Federal Regulations (or a successor regulation), after an exchange agreement is entered into by Resolution Copper and the Secretary.

*(iii) Improvements*

Any improvements made by Resolution Copper prior to entering into an exchange agreement shall not be included in the appraised value of the Federal land.

*(iv) Public review*

Before consummating the land exchange under this section, the Secretary shall make the appraisals of the land to be exchanged (or a summary thereof) available for public review.

*(C) Appraisal information*

The appraisal prepared under this paragraph shall include a detailed income capitalization approach analysis of the market value of the Federal land which may be utilized, as appropriate, to determine the value of the Federal land, and shall be the basis for calculation of any payment under subsection (e).

*(5) Equal value land exchange*

*(A) In general*

The value of the Federal land and non-Federal land to be exchanged under this section shall be equal or shall be equalized in accordance with this paragraph.

*(B) Surplus of Federal land value*

*(i) In general*

If the final appraised value of the Federal land exceeds the value of the non-Federal land, Resolution Copper shall-

(I) convey additional non-Federal land in the State to the Secretary or the Secretary of the Interior, consistent with the requirements of this section and subject to the approval of the applicable Secretary;

(II) make a cash payment to the United States; or

(III) use a combination of the methods described in subclauses (I) and (II), as agreed to by Resolution Copper, the Secretary, and the Secretary of the Interior.

*(ii) Amount of payment*

The Secretary may accept a payment in excess of 25 percent of the total value of the land or interests conveyed, notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

*(iii) Disposition and use of proceeds*

Any amounts received by the United States under this subparagraph shall be deposited in the fund established under section 484a of this title and shall be made available to the Secretary for the acquisition of land or interests in land in Region 3 of the Forest Service.

**(C) Surplus of non-Federal land**

If the final appraised value of the non-Federal land exceeds the value of the Federal land-

(i) the United States shall not make a payment to Resolution Copper to equalize the value; and

(ii) except as provided in subsection (h), the surplus value of the non-Federal land shall be considered to be a donation by Resolution Copper to the United States.

**(6) Oak Flat Withdrawal Area**

**(A) Permits**

Subject to the provisions of this paragraph and notwithstanding any withdrawal of the Oak Flat Withdrawal Area from the mining, mineral leasing, or public land laws, the Secretary, upon enactment of this Act, shall issue to Resolution Copper-

(i) if so requested by Resolution Copper, within 30 days of such request, a special use permit to carry out mineral exploration activities under the Oak Flat Withdrawal Area from existing drill pads located outside the Area, if the activities would not disturb the surface of the Area; and

(ii) if so requested by Resolution Copper, within 90 days of such request, a special use permit to carry out mineral exploration activities within the Oak Flat Withdrawal Area (but not within the Oak Flat Campground), if the activities are conducted from a single exploratory drill pad which is located to reasonably minimize visual and noise impacts on the Campground.

**(B) Conditions**

Any activities undertaken in accordance with this paragraph shall be subject to such reasonable terms and conditions as the Secretary may require.

**(C) Termination**

The authorization for Resolution Copper to undertake mineral exploration activities under this paragraph shall remain in effect until the Oak Flat Withdrawal Area land is conveyed to Resolution Copper in accordance with this section.

**(7) Costs**

As a condition of the land exchange under this section, Resolution Copper shall agree to pay, without compensation, all costs that are-

(A) associated with the land exchange and any environmental review document under paragraph (9); and

(B) agreed to by the Secretary.

**(8) Use of Federal land**

The Federal land to be conveyed to Resolution Copper under this section shall be available to Resolution Copper for mining and related activities subject to and in accordance with applicable Federal, State, and local laws pertaining to mining and related activities on land in private ownership.

**(9) Environmental compliance**

**(A) In general**

Except as otherwise provided in this section, the Secretary shall carry out the land exchange in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

*(B) Environmental analysis*

Prior to conveying Federal land under this section, the Secretary shall prepare a single environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), which shall be used as the basis for all decisions under Federal law related to the proposed mine and the Resolution mine plan of operations and any related major Federal actions significantly affecting the quality of the human environment, including the granting of any permits, rights-of-way, or approvals for the construction of associated power, water, transportation, processing, tailings, waste disposal, or other ancillary facilities.

*(C) Impacts on cultural and archeological resources*

The environmental impact statement prepared under subparagraph (B) shall-

- (i) assess the effects of the mining and related activities on the Federal land conveyed to Resolution Copper under this section on the cultural and archeological resources that may be located on the Federal land; and
- (ii) identify measures that may be taken, to the extent practicable, to minimize potential adverse impacts on those resources, if any.

*(D) Effect*

Nothing in this paragraph precludes the Secretary from using separate environmental review documents prepared in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or other applicable laws for exploration or other activities not involving-

- (i) the land exchange; or
- (ii) the extraction of minerals in commercial quantities by Resolution Copper on or under the Federal land.

*(10) Title transfer*

Not later than 60 days after the date of publication of the final environmental impact statement, the Secretary shall convey all right, title, and interest of the United States in and to the Federal land to Resolution Copper.

*(d) Conveyance and management of non-Federal land*

*(1) Conveyance*

On receipt of title to the Federal land, Resolution Copper shall simultaneously convey-  
(A) to the Secretary, all right, title, and interest that the Secretary determines to be acceptable in and to-

- (i) the approximately 147 acres of land located in Gila County, Arizona, depicted on the map entitled "Southeast Arizona Land Exchange and Conservation Act of 2011-Non-Federal Parcel-Turkey Creek" and dated March 2011;
- (ii) the approximately 148 acres of land located in Yavapai County, Arizona, depicted on the map entitled "Southeast Arizona Land Exchange and Conservation Act of 2011-Non-Federal Parcel-Tangle Creek" and dated March 2011;
- (iii) the approximately 149 acres of land located in Maricopa County, Arizona, depicted on the map entitled "Southeast Arizona Land Exchange and Conservation Act of 2011-Non-Federal Parcel-Cave Creek" and dated March 2011;
- (iv) the approximately 640 acres of land located in Coconino County, Arizona, depicted on the map entitled "Southeast Arizona Land Exchange and Conservation Act of 2011-Non-Federal Parcel-East Clear Creek" and dated March 2011; and

(v) the approximately 110 acres of land located in Pinal County, Arizona, depicted on the map entitled "Southeast Arizona Land Exchange and Conservation Act of 2011–Non-Federal Parcel–Apache Leap South End" and dated March 2011; and

(B) to the Secretary of the Interior, all right, title, and interest that the Secretary of the Interior determines to be acceptable in and to-

(i) the approximately 3,050 acres of land located in Pinal County, Arizona, identified as "Lands to DOI" as generally depicted on the map entitled "Southeast Arizona Land Exchange and Conservation Act of 2011–Non-Federal Parcel–Lower San Pedro River" and dated July 6, 2011;

(ii) the approximately 160 acres of land located in Gila and Pinal Counties, Arizona, identified as "Lands to DOI" as generally depicted on the map entitled "Southeast Arizona Land Exchange and Conservation Act of 2011–Non-Federal Parcel–Dripping Springs" and dated July 6, 2011; and

(iii) the approximately 940 acres of land located in Santa Cruz County, Arizona, identified as "Lands to DOI" as generally depicted on the map entitled "Southeast Arizona Land Exchange and Conservation Act of 2011–Non-Federal Parcel–Appleton Ranch" and dated July 6, 2011.

## *(2) Management of acquired land*

### *(A) Land acquired by the Secretary*

#### *(i) In general*

Land acquired by the Secretary under this section shall-

(I) become part of the national forest in which the land is located; and

(II) be administered in accordance with the laws applicable to the National Forest System.

#### *(ii) Boundary revision*

On the acquisition of land by the Secretary under this section, the boundaries of the national forest shall be modified to reflect the inclusion of the acquired land.

#### *(iii) Land and Water Conservation Fund*

For purposes of sections 100506(c) and 200306 of title 54, the boundaries of a national forest in which land acquired by the Secretary is located shall be deemed to be the boundaries of that forest as in existence on January 1, 1965.

### *(B) Land acquired by the Secretary of the Interior*

#### *(i) San Pedro National <sup>1</sup> Conservation Area*

##### *(I) In general*

The land acquired by the Secretary of the Interior under paragraph (1)(B)(i) shall be added to, and administered as part of, the San Pedro National <sup>1</sup> Conservation Area in accordance with the laws (including regulations) applicable to the Conservation Area.

##### *(II) Management plan*

Not later than 2 years after the date on which the land is acquired, the Secretary of the Interior shall update the management plan for the San Pedro National <sup>1</sup> Conservation Area to reflect the management requirements of the acquired land.

*(ii) Dripping springs*

Land acquired by the Secretary of the Interior under paragraph (1)(B)(ii) shall be managed in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and applicable land use plans.

*(iii) Las Cienegas National Conservation Area*

Land acquired by the Secretary of the Interior under paragraph (1)(B)(iii) shall be added to, and administered as part of, the Las Cienegas National Conservation Area in accordance with the laws (including regulations) applicable to the Conservation Area.

*(e) Value adjustment payment to United States*

*(1) Annual production reporting*

*(A) Report required*

As a condition of the land exchange under this section, Resolution Copper shall submit to the Secretary of the Interior an annual report indicating the quantity of locatable minerals produced during the preceding calendar year in commercial quantities from the Federal land conveyed to Resolution Copper under subsection (c). The first report is required to be submitted not later than February 15 of the first calendar year beginning after the date of commencement of production of valuable locatable minerals in commercial quantities from such Federal land. The reports shall be submitted February 15 of each calendar year thereafter.

*(B) Sharing reports with State*

The Secretary shall make each report received under subparagraph (A) available to the State.

*(C) Report contents*

The reports under subparagraph (A) shall comply with any recordkeeping and reporting requirements prescribed by the Secretary or required by applicable Federal laws in effect at the time of production.

*(2) Payment on production*

If the cumulative production of valuable locatable minerals produced in commercial quantities from the Federal land conveyed to Resolution Copper under subsection (c) exceeds the quantity of production of locatable minerals from the Federal land used in the income capitalization approach analysis prepared under subsection (c)(4)(C), Resolution Copper shall pay to the United States, by not later than March 15 of each applicable calendar year, a value adjustment payment for the quantity of excess production at the same rate assumed for the income capitalization approach analysis prepared under subsection (c)(4)(C).

*(3) State law unaffected*

Nothing in this subsection modifies, expands, diminishes, amends, or otherwise affects any State law relating to the imposition, application, timing, or collection of a State excise or severance tax.

*(4) Use of funds*

*(A) Separate fund*

All funds paid to the United States under this subsection shall be deposited in a special fund established in the Treasury and shall be available, in such amounts as are provided in

advance in appropriation Acts, to the Secretary and the Secretary of the Interior only for the purposes authorized by subparagraph (B).

**(B) Authorized use**

Amounts in the special fund established pursuant to subparagraph (A) shall be used for maintenance, repair, and rehabilitation projects for Forest Service and Bureau of Land Management assets.

**(f) Withdrawal**

Subject to valid existing rights, Apache Leap and any land acquired by the United States under this section are withdrawn from all forms of-

- (1) entry, appropriation, or disposal under the public land laws;
- (2) location, entry, and patent under the mining laws; and
- (3) disposition under the mineral leasing, mineral materials, and geothermal leasing laws.

**(g) Apache Leap Special Management Area**

**(1) Designation**

To further the purpose of this section, the Secretary shall establish a special management area consisting of Apache Leap, which shall be known as the "Apache Leap Special Management Area" (referred to in this subsection as the "special management area").

**(2) Purpose**

The purposes of the special management area are-

- (A) to preserve the natural character of Apache Leap;
- (B) to allow for traditional uses of the area by Native American people; and
- (C) to protect and conserve the cultural and archeological resources of the area.

**(3) Surrender of mining and extraction rights**

As a condition of the land exchange under subsection (c), Resolution Copper shall surrender to the United States, without compensation, all rights held under the mining laws and any other law to commercially extract minerals under Apache Leap.

**(4) Management**

**(A) In general**

The Secretary shall manage the special management area in a manner that furthers the purposes described in paragraph (2).

**(B) Authorized activities**

The activities that are authorized in the special management area are-

- (i) installation of seismic monitoring equipment on the surface and subsurface to protect the resources located within the special management area;
- (ii) installation of fences, signs, or other measures necessary to protect the health and safety of the public; and
- (iii) operation of an underground tunnel and associated workings, as described in the Resolution mine plan of operations, subject to any terms and conditions the Secretary may reasonably require.

**(5) Plan**

**(A) In general**

Not later than 3 years after December 19, 2014, the Secretary, in consultation with affected Indian tribes, the Town, Resolution Copper, and other interested members of the public, shall prepare a management plan for the Apache Leap Special Management Area.



### ***(B) Considerations***

In preparing the plan under subparagraph (A), the Secretary shall consider whether additional measures are necessary to-

- (i) protect the cultural, archaeological, or historical resources of Apache Leap, including permanent or seasonal closures of all or a portion of Apache Leap; and
- (ii) provide access for recreation.

### ***(6) Mining activities***

The provisions of this subsection shall not impose additional restrictions on mining activities carried out by Resolution Copper adjacent to, or outside of, the Apache Leap area beyond those otherwise applicable to mining activities on privately owned land under Federal, State, and local laws, rules and regulations.

### ***(h) Conveyances to Town of Superior, Arizona***

#### ***(1) Conveyances***

On request from the Town and subject to the provisions of this subsection, the Secretary shall convey to the Town the following:

(A) Approximately 30 acres of land as depicted on the map entitled "Southeast Arizona Land Exchange and Conservation Act of 2011–Federal Parcel–Fairview Cemetery" and dated March 2011.

(B) The reversionary interest and any reserved mineral interest of the United States in the approximately 265 acres of land located in Pinal County, Arizona, as depicted on the map entitled "Southeast Arizona Land Exchange and Conservation Act of 2011–Federal Reversionary Interest–Superior Airport" and dated March 2011.

(C) The approximately 250 acres of land located in Pinal County, Arizona, as depicted on the map entitled "Southeast Arizona Land Exchange and Conservation Act of 2011–Federal Parcel–Superior Airport Contiguous Parcels" and dated March 2011.

#### ***(2) Payment***

The Town shall pay to the Secretary the market value for each parcel of land or interest in land acquired under this subsection, as determined by appraisals conducted in accordance with subsection (c)(4).

#### ***(3) Sisk Act***

Any payment received by the Secretary from the Town under this subsection shall be deposited in the fund established under section 484a of this title and shall be made available to the Secretary for the acquisition of land or interests in land in Region 3 of the Forest Service.

#### ***(4) Terms and conditions***

The conveyances under this subsection shall be subject to such terms and conditions as the Secretary may require.

#### ***(i) Miscellaneous provisions***

##### ***(1) Revocation of orders; withdrawal***

###### ***(A) Revocation of orders***

Any public land order that withdraws the Federal land from appropriation or disposal under a public land law shall be revoked to the extent necessary to permit disposal of the land.

***(B) Withdrawal***

On December 19, 2014, if the Federal land or any Federal interest in the non-Federal land to be exchanged under subsection (c) is not withdrawn or segregated from entry and appropriation under a public land law (including mining and mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.)), the land or interest shall be withdrawn, without further action required by the Secretary concerned, from entry and appropriation. The withdrawal shall be terminated-

(i) on the date of consummation of the land exchange; or

(ii) if Resolution Copper notifies the Secretary in writing that it has elected to withdraw from the land exchange pursuant to section 206(d) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1716(d)).

***(C) Rights of Resolution Copper***

Nothing in this section shall interfere with, limit, or otherwise impair, the unpatented mining claims or rights currently held by Resolution Copper on the Federal land, nor in any way change, diminish, qualify, or otherwise impact Resolution Copper's rights and ability to conduct activities on the Federal land under such unpatented mining claims and the general mining laws of the United States, including the permitting or authorization of such activities.

***(2) Maps, estimates, and descriptions***

***(A) Minor errors***

The Secretary concerned and Resolution Copper may correct, by mutual agreement, any minor errors in any map, acreage estimate, or description of any land conveyed or exchanged under this section.

***(B) Conflict***

If there is a conflict between a map, an acreage estimate, or a description of land in this section, the map shall control unless the Secretary concerned and Resolution Copper mutually agree otherwise.

***(C) Availability***

On December 19, 2014, the Secretary shall file and make available for public inspection in the Office of the Supervisor, Tonto National Forest, each map referred to in this section.

***(3) Public access in and around Oak Flat Campground***

As a condition of conveyance of the Federal land, Resolution Copper shall agree to provide access to the surface of the Oak Flat Campground to members of the public, including Indian tribes, to the maximum extent practicable, consistent with health and safety requirements, until such time as the operation of the mine precludes continued public access for safety reasons, as determined by Resolution Copper.

( Pub. L. 113–291, div. B, title XXX, §3003, Dec. 19, 2014, 128 Stat. 3732 .)

**Section 10501 of the Omnibus Public Land Management Act of 2009 (43 U.S.C. 407):**

**§407. Reclamation Water Settlements Fund**

*(a) Establishment*

There is established in the Treasury of the United States a fund, to be known as the "Reclamation Water Settlements Fund", consisting of-

- (1) such amounts as are deposited to the Fund under subsection (b); and
- (2) any interest earned on investment of amounts in the Fund under subsection (d).

*(b) Deposits to Fund*

*(1) In general*

For each of fiscal years 2020 through 2029, the Secretary of the Treasury shall deposit in the Fund, if available, \$120,000,000 of the revenues that would otherwise be deposited for the fiscal year in the fund established by [section 391 of this title](#).

*(2) Availability of amounts*

Amounts deposited in the Fund under paragraph (1) shall be made available pursuant to this section-

- (A) without further appropriation; and
- (B) in addition to amounts appropriated pursuant to any authorization contained in any other provision of law.

**(3) ADDITIONAL DEPOSITS.—In addition to amounts otherwise available, there is appropriated—**

**(A) for fiscal year 2032 and each fiscal year thereafter out of any money in the Treasury not otherwise appropriated, \$370,000,000, for deposit in the Fund, to remain available until expended; and**

**(B) for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$2,000,000,000, for deposit in the Fund, to remain available until September 30, 2031, except that no amounts may be expended after September 30, 2031.**

*(c) Expenditures from Fund*

*(1) In general*

*(A) Expenditures*

Subject to subparagraph (B), **[for each of fiscal years 2020 through 2034, the Secretary may expend from the Fund an amount not to exceed \$120,000,000,] for fiscal year 2022 and each fiscal year thereafter, the Secretary may expend from the Fund an amount not to exceed \$370,000,000** plus the interest accrued in the Fund, for the fiscal year in which expenditures are made pursuant to paragraphs (2) and (3).

*(B) Additional expenditures*

The Secretary may expend **[more than \$120,000,000 for any fiscal year if such amounts are available in the Fund due to expenditures not reaching \$120,000,000] more than \$370,000,000 for any fiscal year if such amounts are available in the Fund, for the fiscal**

year in which expenditures are made pursuant subparagraph (D) and paragraphs (2) and (3) for prior fiscal years.

(C) The Secretary shall expend all amounts in the Fund available from deposits made under subsection (b)(1) and subsection (b)(3)(B) not later than the end of fiscal year 2031.

(D) If, in the judgment of the Secretary on an annual basis, the Secretary is unlikely to expend the amounts as required under subparagraph (C) because expenditures cannot be made for activities authorized under paragraph (2), the Secretary shall expend from the Fund on an annual basis any projected unused funds by not later than the end of fiscal year 2031 on grants to Indian Tribes in a manner the Secretary deems appropriate for up to 100 percent of the cost of the planning, design, or construction of water projects to provide potable water supplies to communities or households on Tribal land that do not have access to running water, provided that the project is located in a State or territory described in the first section of the Act of June 17, 1902 (43 U.S.C. 391; 32 Stat. 388, chapter 1093).

## *(2) Authority*

The Secretary may expend money from the Fund to implement a settlement agreement approved by Congress that resolves, in whole or in part, [litigation involving the United States, if the settlement agreement or implementing legislation requires the Bureau of Reclamation] claims concerning Indian water resources, if the settlement agreement or implementing legislation authorizes the Secretary to provide financial assistance for, or plan, design, and construct-

(A) water supply infrastructure; or

(B) a project-

(i) to rehabilitate a water delivery system to conserve water; or

(ii) to restore fish and wildlife habitat or otherwise improve environmental conditions associated with or affected by, or located within the same river basin as, a Federal reclamation project that is in existence on March 30, 2009.

## *(3) Use for completion of project and other settlements*

### *(A) Priorities*

#### *(i) First priority*

##### *(I) In general*

The first priority for expenditure of amounts in the Fund during the entire period in which the Fund is in existence shall be for the purposes described in, and in the order of, clauses (i) through (iv) of subparagraph (B).

##### *(II) Reserved amounts*

The Secretary shall reserve and use amounts deposited into the Fund in accordance with subclause (I).

#### *(ii) Other purposes*

Any amounts in the Fund that are not needed for the purposes described in subparagraph (B) may be used for other purposes authorized in paragraph (2).

*(B) Completion of project*

*(i) Navajo-Gallup water supply project*

*(I) In general*

Subject to subclause (II), effective beginning January 1, 2020, if, in the judgment of the Secretary on an annual basis the deadline described in section 10701(e)(1)(A)(ix) <sup>1</sup> is unlikely to be met because a sufficient amount of funding is not otherwise available through appropriations made available pursuant to section 10609(a),<sup>1</sup> the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the costs, and substantially complete as expeditiously as practicable, the construction of the water supply infrastructure authorized as part of the Project.

*(II) Maximum amount*

*(aa) In general*

Except as provided under item (bb), the amount expended under subclause (I) shall not exceed \$500,000,000 for the period of fiscal years 2020 through 2029.

*(bb) Exception*

The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clauses (ii) through (iv).

*(ii) Other New Mexico settlements*

*(I) In general*

Subject to subclause (II), effective beginning January 1, 2020, in addition to the funding made available under clause (i), if in the judgment of the Secretary on an annual basis a sufficient amount of funding is not otherwise available through annual appropriations, the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the remaining costs of implementing the Indian water rights settlement agreements entered into by the State of New Mexico in the Aamodt adjudication and the Abeyta adjudication, if such settlements are subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.

*(II) Maximum amount*

The amount expended under subclause (I) shall not exceed \$250,000,000.

*(iii) Montana settlements*

*(I) In general*

Subject to subclause (II), effective beginning January 1, 2020, in addition to funding made available pursuant to clauses (i) and (ii), if in the judgment of the Secretary on an annual basis a sufficient amount of funding is not otherwise available through annual appropriations, the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the remaining costs of implementing Indian water rights settlement agreements entered into by the State of Montana with the Blackfeet Tribe, the Crow Tribe, or the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Reservation in the judicial proceeding entitled "In re the General Adjudication of All the Rights to Use Surface and Groundwater in the State of Montana", if a settlement or

settlements are subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.

*(II) Maximum amount*

*(aa) In general*

Except as provided under item (bb), the amount expended under subclause (I) shall not exceed \$350,000,000 for the period of fiscal years 2020 through 2029.

*(bb) Exception*

The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clause (i), (ii), and (iv).

*(cc) Other funding*

The Secretary shall ensure that any funding under this clause shall be provided in a manner that does not limit the funding available pursuant to clauses (i) and (ii).

*(iv) Arizona settlement*

*(I) In general*

Subject to subclause (II), effective beginning January 1, 2020, in addition to funding made available pursuant to clauses (i), (ii), and (iii), if in the judgment of the Secretary on an annual basis a sufficient amount of funding is not otherwise available through annual appropriations, the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the remaining costs of implementing an Indian water rights settlement agreement entered into by the State of Arizona with the Navajo Nation to resolve the water rights claims of the Nation in the Lower Colorado River basin in Arizona, if a settlement is subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.

*(II) Maximum amount*

*(aa) In general*

Except as provided under item (bb), the amount expended under subclause (I) shall not exceed \$100,000,000 for the period of fiscal years 2020 through 2029.

*(bb) Exception*

The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clauses (i) through (iii).

*(cc) Other funding*

The Secretary shall ensure that any funding under this clause shall be provided in a manner that does not limit the funding available pursuant to clauses (i) and (ii).

*(C) Reversion*

If the settlements described in clauses (ii) through (iv) of subparagraph (B) have not been approved and authorized by an Act of Congress by December 31, 2019, the amounts reserved for the settlements shall no longer be reserved by the Secretary pursuant to subparagraph (A)(i) and shall revert to the Fund **for any authorized use for any use authorized under paragraph (2) or paragraph (1)(D)**, as determined by the Secretary.

*(d) Investment of amounts*

*(1) In general*

The Secretary shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

*(2) Credits to Fund*

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.

*(e) Transfers of amounts*

*(1) In general*

The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

*(2) Adjustments*

Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

**[(f) Termination**

**On September 30, 2034-**

**(1) the Fund shall terminate; and**

**(2) the unexpended and unobligated balance of the Fund shall be transferred to the appropriate fund of the Treasury.]**

( Pub. L. 111–11, title X, §10501, Mar. 30, 2009, 123 Stat. 1375. )

## Section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331)

### §1331. Definitions

When used in this subchapter-

(a) [The term] (1) The term "outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 1301 of this title, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control or lying within the exclusive economic zone of the United States and the outer Continental Shelf adjacent to any territory or possession of the United States;

(2) The term "outer Continental Shelf" does not include any area conveyed by Congress to a territorial government for administration.

(b) The term "Secretary" means the Secretary of the Interior, except that with respect to functions under this subchapter transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the term "Secretary" means the Secretary of Energy, or the Federal Energy Regulatory Commission, as the case may be;

(c) The term "lease" means any form of authorization which is issued under section 1337 of this title or maintained under section 1335 of this title and which authorizes exploration for, and development and production of, minerals;

(d) The term "person" includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation;

(e) The term "coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 1454(b)(1) <sup>1</sup> of title 16;

(f) The term "affected State" means, with respect to any program, plan, lease sale, or other activity, proposed, conducted, or approved pursuant to the provisions of this subchapter, any State-

(1) the laws of which are declared, pursuant to section 1333(a)(2) of this title, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

(2) which is, or is proposed to be, directly connected by transportation facilities to any artificial island or structure referred to in section 1333(a)(1) of this title;

(3) which is receiving, or in accordance <sup>2</sup> with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;



(g) The term "marine environment" means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf;

(h) The term "coastal environment" means the physical atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

(i) The term "human environment" means the physical, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring on the outer Continental Shelf;

(j) The term "Governor" means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this subchapter;

(k) The term "exploration" means the process of searching for minerals, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such minerals, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

(l) The term "development" means those activities which take place following discovery of minerals in paying quantities, including geophysical activity, drilling, platform construction, and operation of all onshore support facilities, and which are for the purpose of ultimately producing the minerals discovered;

(m) The term "production" means those activities which take place after the successful completion of any means for the removal of minerals, including such removal, field operations, transfer of minerals to shore, operation monitoring, maintenance, and work-over drilling;

(n) The term "antitrust law" means-

- (1) the Sherman Act ([15 U.S.C. 1 et seq.](#));
- (2) the Clayton Act ([15 U.S.C. 12 et seq.](#));
- (3) the Federal Trade Commission Act ([15 U.S.C. 41 et seq.](#));
- (4) the Wilson Tariff Act ([15 U.S.C. 8 et seq.](#)); or
- (5) the Act of June 19, 1936, [chapter 592 \(15 U.S.C. 13, 13a, 13b, and 21a\)](#);

(o) The term "fair market value" means the value of any mineral (1) computed at a unit price equivalent to the average unit price at which such mineral was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary;

(p) The term "major Federal action" means any action or proposal by the Secretary which is subject to the provisions of [section 4332\(2\)\(C\) of title 42](#); [and]

(q) The term "minerals" includes oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from "public lands" as defined in [section 1702 of this title](#); and

(r) The term "State" means the several States, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(Aug. 7, 1953, ch. 345, §2, 67 Stat. 462; Pub. L. 95-372, title II, §201, Sept. 18, 1978, 92 Stat. 632.)

**Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344)**

## **§1344. Outer Continental Shelf leasing program**

*(a) Schedule of proposed oil and gas lease sales*

The Secretary, pursuant to procedures set forth in subsections (c) and (d) of this section, shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the policies of this subchapter. The leasing program shall consist of a schedule of proposed lease sales indicating, as precisely as possible, the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

(1) Management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of-

(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

(G) the relative environmental sensitivity and marine productivity of different areas of the outer Continental Shelf; and

(H) relevant environmental and predictive information for different areas of the outer Continental Shelf.

(3) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

(4) Leasing activities shall be conducted to assure receipt of fair market value for the lands leased and the rights conveyed by the Federal Government.

*(b) Estimates of appropriations and staff required for management of leasing program*

The leasing program shall include estimates of the appropriations and staff required to-

(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

(2) analyze and interpret the exploratory data and any other information which may be compiled under the authority of this subchapter;

(3) conduct environmental studies and prepare any environmental impact statement required in accordance with this subchapter and with [section 4332\(2\)\(C\) of title 42](#); and

(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.

*(c) Suggestions from Federal agencies and affected State and local governments; submission of proposed program to Governors of affected States and Congress; publication in Federal Register*

(1) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from any interested Federal agency, including the Attorney General, in consultation with the Federal Trade Commission, and from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider any suggestions from the executive of any affected local government in such an affected State, which have been previously submitted to the Governor of such State, and from any other person.

(2) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (3) of this subsection, the Secretary shall submit a copy of such proposed program to the Governor of each affected State for review and comment. The Governor may solicit comments from those executives of local governments in his State which he, in his discretion, determines will be affected by the proposed program. If any comment by such Governor is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (3) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

(3) Within nine months after September 18, 1978, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, and the Governors of affected States, and shall publish such proposed program in the Federal Register. Each Governor shall, upon request, submit a copy of the proposed leasing program to the executive of any local government affected by the proposed program.

*(d) Comments by Attorney General on anticipated effect on competition; comments by State or local governments; submission of program to President and Congress; issuance of leases in accordance with program*

(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General may, after consultation with the Federal Trade Commission, submit comments on the anticipated effects of such proposed program upon competition. Any State, local government, or other person may submit comments and recommendations as to any aspect of such proposed program.

(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or local government was not accepted.

(3) After the leasing program has been approved by the Secretary, or after eighteen months following September 18, 1978, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this subchapter.

*(e) Review, revision, and reapproval of program*

The Secretary shall review the leasing program approved under this section at least once each year. He may revise and reapprove such program, at any time, and such revision and

reapproval, except in the case of a revision which is not significant, shall be in the same manner as originally developed.

*(f) Procedural regulations for management of program*

The Secretary shall, by regulation, establish procedures for-

- (1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;
  - (2) public notice of and participation in development of the leasing program;
  - (3) review by State and local governments which may be impacted by the proposed leasing;
  - (4) periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and
  - (5) consideration of the coastal zone management program being developed or administered by an affected coastal State pursuant to section 1454 or [section 1455 of title 16](#).
- Such procedures shall be applicable to any significant revision or reapproval of the leasing program.

*(g) Information from public and private sources; confidentiality of classified or privileged data*

The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this subchapter. Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. The Secretary shall maintain the confidentiality of all privileged or proprietary data or information for such period of time as is provided for in this subchapter, established by regulation, or agreed to by the parties.

*(h) Information from all Federal departments and agencies; confidentiality of privileged or proprietary information*

The heads of all Federal departments and agencies shall provide the Secretary with any nonprivileged <sup>1</sup> or nonproprietary information he requests to assist him in preparing the leasing program and may provide the Secretary with any privileged or proprietary information he requests to assist him in preparing the leasing program. Privileged or proprietary information provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

**(i) This section shall not apply to the scheduling of any lease sale in an area of the outer Continental Shelf that is adjacent to any insular area of the United States.**

(Aug. 7, 1953, ch. 345, §18, as added [Pub. L. 95-372, title II, §208, Sept. 18, 1978, 92 Stat. 649](#).)

**Adding a new section to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.)**

**SEC. 33. WIND LEASE SALES FOR AREAS OF THE OUTER CONTINENTAL SHELF.**

**(a) WIND LEASE SALES OFF COASTS OF TERRITORIES OF THE UNITED STATES.—**

(1) CALL FOR INFORMATION AND NOMINATIONS.—The Secretary shall issue a call for information and nominations for proposed wind lease sales for areas determined to be feasible.

(2) CONDITIONAL WIND LEASE SALES.—

(A) IN GENERAL.—For each territory, the Secretary shall conduct not less than one wind lease sale in the area of the outer Continental Shelf within the territorial jurisdiction of such territory if such area meets each of the following criteria:

(i) The Secretary has concluded that a wind lease sale on the area is feasible.

(ii) The Secretary has determined that the call for information has generated sufficient interest in the area.

(iii) The Secretary has consulted with other relevant Federal agencies regarding such sale.

(iv) The Secretary has consulted with the Governor of the territory regarding the suitability of the area for wind energy development.

(B) EXCEPTION.—If no area of the outer Continental Shelf within the territorial jurisdiction of a territory meets each of the criteria in clauses (i) through (iv) of subparagraph (A), the requirement under subparagraph (A) shall not apply to such territory.

**Section 20001 of Public Law 115–97 is repealed**

**SEC. 20001. OIL AND GAS PROGRAM. (a) DEFINITIONS.—In this section:**

**(1) COASTAL PLAIN.—The term “Coastal Plain” means the area identified as the 1002 Area on the plates prepared by the United States Geological Survey entitled “ANWR Map – Plate 1” and “ANWR Map –**

Plate 2", dated October 24, 2017, and on file with the United States Geological Survey and the Office of the Solicitor of the Department of the Interior.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Bureau of Land Management. (b) OIL AND GAS PROGRAM.—

(1) IN GENERAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) shall not apply to the Coastal Plain.

(2) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary shall establish and administer a competitive oil and gas program for the leasing, development, production, and transportation of oil and gas in and from the Coastal Plain.

(B) PURPOSES.—Section 303(2)(B) of the Alaska National Interest Lands Conservation Act (Public Law 96–487; 94 Stat. 2390) is amended—

(i) in clause (iii), by striking "and" at the end;

(ii) in clause (iv), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following: "(v) to provide for an oil and gas program on the Coastal Plain.".

(3) MANAGEMENT.—Except as otherwise provided in this section, the Secretary shall manage the oil and gas program on the Coastal Plain in a manner similar to the administration of lease sales under the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.) (including regulations).

(4) ROYALTIES.—Notwithstanding the Mineral Leasing Act (30 U.S.C. 181 et seq.), the royalty rate for leases issued pursuant to this section shall be 16.67 percent.

(5) RECEIPTS.—Notwithstanding the Mineral Leasing Act (30 U.S.C. 181 et seq.), of the amount of adjusted bonus, rental, and royalty receipts derived from the oil and gas program and operations on Federal land authorized under this section—

(A) 50 percent shall be paid to the State of Alaska; and

(B) the balance shall be deposited into the Treasury as miscellaneous receipts.

(c) 2 LEASE SALES WITHIN 10 YEARS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall conduct not fewer than 2 lease sales areawide under the oil and gas program under this section by not later than 10 years after the date of enactment of this Act.

(B) SALE ACREAGES; SCHEDULE.—

(i) ACREAGES.—The Secretary shall offer for lease under the oil and gas program under this section—

(I) not fewer than 400,000 acres area-wide in each lease sale;  
and

(II) those areas that have the highest potential for the discovery of hydrocarbons.

(ii) SCHEDULE.—The Secretary shall offer—

(I) the initial lease sale under the oil and gas program under this section not later than 4 years after the date of enactment of this Act;  
and

(II) a second lease sale under the oil and gas program under this section not later than 7 years after the date of enactment of this Act.

(2) RIGHTS-OF-WAY.—The Secretary shall issue any rightsof-way or easements across the Coastal Plain for the exploration, development, production, or transportation necessary to carry out this section.

(3) SURFACE DEVELOPMENT.—In administering this section, the Secretary shall authorize up to 2,000 surface acres of Federal land on the Coastal Plain to be covered by production and support facilities (including airstrips and any area covered by gravel berms or piers for support of pipelines) during the term of the leases under the oil and gas program under this section.

## Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337)

### §1337. Leases, easements, and rights-of-way on the outer Continental Shelf



*(a) Oil and gas leases; award to highest responsible qualified bidder; method of bidding; royalty relief; Congressional consideration of bidding system; notice*

(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of [section 1335 of this title](#). Such regulations may provide for the deposit of cash bids in an interest-bearing account until the Secretary announces his decision on whether to accept the bids, with the interest earned thereon to be paid to the Treasury as to bids that are accepted and to the unsuccessful bidders as to bids that are rejected. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of-

(A) cash bonus bid with a royalty at not less than [\[12½\] 20](#) per centum fixed by the Secretary in amount or value of the production [\[saved, removed, or sold\]](#);

(B) variable royalty bid based on a per centum in amount or value of the production [\[saved, removed, or sold\]](#), with either a fixed work commitment based on dollar amount for exploration or a fixed cash bonus as determined by the Secretary, or both;

(C) cash bonus bid, or work commitment bid based on a dollar amount for exploration with a fixed cash bonus, and a diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than [\[12½\] 20](#) per centum at the beginning of the lease period in amount or value of the production [\[saved, removed, or sold\]](#);

(D) cash bonus bid with a fixed share of the net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

(E) fixed cash bonus with the net profit share reserved as the bid variable;

(F) cash bonus bid with a royalty at no less than [\[12½\] 20](#) per centum fixed by the Secretary in amount or value of the production [\[saved, removed, or sold\]](#) and a fixed per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

(G) work commitment bid based on a dollar amount for exploration with a fixed cash bonus and a fixed royalty in amount or value of the production [\[saved, removed, or sold\]](#);

(H) cash bonus bid with royalty at no less than [\[12 and ½\] 20](#) per centum fixed by the Secretary in amount or value of production [\[saved, removed, or sold\]](#), and with suspension of royalties for a period, volume, or value of production determined by the Secretary, which suspensions may vary based on the price of production from the lease; or

(I) subject to the requirements of paragraph (4) of this subsection, any modification of bidding systems authorized in subparagraphs (A) through (G), or any other systems of bid variables, terms, and conditions which the Secretary determines to be useful to accomplish the purposes and policies of this subchapter, except that no such bidding system or modification shall have more than one bid variable.

(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years after the date of the lease sale.

(3)[\[\(A\) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.\]](#)

[\(B\) In the Western and Central Planning Areas of the Gulf of Mexico and the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87](#)

degrees, 30 minutes West longitude and in the Planning Areas offshore Alaska, the Secretary may, in order to-

- (i) promote development or increased production on producing or non-producing leases; or
- (ii) encourage production of marginal resources on producing or non-producing leases;

through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to achieve these purposes.]

~~[(C)]~~ (A)(i) Notwithstanding the provisions of this subchapter other than this subparagraph, with respect to any lease or unit in existence on November 28, 1995, meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in clause (iv)(I), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400–800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final agency action. The Secretary's determination or redetermination shall be judicially reviewable under [section 702 of title 5](#), only for actions filed within 30 days of the Secretary's determination or redetermination.

(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee within the time period, together with any

extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

(I) For new production, as defined in clause (iv)(I) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

(II) For new production, as defined in clause (iv)(II) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

(iv) For purposes of this subparagraph, the term "new production" is-

(I) any production from a lease from which no royalties are due on production, other than test production, prior to November 28, 1995; or

(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development Operations Coordination Document, approved by the Secretary after November 28, 1995.

(v) During the production of volumes determined pursuant to clauses <sup>1</sup> (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for light sweet crude oil exceeds \$28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds \$28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds \$3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clauses <sup>1</sup> (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds \$3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year.

(4)(A) The Secretary of Energy shall submit any bidding system authorized in subparagraph (H) of paragraph (1) to the Senate and House of Representatives. The Secretary may institute such bidding system unless either the Senate or the House of Representatives passes a resolution of disapproval within thirty days after receipt of the bidding system.

(B) Subparagraphs (C) through (J) of this paragraph are enacted by Congress-

(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but they are applicable only with respect to the procedures to be followed in that House in the case of resolutions described by this paragraph, and they supersede other rules only to the extent that they are inconsistent therewith; and

(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(C) A resolution disapproving a bidding system submitted pursuant to this paragraph shall immediately be referred to a committee (and all resolutions with respect to the same request shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(D) If the committee to which has been referred any resolution disapproving the bidding system of the Secretary has not reported the resolution at the end of ten calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same bidding system which has been referred to the committee.

(E) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(F) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same bidding system.

(G) When the committee has reported, or has been discharged from further consideration of, a resolution as provided in this paragraph, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(H) Debate on the resolution is limited to not more than two hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(I) Motions to postpone, made with respect to the discharge from the committee, or the consideration of a resolution with respect to a bidding system, and motions to proceed to the consideration of other business, shall be decided without debate.

(J) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a bidding system shall be decided without debate.

(5)(A) During the five-year period commencing on September 18, 1978, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and policies of this subchapter, require, as to no more than 10 per centum of the tracts offered each year, each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random for the acquisition of valid statistical data if such bidding alternative is otherwise consistent with the provisions of this subchapter.

(B) The bidding systems authorized by paragraph (1) of this subsection, other than the system authorized by subparagraph (A), shall be applied to not less than 20 per centum and not more than 60 per centum of the total area offered for leasing each year during the five-year

period beginning on September 18, 1978, unless the Secretary determines that the requirements set forth in this subparagraph are inconsistent with the purposes and policies of this subchapter.

(6) At least ninety days prior to notice of any lease sale under subparagraph (D), (E), (F), or, if appropriate, (H) of paragraph (1), the Secretary shall by regulation establish rules to govern the calculation of net profits. In the event of any dispute between the United States and a lessee concerning the calculation of the net profits under the regulation issued pursuant to this paragraph, the burden of proof shall be on the lessee.

(7) After an oil and gas lease is granted pursuant to any of the work commitment options of paragraph (1) of this subsection-

(A) the lessee, at its option, shall deliver to the Secretary upon issuance of the lease either (i) a cash deposit for the full amount of the exploration work commitment, or (ii) a performance bond in form and substance and with a surety satisfactory to the Secretary, in the principal amount of such exploration work commitment assuring the Secretary that such commitment shall be faithfully discharged in accordance with this section, regulations, and the lease; and for purposes of this subparagraph, the principal amount of such cash deposit or bond may, in accordance with regulations, be periodically reduced upon proof, satisfactory to the Secretary, that a portion of the exploration work commitment has been satisfied;

(B) 50 per centum of all exploration expenditures on, or directly related to, the lease, including, but not limited to (i) geological investigations and related activities, (ii) geophysical investigations including seismic, geomagnetic, and gravity surveys, data processing and interpretation, and (iii) exploratory drilling, core drilling, redrilling, and well completion or abandonment, including the drilling of wells sufficient to determine the size and a real extent of any newly discovered field, and including the cost of mobilization and demobilization of drilling equipment, shall be included in satisfaction of the commitment, except that the lessee's general overhead cost shall not be so included against the work commitment, but its cost (including employee benefits) of employees directly assigned to such exploration work shall be so included; and

(C) if at the end of the primary term of the lease, including any extension thereof, the full dollar amount of the exploration work commitment has not been satisfied, the balance shall then be paid in cash to the Secretary.

(8) Not later than thirty days before any lease sale, the Secretary shall submit to the Congress and publish in the Federal Register a notice-

(A) identifying any bidding system which will be utilized for such lease sale and the reasons for the utilization of such bidding system; and

(B) designating the lease tracts selected which are to be offered in such sale under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracts selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) through (H) of paragraph (1), and the reasons such lease tracts are to be offered under a particular bidding system.

(9) Royalties under this Act shall be assessed with respect to oil and gas, other than gas vented or flared for not longer than 48 hours in an acute emergency situation that poses a danger to human health and gas used or gas consumed within the area of the lease tract for the benefit of the lease when the operator is a Tribe or is controlled by a Tribe that is located entirely on the lands of such Tribe, without regard to whether oil or gas is removed or sold from the leased land.

*(b) Terms and provisions of oil and gas leases*

An oil and gas lease issued pursuant to this section shall-

- (1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;
- (2) be for an initial period of-
  - (A) five years; or
  - (B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas because of unusually deep water or other unusually adverse conditions,

and as long after such initial period as oil or gas is produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

- (3) require the payment of amount or value as determined by one of the bidding systems set forth in subsection (a) of this section;

(4) entitle the lessee to explore, develop, and produce the oil and gas contained within the lease area, conditioned upon due diligence requirements and the approval of the development and production plan required by this subchapter;

- (5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to [section 1334 of this title](#);

(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease; and

- (7) provide a requirement that the lessee offer 20 per centum of the crude oil, condensate, and natural gas liquids produced on such lease, at the market value and point of delivery applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973 <sup>2</sup> [[15 U.S.C. 751 et seq.](#)].

*(c) Antitrust review of lease sales*

(1) Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary shall allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to review the results of such lease sale, except that the Attorney General, after consultation with the Federal Trade Commission, may agree to a shorter review period.

(2) The Attorney General may, in consultation with the Federal Trade Commission, conduct such antitrust review on the likely effects the issuance of such leases would have on competition as the Attorney General, after consultation with the Federal Trade Commission, deems appropriate and shall advise the Secretary with respect to such review. The Secretary shall provide such information as the Attorney General, after consultation with the Federal Trade Commission, may require in order to conduct any antitrust review pursuant to this paragraph and to make recommendations pursuant to paragraph (3) of this subsection.

(3) The Attorney General, after consultation with the Federal Trade Commission, may make such recommendations to the Secretary, including the nonacceptance of any bid, as may be appropriate to prevent any situation inconsistent with the antitrust laws. If the Secretary determines, or if the Attorney General advises the Secretary, after consultation with the Federal Trade Commission and prior to the issuance of any lease, that such lease may create or maintain a situation inconsistent with the antitrust laws, the Secretary may-

- (A) refuse (i) to accept an otherwise qualified bid for such lease, or (ii) to issue such lease, notwithstanding subsection (a) of this section; or

(B) issue such lease, and notify the lessee and the Attorney General of the reason for such decision.

(4)(A) Nothing in this subsection shall restrict the power under any other Act or the common law of the Attorney General, the Federal Trade Commission, or any other Federal department or agency to secure information, conduct reviews, make recommendations, or seek appropriate relief.

(B) Neither the issuance of a lease nor anything in this subsection shall modify or abridge any private right of action under the antitrust laws.

*(d) Due diligence*

No bid for a lease may be submitted if the Secretary finds, after notice and hearing, that the bidder is not meeting due diligence requirements on other leases.

*(e) Secretary's approval for sale, exchange, assignment, or other transfer of leases*

No lease issued under this subchapter may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General.

*(f) Antitrust immunity or defenses*

Nothing in this subchapter shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

*(g) Leasing of lands within three miles of seaward boundaries of coastal States; deposit of revenues; distribution of revenues*

(1) At the time of soliciting nominations for the leasing of lands containing tracts wholly or partially within three nautical miles of the seaward boundary of any coastal State, and subsequently as new information is obtained or developed by the Secretary, the Secretary shall, in addition to the information required by [section 1352 of this title](#), provide the Governor of such State-

(A) an identification and schedule of the areas and regions proposed to be offered for leasing;

(B) at the request of the Governor of such State, all information from all sources concerning the geographical, geological, and ecological characteristics of such tracts;

(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

(D) at the request of the Governor of such State, an identification of any field, geological structure, or trap located wholly or partially within three nautical miles of the seaward boundary of such coastal State, including all information relating to the entire field, geological structure, or trap.

The provisions of the first sentence of subsection (c) and the provisions of subsections (e)-(h) of [section 1352 of this title](#) shall be applicable to the release by the Secretary of any information to any coastal State under this paragraph. In addition, the provisions of subsections (c) and (e)-(h) of [section 1352 of this title](#) shall apply in their entirety to the release by the Secretary to any coastal State of any information relating to Federal lands beyond three nautical miles of the seaward boundary of such coastal State.



(2) Notwithstanding any other provision of this subchapter, the Secretary shall deposit into a separate account in the Treasury of the United States all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of any Federal tract which lies wholly (or, in the case of Alaska, partially until seven years from the date of settlement of any boundary dispute that is the subject of an agreement under [section 1336 of this title](#) entered into prior to January 1, 1986 or until April 15, 1993 with respect to any other tract) within three nautical miles of the seaward boundary of any coastal State, or, (except as provided above for Alaska) in the case where a Federal tract lies partially within three nautical miles of the seaward boundary, a percentage of bonuses, rents, royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of such tract equal to the percentage of surface acreage of the tract that lies within such three nautical miles. Except as provided in paragraph (5) of this subsection, not later than the last business day of the month following the month in which those revenues are deposited in the Treasury, the Secretary shall transmit to such coastal State 27 percent of those revenues, together with all accrued interest thereon. The remaining balance of such revenues shall be transmitted simultaneously to the miscellaneous receipts account of the Treasury of the United States.

(3) Whenever the Secretary or the Governor of a coastal State determines that a common potentially hydrocarbon-bearing area may underlie the Federal and State boundary, the Secretary or the Governor shall notify the other party in writing of his determination and the Secretary shall provide to the Governor notice of the current and projected status of the tract or tracts containing the common potentially hydrocarbon-bearing area. If the Secretary has leased or intends to lease such tract or tracts, the Secretary and the Governor of the coastal State may enter into an agreement to divide the revenues from production of any common potentially hydrocarbon-bearing area, by unitization or other royalty sharing agreement, pursuant to existing law. If the Secretary and the Governor do not enter into an agreement, the Secretary may nevertheless proceed with the leasing of the tract or tracts. Any revenues received by the United States under such an agreement shall be subject to the requirements of paragraph (2).

(4) The deposits in the Treasury account described in this section shall be invested by the Secretary of the Treasury in securities backed by the full faith and credit of the United States having maturities suitable to the needs of the account and yielding the highest reasonably available interest rates as determined by the Secretary of the Treasury.

(5)(A) When there is a boundary dispute between the United States and a State which is subject to an agreement under [section 1336 of this title](#), the Secretary shall credit to the account established pursuant to such agreement all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of any Federal tract which lies wholly or partially within three nautical miles of the seaward boundary asserted by the State, if that money has not otherwise been deposited in such account. Proceeds of an escrow account established pursuant to an agreement under [section 1336 of this title](#) shall be distributed as follows:

(i) Twenty-seven percent of all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978, of any tract which lies wholly within three nautical miles of the seaward boundary asserted by the Federal Government in the boundary dispute, together with all accrued interest thereon, shall be paid to the State either-

(I) within thirty days of December 1, 1987, or



(II) by the last business day of the month following the month in which those revenues are deposited in the Treasury, whichever date is later.

(ii) Upon the settlement of a boundary dispute which is subject to a [section 1336 of this title](#) agreement between the United States and a State, the Secretary shall pay to such State any additional moneys due such State from amounts deposited in or credited to the escrow account. If there is insufficient money deposited in the escrow account, the Secretary shall transmit, from any revenues derived from any lease of Federal lands under this subchapter, the remaining balance due such State in accordance with the formula set forth in section 8004(b)(1)(B) of the Outer Continental Shelf Lands Act Amendments of 1985.

(B) This paragraph applies to all Federal oil and gas lease sales, under this subchapter, including joint lease sales, occurring after September 18, 1978.

(6) This section shall be deemed to take effect on October 1, 1985, for purposes of determining the amounts to be deposited in the separate account and the States' shares described in paragraph (2).

(7) When the Secretary leases any tract which lies wholly or partially within three miles of the seaward boundary of two or more States, the revenues from such tract shall be distributed as otherwise provided by this section, except that the State's share of such revenues that would otherwise result under this section shall be divided equally among such States.

*(h) State claims to jurisdiction over submerged lands*

Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in, any submerged lands.

*(i) Sulphur leases; award to highest bidder; method of bidding*

In order to meet the urgent need for further exploration and development of the sulphur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding sulphur leases on submerged lands of the outer Continental Shelf, which are not covered by leases which include sulphur and meet the requirements of [section 1335\(a\) of this title](#), and which sulphur leases shall be offered for bid by sealed bids and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

*(j) Terms and provisions of sulphur leases*

A sulphur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of not more than ten years and so long thereafter as sulphur may be produced from the area in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are conducted thereon, (3) require the payment to the United States of such royalty as may be specified in the lease but not less than 5 per centum of the gross production or value of the sulphur at the wellhead, and (4) contain such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe at the time of offering the area for lease.

*(k) Other mineral leases; award to highest bidder; terms and conditions; agreements for use of resources for shore protection, beach or coastal wetlands restoration, or other projects*

(1) The Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur in any area of the outer Continental Shelf not then under lease for such mineral upon such

royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.

(2)(A) Notwithstanding paragraph (1), the Secretary may negotiate with any person an agreement for the use of Outer Continental Shelf sand, gravel and shell resources-

(i) for use in a program of, or project for, shore protection, beach restoration, or coastal wetlands restoration undertaken by a Federal, State, or local government agency; or

(ii) for use in a construction project, other than a project described in clause (i), that is funded in whole or in part by or authorized by the Federal Government.

(B) In carrying out a negotiation under this paragraph, the Secretary may assess a fee based on an assessment of the value of the resources and the public interest served by promoting development of the resources. No fee shall be assessed directly or indirectly under this subparagraph against a Federal, State, or local government agency.

(C) The Secretary may, through this paragraph and in consultation with the Secretary of Commerce, seek to facilitate projects in the coastal zone, as such term is defined in [section 1453 of title 16](#), that promote the policy set forth in [section 1452 of title 16](#).

(D) Any Federal agency which proposes to make use of sand, gravel and shell resources subject to the provisions of this subchapter shall enter into a Memorandum of Agreement with the Secretary concerning the potential use of those resources. The Secretary shall notify the Committee on Merchant Marine and Fisheries and the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on any proposed project for the use of those resources prior to the use of those resources.

*(l) Publication of notices of sale and terms of bidding*

Notice of sale of leases, and the terms of bidding, authorized by this section shall be published at least thirty days before the date of sale in accordance with rules and regulations promulgated by the Secretary.

*(m) Disposition of revenues*

All moneys paid to the Secretary for or under leases granted pursuant to this section shall be deposited in the Treasury in accordance with [section 1338 of this title](#).

*(n) Issuance of lease as nonprejudicial to ultimate settlement or adjudication of controversies*

The issuance of any lease by the Secretary pursuant to this subchapter, or the making of any interim arrangements by the Secretary pursuant to [section 1336 of this title](#) shall not prejudice the ultimate settlement or adjudication of the question as to whether or not the area involved is in the outer Continental Shelf.

*(o) Cancellation of leases for fraud*

The Secretary may cancel any lease obtained by fraud or misrepresentation.

*(p) Leases, easements, or rights-of-way for energy and related purposes*

*(1) In general*

The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant departments and agencies of the Federal Government, may grant a lease, easement, or right-of-way on the outer Continental Shelf for activities not otherwise authorized in this subchapter, the Deepwater Port Act of 1974 ([33 U.S.C. 1501 et seq.](#)), the Ocean Thermal Energy Conversion Act of 1980 ([42 U.S.C. 9101 et seq.](#)), or other applicable law, if those activities-

(A) support exploration, development, production, or storage of oil or natural gas, except that a lease, easement, or right-of-way shall not be granted in an area in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium;

- (B) support transportation of oil or natural gas, excluding shipping activities;
- (C) produce or support production, transportation, or transmission of energy from sources other than oil and gas; or
- (D) use, for energy-related purposes or for other authorized marine-related purposes, facilities currently or previously used for activities authorized under this subchapter, except that any oil and gas energy-related uses shall not be authorized in areas in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium.

*(2) Payments and revenues*

(A) The Secretary shall establish royalties, fees, rentals, bonuses, or other payments to ensure a fair return to the United States for any lease, easement, or right-of-way granted under this subsection.

(B) The Secretary shall provide for the payment of 27 percent of the revenues received by the Federal Government as a result of payments under this section from projects that are located wholly or partially within the area extending three nautical miles seaward of State submerged lands. Payments shall be made based on a formula established by the Secretary by rulemaking no later than 180 days after August 8, 2005, that provides for equitable distribution, based on proximity to the project, among coastal states that have a coastline that is located within 15 miles of the geographic center of the project.

*(3) Competitive or noncompetitive basis*

Except with respect to projects that meet the criteria established under section 388(d) of the Energy Policy Act of 2005, the Secretary shall issue a lease, easement, or right-of-way under paragraph (1) on a competitive basis unless the Secretary determines after public notice of a proposed lease, easement, or right-of-way that there is no competitive interest.

*(4) Requirements*

The Secretary shall ensure that any activity under this subsection is carried out in a manner that provides for-

- (A) safety;
- (B) protection of the environment;
- (C) prevention of waste;
- (D) conservation of the natural resources of the outer Continental Shelf;
- (E) coordination with relevant Federal agencies;
- (F) protection of national security interests of the United States;
- (G) protection of correlative rights in the outer Continental Shelf;
- (H) a fair return to the United States for any lease, easement, or right-of-way under this subsection;
- (I) prevention of interference with reasonable uses (as determined by the Secretary) of the exclusive economic zone, the high seas, and the territorial seas;
- (J) consideration of-
  - (i) the location of, and any schedule relating to, a lease, easement, or right-of-way for an area of the outer Continental Shelf; and
  - (ii) any other use of the sea or seabed, including use for a fishery, a sealane, a potential site of a deepwater port, or navigation;
- (K) public notice and comment on any proposal submitted for a lease, easement, or right-of-way under this subsection; and
- (L) oversight, inspection, research, monitoring, and enforcement relating to a lease, easement, or right-of-way under this subsection.

*(5) Lease duration, suspension, and cancellation*

The Secretary shall provide for the duration, issuance, transfer, renewal, suspension, and cancellation of a lease, easement, or right-of-way under this subsection.

*(6) Security*

The Secretary shall require the holder of a lease, easement, or right-of-way granted under this subsection to-

- (A) furnish a surety bond or other form of security, as prescribed by the Secretary;
- (B) comply with such other requirements as the Secretary considers necessary to protect the interests of the public and the United States; and
- (C) provide for the restoration of the lease, easement, or right-of-way.

*(7) Coordination and consultation with affected State and local governments*

The Secretary shall provide for coordination and consultation with the Governor of any State or the executive of any local government that may be affected by a lease, easement, or right-of-way under this subsection.

*(8) Regulations*

Not later than 270 days after August 8, 2005, the Secretary, in consultation with the Secretary of Defense, the Secretary of the Department in which the Coast Guard is operating, the Secretary of Commerce, heads of other relevant departments and agencies of the Federal Government, and the Governor of any affected State, shall issue any necessary regulations to carry out this subsection.

*(9) Effect of subsection*

Nothing in this subsection displaces, supersedes, limits, or modifies the jurisdiction, responsibility, or authority of any Federal or State agency under any other Federal law.

*(10) Applicability*

This subsection does not apply to any area on the outer Continental Shelf within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, or National Marine Sanctuary System, or any National Monument.

**(q) PROHIBITION OF OIL AND GAS LEASING IN CERTAIN AREAS OF THE OUTER CONTINENTAL SHELF.**—The Secretary of the Interior may not issue a lease or any other authorization for the exploration, development, or production of oil or natural gas in the areas of the Outer Continental Shelf designated by section 104(a) of the Gulf of Mexico Energy Security Act of 2006 or in any area within the Atlantic Region planning areas or the Pacific Region planning areas (as such planning areas are described in the document entitled ‘2017 – 2022 Outer Continental Shelf Oil and Gas Leasing Proposed Final Program’ dated November 2016, or a subsequent oil and gas leasing program developed under section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344)).

(Aug. 7, 1953, ch. 345, §8, 67 Stat. 468 ; Pub. L. 95–372, title II, §205(a), (b), Sept. 18, 1978, 92 Stat. 640 , 644; Pub. L. 99–272, title VIII, §8003, Apr. 7, 1986, 100 Stat. 148 ; Pub. L. 100–202, §101(g) [title I, §100], Dec. 22, 1987, 101 Stat. 1329–213 , 1329-225; Pub. L. 103–426, §1(a), Oct. 31, 1994, 108 Stat. 4371 ; Pub. L. 104–58, title III, §§302, 303, Nov. 28, 1995, 109 Stat. 563 , 565; Pub. L. 105–362, title IX, §901(k), Nov. 10, 1998, 112 Stat. 3290 ; Pub. L. 106–53, title II, §215(b)(1), Aug. 17, 1999, 113 Stat. 292 ; Pub. L. 109–58, title III, §§346, 388(a), (c), Aug. 8, 2005, 119 Stat. 704 , 744, 747.)

## Section 7 of the Mineral Leasing Act (30 U.S.C. 207)

### §207. Conditions of lease

#### *(a) Term of lease; annual rentals; royalties; readjustment of conditions*

A coal lease shall be for a term of [twenty] 10 years and for so long thereafter as coal is produced annually in commercial quantities from that lease. Any lease which is not producing in commercial quantities at the end of [ten] 5 years shall be terminated. The Secretary shall by regulation prescribe annual rentals on leases at a rental rate not less than \$100 per acre (as reviewed and, if appropriate, adjusted by the Secretary every 4 years). A lease shall require payment of a royalty in such amount as the Secretary shall determine of not less than [12½] 20 per centum of the value of coal as defined by regulation, except the Secretary may determine a lesser amount in the case of coal recovered by underground mining operations. The lease shall include such other terms and conditions as the Secretary shall determine. Such rentals and royalties and other terms and conditions of the lease will be subject to readjustment at the end of its primary term of [twenty] 10 years and at the end of each [ten] 5-year period thereafter if the lease is extended.

#### *(b) Diligent development and continued operation; suspension of condition on payment of advance royalties*

(1) Each lease shall be subject to the conditions of diligent development and continued operation of the mine or mines, except where operations under the lease are interrupted by strikes, the elements, or casualties not attributable to the lessee.

(2) The Secretary of the Interior, upon determining that the public interest will be served thereby, may suspend the condition of continued operation upon the payment of advance royalties.

(3) Advance royalties described in paragraph (2) shall be no less than the production royalty which would otherwise be paid and shall be computed on a fixed reserve to production ratio (determined by the Secretary).

(4) Advance royalties described in paragraph (2) shall be computed-

(A) based on-

(i) the average price in the spot market for sales of comparable coal from the same region during the last month of each applicable continued operation year; or

(ii) in the absence of a spot market for comparable coal from the same region, by using a comparable method established by the Secretary of the Interior to capture the commercial value of coal; and

(B) based on commercial quantities, as defined by regulation by the Secretary of the Interior.

(5) The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed [20] 10 years.

(6) <sup>1</sup> The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advance royalties paid under a lease described in paragraph (5) to the extent that the advance royalties have not been used to reduce production royalties for a prior year.

(6) <sup>1</sup> The Secretary may, upon six months' notification to the lessee cease to accept advance royalties in lieu of the requirement of continued operation.

(7) Nothing in this subsection shall be construed to affect the requirement contained in the second sentence of subsection (a) relating to commencement of production at the end of ten years.

*(c) Operation and reclamation plan*

Prior to taking any action on a leasehold which might cause a significant disturbance of the environment, the lessee shall submit for the Secretary's approval an operation and reclamation plan. The Secretary shall approve or disapprove the plan or require that it be modified. Where the land involved is under the surface jurisdiction of another Federal agency, that other agency must consent to the terms of such approval.

(Feb. 25, 1920, ch. 85, §7, 41 Stat. 439 ; Pub. L. 94-377, §6, Aug. 4, 1976, 90 Stat. 1087 ; Pub. L. 109-58, title IV, §§434, 435, Aug. 8, 2005, 119 Stat. 761 , 762.)

**Section 17 of the Mineral Leasing Act (30 U.S.C. 226)**

**§226. Lease of oil and gas lands**

*(a) Authority of Secretary*

All lands subject to disposition under this chapter which are known or believed to contain oil or gas deposits may be leased by the Secretary.

*(b) Lands within known geologic structure of a producing oil or gas field; lands within special tar sand areas; competitive bidding; royalties*

(1)(A) All lands to be leased which are not subject to leasing under paragraphs (2) and (3) of this subsection shall be leased as provided in this paragraph to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 2,560 acres, except in Alaska, where units shall be not more than 5,760 acres. Such units shall be as nearly compact as possible. Lease sales shall be conducted by oral bidding, except as provided in subparagraph (C). Lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary. A lease shall be conditioned upon the payment of a royalty at a rate of not less than **[12.5] 20** percent in amount or value of the production removed or sold from the lease. The Secretary shall accept the highest bid from a responsible qualified bidder which is equal to or greater than the national minimum acceptable bid, without evaluation of the value of the lands proposed for lease. Leases shall be issued within 60 days following payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year. All bids for less than the national minimum acceptable bid shall be rejected. Lands for which no bids are received or for which the highest bid is less than the national minimum acceptable bid shall be offered promptly within 30 days for leasing under subsection (c) of this section and shall remain available for leasing for a period of 2 years after the competitive lease sale.

(B) The national minimum acceptable bid shall be **[\$2 per acre] \$10 per acre, except as otherwise provided by this paragraph** for a period of 2 years from December 22, 1987. Thereafter, the Secretary, subject to paragraph (2)(B), may establish by regulation a higher national minimum acceptable bid for all leases based upon a finding that such action is necessary: (i) to enhance financial returns to the United States; and (ii) to promote more efficient management of oil and gas resources on Federal lands. Ninety days before the



Secretary makes any change in the national minimum acceptable bid, the Secretary shall notify the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The proposal or promulgation of any regulation to establish a national minimum acceptable bid shall not be considered a major Federal action subject to the requirements of [section 4332\(2\)\(C\) of title 42](#) subtitle H of the Act to provide for reconciliation pursuant to title II of S. Con Res. 14 of the 117<sup>th</sup> Congress.

(C) In order to diversify and expand the Nation's onshore leasing program to ensure the best return to the Federal taxpayer, reduce fraud, and secure the leasing process, the Secretary may conduct onshore lease sales through Internet-based bidding methods. Each individual Internet-based lease sale shall conclude within 7 days.

(2)(A)(i) If the lands to be leased are within a special tar sand area, they shall be leased to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 5,760 acres, which shall be as nearly compact as possible, upon the payment by the lessee of such bonus as may be accepted by the Secretary.

(ii) Royalty shall be [12½](#) [20](#) per centum in amount or value of production removed or sold from the lease, subject to subsection (k)(1)(c).<sup>1</sup>

(iii) The Secretary may lease such additional lands in special tar sand areas as may be required in support of any operations necessary for the recovery of tar sands.

(iv) No lease issued under this paragraph shall be included in any chargeability limitation associated with oil and gas leases.

(B) For any area that contains any combination of tar sand and oil or gas (or both), the Secretary may issue under this chapter, separately-

- (i) a lease for exploration for and extraction of tar sand; and
- (ii) a lease for exploration for and development of oil and gas.

(C) A lease issued for tar sand shall be issued using the same bidding process, annual rental, and posting period as a lease issued for oil and gas, except that the minimum acceptable bid required for a lease issued for tar sand shall be [\\$2](#) [\\$10](#) per acre.

(D) The Secretary may waive, suspend, or alter any requirement under [section 183 of this title](#) that a permittee under a permit authorizing prospecting for tar sand must exercise due diligence, to promote any resource covered by a combined hydrocarbon lease.

[\[\(3\)\(A\) If the United States held a vested future interest in a mineral estate that, immediately prior to becoming a vested present interest, was subject to a lease under which oil or gas was being produced, or had a well capable of producing, in paying quantities at an annual average production volume per well per day of either not more than 15 barrels per day of oil or condensate, or not more than 60,000 cubic feet of gas, the holder of the lease may elect to continue the lease as a noncompetitive lease under subsection \(c\)\(1\).](#)

[\(B\) An election under this paragraph is effective-](#)

- [\(i\) in the case of an interest which vested after January 1, 1990, and on or before October 24, 1992, if the election is made before the date that is 1 year after October 24, 1992;](#)
- [\(ii\) in the case of an interest which vests within 1 year after October 24, 1992, if the election is made before the date that is 2 years after October 24, 1992; and](#)
- [\(iii\) in any case other than those described in clause \(i\) or \(ii\), if the election is made prior to the interest becoming a vested present interest.](#)

(C) Notwithstanding the consent requirement referenced in section 352 of this title, the Secretary shall issue a noncompetitive lease under subsection (c)(1) to a holder who makes an election under subparagraph (A) and who is qualified to hold a lease under this chapter. Such lease shall be subject to all terms and conditions under this chapter that are applicable to leases issued under subsection (c)(1).

(D) A lease issued pursuant to this paragraph shall continue so long as oil or gas continues to be produced in paying quantities.

(E) This paragraph shall apply only to those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following).]

(c) *Lands subject to leasing under subsection (b); first qualified applicant*

(1) If the lands to be leased are not leased under subsection (b)(1) of this section or are not subject to competitive leasing under subsection (b)(2) of this section, the person first making application for the lease who is qualified to hold a lease under this chapter shall be entitled to a lease of such lands without competitive bidding, upon payment of a non-refundable application fee of at least \$75. A lease under this subsection shall be conditioned upon the payment of a royalty at a rate of [12.5] 20 percent in amount or value of the production removed or sold from the lease. Leases shall be issued within 60 days of the date on which the Secretary identifies the first responsible qualified applicant.

(2)(A) Lands (i) which were posted for sale under subsection (b)(1) of this section but for which no bids were received or for which the highest bid was less than the national minimum acceptable bid and (ii) for which, at the end of the period referred to in subsection (b)(1) of this section no lease has been issued and no lease application is pending under paragraph (1) of this subsection, shall again be available for leasing only in accordance with subsection (b)(1) of this section.

(B) The land in any lease which is issued under paragraph (1) of this subsection or under subsection (b)(1) of this section which lease terminates, expires, is cancelled or is relinquished shall again be available for leasing only in accordance with subsection (b)(1) of this section.]

Lands made available for leasing under subsection (b)(1) but for which no bid is accepted may be made available by the Secretary for a new round of sealed bidding under such subsection.

(d) *Annual rentals*

All leases issued under this section, as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, shall be conditioned upon payment by the lessee of a rental of not less than [\$1.50 per acre per year for the first through fifth years of the lease and not less than \$2 per acre per year for each year thereafter] \$3 per acre per year during the 2-year period beginning on the date the lease begins for new leases, and after the end of such two-year period not less than \$5 per acre per year. A minimum royalty in lieu of rental of not less than the rental which otherwise would be required for that lease year shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.

(e) *Primary terms*

[Competitive and noncompetitive leases] Leases, including leases for tar sand areas, issued under this section shall be for a primary term of 10 years: [Provided, however, That competitive leases issued in special tar sand areas shall also be for a primary term of ten years.] Each such lease shall continue so long after its primary term as oil or gas is produced in paying quantities. Any lease issued under this section for land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were



commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for two years and so long thereafter as oil or gas is produced in paying quantities.

*(f) Notice of proposed action; posting of notice; terms and maps*

At least 45 days before offering lands for lease under this section, and at least 30 days before approving applications for permits to drill under the provisions of a lease or substantially modifying the terms of any lease issued under this section, the Secretary shall provide notice of the proposed action. Such notice shall be posted in the appropriate local office of the leasing and land management agencies. Such notice shall include the terms or modified lease terms and maps or a narrative description of the affected lands. Where the inclusion of maps in such notice is not practicable, maps of the affected lands shall be made available to the public for review. Such maps shall show the location of all tracts to be leased, and of all leases already issued in the general area. The requirements of this subsection are in addition to any public notice required by other law.

*(g) (1) Regulation of surface-disturbing activities; approval of plan of operations; bond or surety; failure to comply with reclamation requirements as barring lease; opportunity to comply with requirements*

The Secretary of the Interior, or for National Forest lands, the Secretary of Agriculture, shall regulate all surface-disturbing activities conducted pursuant to any lease issued under this chapter, and shall determine reclamation and other actions as required in the interest of conservation of surface resources. No permit to drill on an oil and gas lease issued under this chapter may be granted without the analysis and approval by the Secretary concerned of a plan of operations covering proposed surface-disturbing activities within the lease area. The Secretary concerned shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface-disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. Each such bond, surety, or other financial arrangement shall be considered inadequate if such bond, surety, or other financial arrangement is for less than \$150,000 in the case of an arrangement for an individual surface-disturbing activity of each entity on an individual oil or gas lease in a State, or \$500,000 in the case of an arrangement for all surface-disturbing activities of each entity on all oil and gas leases in a State. The Secretary shall not issue a lease or leases or approve the assignment of any lease or leases under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the Secretary of the Interior or Secretary of Agriculture, such entity has failed or refused to comply in any material respect with the reclamation requirements and other standards established under this section for any prior lease to which such requirements and standards applied. Prior to making such determination with respect to any such entity the concerned Secretary shall provide such entity with adequate notification and an opportunity to comply with such reclamation requirements and other standards and shall consider whether any administrative or judicial appeal is pending. Once the entity has complied with the reclamation requirement or other standard concerned an oil or gas lease may be issued to such entity under this chapter.

(2)(A) Not later than 180 days after the date of enactment of subtitle H of the Act to provide for reconciliation pursuant to title II of S. Con. Res. 14 of the 117th Congress the Secretary concerned shall initiate a rulemaking to require that an adequate bond, surety, or other financial

arrangement be provided by the lessee prior to the commencement of surface-disturbing activities on any lease issued under this Act to ensure the complete and timely remediation and reclamation of any land, water, or other resources (including resources with recreation, range, timber, mineral, watershed, fish or wildlife, natural scenic, scientific, or historical value) adversely affected by lease activities and operations after the abandonment or cessation of oil and gas operations on the lease.

(B) The Secretary concerned shall find that a bond, surety or other financial arrangement required by regulation under subparagraph (A) is inadequate if it is for less than—

(i) the complete and timely reclamation of the lease tract;

(ii) the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease; and

(iii) in the case of an idled well, the total plugging and reclamation costs for each idled well controlled by the same operator.

(C) The Secretary concerned shall review the adequacy of each such bond, surety, or other financial arrangement at least once every 5 years and anytime a lease issued under this Act is transferred.

*(h) National Forest System Lands*

The Secretary of the Interior may not issue any lease on National Forest System Lands reserved from the public domain over the objection of the Secretary of Agriculture.

*(i) Termination*

No lease issued under this section which is subject to termination because of cessation of production shall be terminated for this cause so long as reworking or drilling operations which were commenced on the land prior to or within sixty days after cessation of production are conducted thereon with reasonable diligence, or so long as oil or gas is produced in paying quantities as a result of such operations. No lease issued under this section shall expire because operations or production is suspended under any order, or with the consent, of the Secretary. No lease issued under this section covering lands on which there is a well capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same unless the lessee is allowed a reasonable time, which shall be not less than sixty days after notice by registered or certified mail, within which to place such well in producing status or unless, after such status is established, production is discontinued on the leased premises without permission granted by the Secretary under the provisions of this chapter.

*(j) Drainage agreements; primary term of lease, extension*

Whenever it appears to the Secretary that lands owned by the United States are being drained of oil or gas by wells drilled on adjacent lands, he may negotiate agreements whereby the United States, or the United States and its lessees, shall be compensated for such drainage. Such agreements shall be made with the consent of the lessees, if any, affected thereby. If such agreement is entered into, the primary term of any lease for which compensatory royalty is being paid, or any extension of such primary term, shall be extended for the period during which

such compensatory royalty is paid and for a period of one year from discontinuance of such payment and so long thereafter as oil or gas is produced in paying quantities.

*(k) Mining claims; suspension of running time of lease*

If, during the primary term or any extended term of any lease issued under this section, a verified statement is filed by any mining claimant pursuant to subsection (c) of [section 527 of this title](#), whether such filing occur prior to September 2, 1960 or thereafter, asserting the existence of a conflicting unpatented mining claim or claims upon which diligent work is being prosecuted as to any lands covered by the lease, the running of time under such lease shall be suspended as to the lands involved from the first day of the month following the filing of such verified statement until a final decision is rendered in the matter.

*(l) Exchange of leases; conditions*

The Secretary of the Interior shall, upon timely application therefor, issue a new lease in exchange for any lease issued for a term of twenty years, or any renewal thereof, or any lease issued prior to August 8, 1946, in exchange for a twenty-year lease, such new lease to be for a primary term of five years and so long thereafter as oil or gas is produced in paying quantities and at a royalty rate of not less than ~~12½~~ 20 per centum in amount or value of the production removed or sold from such leases, except that the royalty rate shall be ~~12½~~ 20 per centum in amount or value of the production removed or sold from said leases as to (1) such leases, or such parts of the lands subject thereto and the deposits underlying the same, as are not believed to be within the productive limits of any producing oil or gas deposit, as such productive limits are found by the Secretary to have existed on August 8, 1946; and (2) any production on a lease from an oil or gas deposit which was discovered after May 27, 1941, by a well or wells drilled within the boundaries of the lease, and which is determined by the Secretary to be a new deposit; and (3) any production on or allocated to a lease pursuant to an approved cooperative or unit plan of development or operation from an oil or gas deposit which was discovered after May 27, 1941, on land committed to such plan, and which is determined by the Secretary to be a new deposit, where such lease, or a lease for which it is exchanged, was included in such plan at the time of discovery or was included in a duly executed and filed application for the approval of such plan at the time of discovery.

*(m) Cooperative or unit plan; authority of Secretary of the Interior to alter or modify; communitization or drilling agreements; term of lease, conditions; Secretary to approve operating, drilling or development contracts, and subsurface storage*

For the purpose of more properly conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof (whether or not any part of said oil or gas pool, field, or like area, is then subject to any cooperative or unit plan of development or operation), lessees thereof and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of such pool, field, or like area, or any part thereof, whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest. The Secretary is thereunto authorized, in his discretion, with the consent of the holders of leases involved, to establish, alter, change, or revoke drilling, producing, rental, minimum royalty, and royalty requirements of such leases and to make such regulations with reference to such leases, with like consent on the part of the lessees, in connection with the institution and operation of any such cooperative or unit plan as he may deem necessary or proper to secure the proper protection of the public interest. The Secretary may provide that oil and gas leases hereafter issued under this chapter shall contain a provision requiring the lessee to operate under such a reasonable cooperative or unit plan, and he may prescribe such a plan under which such lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

Any plan authorized by the preceding paragraph which includes lands owned by the United States may, in the discretion of the Secretary, contain a provision whereby authority is vested in the Secretary of the Interior, or any such person, committee, or State or Federal officer or agency as may be designated in the plan, to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such plan. All leases operated under any such plan approved or prescribed by the Secretary shall be excepted in determining holdings or control under the provisions of any section of this chapter.

When separate tracts cannot be independently developed and operated in conformity with an established well-spacing or development program, any lease, or a portion thereof, may be pooled with other lands, whether or not owned by the United States, under a communitization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the Secretary of the Interior to be in the public interest, and operations or production pursuant to such an agreement shall be deemed to be operations or production as to each such lease committed thereto.

Any lease issued for a term of twenty years, or any renewal thereof, or any portion of such lease that has become the subject of a cooperative or unit plan of development or operation of a pool, field, or like area, which plan has the approval of the Secretary of the Interior, shall continue in force until the termination of such plan. Any other lease issued under any section of this chapter which has heretofore or may hereafter be committed to any such plan that contains a general provision for allocation of oil or gas shall continue in force and effect as to the land committed so long as the lease remains subject to the plan: *Provided*, That production is had in paying quantities under the plan prior to the expiration date of the term of such lease. Any lease heretofore or hereafter committed to any such plan embracing lands that are in part within and in part outside of the area covered by any such plan shall be segregated into separate leases as to the lands committed and the lands not committed as of the effective date of unitization: *Provided, however*, That any such lease as to the nonunitized portion shall continue in force and effect for the term thereof but for not less than two years from the date of such segregation and so long thereafter as oil or gas is produced in paying quantities. The minimum royalty or discovery rental under any lease that has become subject to any cooperative or unit plan of development or operation, or other plan that contains a general provision for allocation of oil or gas, shall be payable only with respect to the lands subject to such lease to which oil or gas shall be allocated under such plan. Any lease which shall be eliminated from any such approved or prescribed plan, or from any communitization or drilling agreement authorized by this section, and any lease which shall be in effect at the termination of any such approved or prescribed plan, or at the termination of any such communitization or drilling agreement, unless relinquished, shall continue in effect for the original term thereof, but for not less than two years, and so long thereafter as oil or gas is produced in paying quantities.

The Secretary of the Interior is hereby authorized, on such conditions as he may prescribe, to approve operating, drilling, or development contracts made by one or more lessees of oil or gas leases, with one or more persons, associations, or corporations whenever, in his discretion, the conservation of natural products or the public convenience or necessity may require it or the interests of the United States may be best subserved thereby. All leases operated under such approved operating, drilling, or development contracts, and interests thereunder, shall be excepted in determining holdings or control under the provisions of this chapter.

The Secretary of the Interior, to avoid waste or to promote conservation of natural resources, may authorize the subsurface storage of oil or gas, whether or not produced from federally owned lands, in lands leased or subject to lease under this chapter. Such authorization may provide for the payment of a storage fee or rental on such stored oil or gas or, in lieu of such fee or rental, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced. Any lease on which storage is

so authorized shall be extended at least for the period of storage and so long thereafter as oil or gas not previously produced is produced in paying quantities.

*(n) Conversion of oil and gas leases and claims on hydrocarbon resources to combined hydrocarbon leases for primary term of 10 years; application*

(1)(A) The owner of (1) an oil and gas lease issued prior to November 16, 1981, or (2) a valid claim to any hydrocarbon resources leasable under this section based on a mineral location made prior to January 21, 1926, and located within a special tar sand area shall be entitled to convert such lease or claim to a combined hydrocarbon lease for a primary term of ten years upon the filing of an application within two years from November 16, 1981, containing an acceptable plan of operations which assures reasonable protection of the environment and diligent development of those resources requiring enhanced recovery methods of development or mining. For purposes of conversion, no claim shall be deemed invalid solely because it was located as a placer location rather than a lode location or vice versa, notwithstanding any previous adjudication on that issue.

(B) The Secretary shall issue final regulations to implement this section within six months of November 16, 1981. If any oil and gas lease eligible for conversion under this section would otherwise expire after November 16, 1981, and before six months following the issuance of implementing regulations, the lessee may preserve his conversion right under such lease for a period ending six months after the issuance of implementing regulations by filing with the Secretary, before the expiration of the lease, a notice of intent to file an application for conversion. Upon submission of a complete plan of operations in substantial compliance with the regulations promulgated by the Secretary for the filing of such plans, the Secretary shall suspend the running of the term of any oil and gas lease proposed for conversion until the plan is finally approved or disapproved. The Secretary shall act upon a proposed plan of operations within fifteen months of its submittal.

(C) When an existing oil and gas lease is converted to a combined hydrocarbon lease, the royalty shall be that provided for in the original oil and gas lease and for a converted mining claim, [12½] 20 per centum in amount or value of production removed or sold from the lease.

(2) Except as provided in this section, nothing in the Combined Hydrocarbon Leasing Act of 1981 shall be construed to diminish or increase the rights of any lessee under any oil and gas lease issued prior to November 16, 1981.

*(o) Certain outstanding oil and gas deposits*

(1) Prior to the commencement of surface-disturbing activities relating to the development of oil and gas deposits on lands described under paragraph (5), the Secretary of Agriculture shall require, pursuant to regulations promulgated by the Secretary, that such activities be subject to terms and conditions as provided under paragraph (2).

(2) The terms and conditions referred to in paragraph (1) shall require that reasonable advance notice be furnished to the Secretary of Agriculture at least 60 days prior to the commencement of surface disturbing activities.

(3) Advance notice under paragraph (2) shall include each of the following items of information:

(A) A designated field representative.

(B) A map showing the location and dimensions of all improvements, including but not limited to, well sites and road and pipeline accesses.

(C) A plan of operations, of an interim character if necessary, setting forth a schedule for construction and drilling.

(D) A plan of erosion and sedimentation control.

(E) Proof of ownership of mineral title.

Nothing in this subsection shall be construed to affect any authority of the State in which the lands concerned are located to impose any requirements with respect to such oil and gas operations.

(4) The person proposing to develop oil and gas deposits on lands described under paragraph (5) shall either-

(A) permit the Secretary to market merchantable timber owned by the United States on lands subject to such activities; or

(B) arrange to purchase merchantable timber on lands subject to such surface disturbing activities from the Secretary of Agriculture, or otherwise arrange for the disposition of such merchantable timber, upon such terms and upon such advance notice of the items referred to in subparagraphs (A) through (E) of paragraph (3) as the Secretary may accept.

(5)(A) The lands referred to in this subsection are those lands referenced in subparagraph (B) which are under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following), but does not have an interest in oil and gas deposits that may be present under such lands. This subsection does not apply to any such lands where, under the provisions of its acquisition of an interest in the lands, the United States is to acquire any oil and gas deposits that may be present under such lands in the future but such interest has not yet vested with the United States.

(B) This subsection shall only apply in the Allegheny National Forest.

*(p) Deadlines for consideration of applications for permits*

*(1) In general*

Not later than 10 days after the date on which the Secretary receives an application for any permit to drill, the Secretary shall-

(A) notify the applicant that the application is complete; or

(B) notify the applicant that information is missing and specify any information that is required to be submitted for the application to be complete.

*(2) Issuance or deferral*

Not later than 30 days after the applicant for a permit has submitted a complete application, the Secretary shall-

(A) issue the permit, if the requirements under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other applicable law have been completed within such timeframe; or

(B) defer the decision on the permit and provide to the applicant a notice-

(i) that specifies any steps that the applicant could take for the permit to be issued; and

(ii) a list of actions that need to be taken by the agency to complete compliance with applicable law together with timelines and deadlines for completing such actions.

*(3) Requirements for deferred applications*

*(A) In general*

If the Secretary provides notice under paragraph (2)(B), the applicant shall have a period of 2 years from the date of receipt of the notice in which to complete all requirements



specified by the Secretary, including providing information needed for compliance with the National Environmental Policy Act of 1969.

*(B) Issuance of decision on permit*

If the applicant completes the requirements within the period specified in subparagraph (A), the Secretary shall issue a decision on the permit not later than 10 days after the date of completion of the requirements described in subparagraph (A), unless compliance with the National Environmental Policy Act of 1969 and other applicable law has not been completed within such timeframe.

*(C) Denial of permit*

If the applicant does not complete the requirements within the period specified in subparagraph (A) or if the applicant does not comply with applicable law, the Secretary shall deny the permit.

(q) INFLATION ADJUSTMENT.—The Secretary shall—

(1) by regulation, at least once every 4 years, adjust each of the dollar amounts that apply under subsections (b)(1)(B), (b)(2)(C), and (d) to reflect the change in inflation; and

(2) publish each such regulation in the Federal Register.

(r) FEE FOR EXPRESSION OF INTEREST.—

(1) IN GENERAL.—The Secretary shall charge any person who submits, in accordance with procedures established by the Secretary to carry out this subsection, an expression of interest in leasing land available for disposition under this section for exploration for, and development of, oil or gas a fee in an amount determined by the Secretary under paragraph (2).

(2) AMOUNT.—The fee authorized under paragraph (1) shall be established by the Secretary in an amount that is determined by the Secretary to be appropriate to cover the aggregate cost of processing an expression of interest under this subsection, but not less than \$15 per acre of the area covered by the applicable expression of interest.

(3) ADJUSTMENT OF FEE.—The Secretary shall, by regulation at least every 4 years, establish a higher expression of interest fee—

(A) to reflect the change in inflation; and

(B) as the Secretary determines to be necessary to enhance financial returns to the United States.

(Feb. 25, 1920, ch. 85, §17, 41 Stat. 443 ; July 3, 1930, ch. 854, §1, 46 Stat. 1007 ; Mar. 4, 1931, ch. 506, 46 Stat. 1523 ; Aug. 21, 1935, ch. 599, §1, 49 Stat. 676 ; Aug. 8, 1946, ch. 916, §3, 60 Stat. 951 ; July 29, 1954, ch. 644, §1(1)–(3), 68 Stat. 583 ; Pub. L. 86–507, §1(21), June 11, 1960, 74 Stat. 201 ; Pub. L. 86–705, §2, Sept. 2, 1960, 74 Stat. 781 ; Pub. L. 97–78, §1(6), (8), Nov. 16, 1981, 95 Stat. 1070 , 1071; Pub. L. 100–203, title V, §5102(a)–(d)(1), Dec. 22,

1987, 101 Stat. 1330–256, 1330-257; Pub. L. 102–486, title XXV, §§2507(a), 2508(a), 2509, Oct. 24, 1992, 106 Stat. 3107–3109; Pub. L. 103–437, §11(a)(1), Nov. 2, 1994, 108 Stat. 4589; Pub. L. 104–66, title I, §1081(a), Dec. 21, 1995, 109 Stat. 721; Pub. L. 109–58, title III, §§350(a), (b), 366, 369(j)(1), Aug. 8, 2005, 119 Stat. 711, 726, 730; Pub. L. 113–291, div. B, title XXX, §3022(a), Dec. 19, 2014, 128 Stat. 3762 .)



## Section 31 of the Mineral Leasing Act (30 U.S.C. 188)

### §188. Failure to comply with provisions of lease

#### (a) Forfeiture

Except as otherwise herein provided, any lease issued under the provisions of this chapter may be forfeited and canceled by an appropriate proceeding in the United States district court for the district in which the property, or some part thereof, is located whenever the lessee fails to comply with any of the provisions of this chapter, of the lease, or of the general regulations promulgated under this chapter and in force at the date of the lease; and the lease may provide for resort to appropriate methods for the settlement of disputes or for remedies for breach of specified conditions thereof.

#### (b) Cancellation

Any lease issued after August 21, 1935, under the provisions of [section 226 of this title](#) shall be subject to cancellation by the Secretary of the Interior after 30 days notice upon the failure of the lessee to comply with any of the provisions of the lease, unless or until the leasehold contains a well capable of production of oil or gas in paying quantities, or the lease is committed to an approved cooperative or unit plan or communitization agreement under [section 226\(m\) of this title](#) which contains a well capable of production of unitized substances in paying quantities. Such notice in advance of cancellation shall be sent the lease owner by registered letter directed to the lease owner's record post-office address, and in case such letter shall be returned as undelivered, such notice shall also be posted for a period of thirty days in the United States land office for the district in which the land covered by such lease is situated, or in the event that there is no district land office for such district, then in the post office nearest such land. Notwithstanding the provisions of this section, however, upon failure of a lessee to pay rental on or before the anniversary date of the lease, for any lease on which there is no well capable of producing oil or gas in paying quantities, the lease shall automatically terminate by operation of law: *Provided, however,* That when the time for payment falls upon any day in which the proper office for payment is not open, payment may be received the next official working day and shall be considered as timely made: *Provided,* That if the rental payment due under a lease is paid on or before the anniversary date but either (1) the amount of the payment has been or is hereafter deficient and the deficiency is nominal, as determined by the Secretary by regulation, or (2) the payment was calculated in accordance with the acreage figure stated in the lease, or in any decision affecting the lease, or made in accordance with a bill or decision which has been rendered by him and such figure, bill, or decision is found to be in error resulting in a deficiency, such lease shall not automatically terminate unless (1) a new lease had been issued prior to May 12, 1970, or (2) the lessee fails to pay the deficiency within the period prescribed in a notice of deficiency sent to him by the Secretary.

#### (c) Reinstatement

Where any lease has been or is hereafter terminated automatically by operation of law under this section for failure to pay on or before the anniversary date the full amount of rental due, but such rental was paid on or tendered within twenty days thereafter, and it is shown to the satisfaction of the Secretary of the Interior that such failure was either justifiable or not due to a lack of reasonable diligence on the part of the lessee, the Secretary may reinstate the lease if-

- (1) a petition for reinstatement, together with the required rental, including back rental accruing from the date of termination of the lease, is filed with the Secretary; and
- (2) no valid lease has been issued affecting any of the lands covered by the terminated lease prior to the filing of said petition. The Secretary shall not issue any new lease affecting

any of the lands covered by such terminated lease for a reasonable period, as determined in accordance with regulations issued by him. In any case where a reinstatement of a terminated lease is granted under this subsection and the Secretary finds that the reinstatement of such lease will not afford the lessee a reasonable opportunity to continue operations under the lease, the Secretary may, at his discretion, extend the term of such lease for such period as he deems reasonable: *Provided*, That (A) such extension shall not exceed a period equivalent to the time beginning when the lessee knew or should have known of the termination and ending on the date the Secretary grants such petition; (B) such extension shall not exceed a period equal to the unexpired portion of the lease or any extension thereof remaining at the date of termination; and (C) when the reinstatement occurs after the expiration of the term or extension thereof the lease may be extended from the date the Secretary grants the petition.

*(d) Additional grounds for reinstatement*

(1) Where any oil and gas lease issued pursuant to section 226(b) [or (c)] of this title or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) has been, or is hereafter, terminated automatically by operation of law under this section for failure to pay on or before the anniversary date the full amount of the rental due, and such rental is not paid or tendered within twenty days thereafter, and it is shown to the satisfaction of the Secretary of the Interior that such failure was justifiable or not due to lack of reasonable diligence on the part of the lessee, or, no matter when the rental is paid after termination, it is shown to the satisfaction of the Secretary that such failure was inadvertent, the Secretary may reinstate the lease as of the date of termination for the unexpired portion of the primary term of the original lease or any extension thereof remaining at the date of termination, and so long thereafter as oil or gas is produced in paying quantities. In any case where a lease is reinstated under this subsection and the Secretary finds that the reinstatement of such lease (A) occurs after the expiration of the primary term or any extension thereof, or (B) will not afford the lessee a reasonable opportunity to continue operations under the lease, the Secretary may, at his discretion, extend the term of such lease for such period as he deems reasonable, but in no event for more than two years from the date the Secretary authorizes the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

(2) No lease shall be reinstated under paragraph (1) of this subsection unless-

(A) with respect to any lease that terminated under subsection (b) on or before August 8, 2005, a petition for reinstatement (together with the required back rental and royalty accruing after the date of termination) is filed on or before the earlier of-

- (i) 60 days after the lessee receives from the Secretary notice of termination, whether by return of check or by any other form of actual notice; or
- (ii) 15 months after the termination of the lease; or

(B) with respect to any lease that terminates under subsection (b) after August 8, 2005, a petition for reinstatement (together with the required back rental and royalty accruing after the date of termination) is filed on or before the earlier of-

- (i) 60 days after receipt of the notice of termination sent by the Secretary by certified mail to all lessees of record; or
- (ii) 24 months after the termination of the lease.

*(e) Conditions for reinstatement*

Any reinstatement under subsection (d) of this section shall be made only if these conditions are met:

(1) no valid lease, whether still in existence or not, shall have been issued affecting any of the lands covered by the terminated lease prior to the filing of such petition: *Provided, however,* That after receipt of a petition for reinstatement, the Secretary shall not issue any new lease affecting any of the lands covered by such terminated lease for a reasonable period, as determined in accordance with regulations issued by him;

(2) payment of back rentals and either the inclusion in a reinstated lease issued pursuant to the provisions of section 226(b) of this title of a requirement for future rentals at a rate of not less than \$10 \$20 per acre per year, or the inclusion in a reinstated lease issued pursuant to the provisions of section 226(c) of this title of a requirement that future rentals shall be at a rate not less than \$5 per acre per year, all as determined by the Secretary;

(3)[(A)] payment of back royalties and the inclusion in a reinstated lease issued pursuant to the provisions of section 226(b) of this title of a requirement for future royalties at a rate of not less than 16 2/3 25 percent computed on a sliding scale based upon the average production per well per day, at a rate which shall be not less than 4 percentage points greater than the competitive royalty <sup>1</sup> schedule then in force and used for royalty determination for competitive leases issued pursuant to such section as determined by the Secretary: *Provided,* That royalty on such reinstated lease shall be paid on all production [removed or sold] from such lease subsequent to the termination of the original lease;

[(B)] payment of back royalties and inclusion in a reinstated lease issued pursuant to the provisions of section 226(c) of this title of a requirement for future royalties at a rate not less than 16 2/3 25 percent: *Provided,* That royalty on such reinstated lease shall be paid on all production [removed or sold] from such lease subsequent to the cancellation or termination of the original lease; and

(4) notice of the proposed reinstatement of a terminated lease, including the terms and conditions of reinstatement, shall be published in the Federal Register at least thirty days in advance of the reinstatement.

A copy of said notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the Secretary deemed significant in making this determination to reinstate, shall be furnished to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate at least thirty days in advance of the reinstatement. The lessee of a reinstated lease shall reimburse the Secretary for the administrative costs of reinstating the lease, but not to exceed \$500. In addition the lessee shall reimburse the Secretary for the cost of publication in the Federal Register of the notice of proposed reinstatement.

#### ***[(f) Issuance of noncompetitive oil and gas lease; conditions***

Where an unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, has been or is hereafter deemed conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 1744 of title 43, and it is shown to the satisfaction of the Secretary that such failure was inadvertent, justifiable, or not due to lack of reasonable diligence on the part of the owner, the Secretary may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease, consistent with the provisions of section 226(e) of this title, to be effective from the statutory date the claim was deemed conclusively abandoned. Issuance of such a lease shall be conditioned upon:

(1) a petition for issuance of a noncompetitive oil and gas lease, together with the required rental and royalty, including back rental and royalty accruing from the statutory date of abandonment of the oil placer mining claim, being filed with the Secretary-

(A) with respect to any claim deemed conclusively abandoned on or before January 12, 1983, on or before the one hundred and twentieth day after January 12, 1983, or

(B) with respect to any claim deemed conclusively abandoned after January 12, 1983, on or before the one hundred and twentieth day after final notification by the Secretary or a court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim;

(2) a valid lease not having been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of such petition: *Provided, however,* That after the filing of a petition for issuance of a lease under this subsection, the Secretary shall not issue any new lease affecting any of the lands covered by such abandoned oil placer mining claim for a reasonable period, as determined in accordance with regulations issued by him;

(3) a requirement in the lease for payment of rental, including back rentals accruing from the statutory date of abandonment of the oil placer mining claim, of not less than \$5 per acre per year;

(4) a requirement in the lease for payment of royalty on production removed or sold from the oil placer mining claim, including all royalty on production made subsequent to the statutory date the claim was deemed conclusively abandoned, of not less than 12½ percent; and

(5) compliance with the notice and reimbursement of costs provisions of paragraph (4) of subsection (e) but addressed to the petition covering the conversion of an abandoned unpatented oil placer mining claim to a noncompetitive oil and gas lease.]

*(g) Treatment of leases*

(1) Except as otherwise provided in this section, a reinstated lease shall be treated [as a competitive or a noncompetitive oil and gas lease in the same manner as the original lease issued pursuant to section 226(b) or (c) of this title.] in the same manner as the original lease issued pursuant to section 17.

[(2) Except as otherwise provided in this section, the issuance of a lease in lieu of an abandoned patented oil placer mining claim shall be treated as a noncompetitive oil and gas lease issued pursuant to section 226(c) of this title.]

[(3)] (2) Notwithstanding any other provision of law, any lease issued pursuant to section 223 of this title shall be eligible for reinstatement under the terms and conditions set forth in subsections (c), (d), and (e) of this section[, applicable to leases issued under section 226(c) of this title except,] , except that, upon reinstatement, such lease shall continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.

[(4)] (3) Notwithstanding any other provision of law, any lease issued pursuant to section 223 of this title shall, upon renewal on or after November 15, 1990, continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.

*(h) Statutory provisions applicable to leases*

The minimum royalty provisions of section 226(m) of this title [and the provisions of section 209 of this title] shall be applicable to leases issued pursuant to subsections (d) and (f) of this section.

*(i) Royalty reductions*

(1) In acting on a petition to issue a noncompetitive oil and gas lease, under subsection (f) of this section or in response to a request filed after issuance of such a lease, or both, the Secretary is authorized to reduce the royalty on such lease if in his judgment it is equitable to do

so or the circumstances warrant such relief due to uneconomic or other circumstances which could cause undue hardship or premature termination of production.

(2) In acting on a petition for reinstatement pursuant to subsection (d) of this section or in response to a request filed after reinstatement, or both, the Secretary is authorized to reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes if, in his judgment, there are uneconomic or other circumstances which could cause undue hardship or premature termination of production; or because of any written action of the United States, its agents or employees, which preceded, and was a major consideration in, the lessee's expenditure of funds to develop the property under the lease after the rent had become due and had not been paid; or if in the judgment of the Secretary it is equitable to do so for any reason.

*(j) Discretion of Secretary*

Where, in the judgment of the Secretary of the Interior, drilling operations were being diligently conducted on the last day of the primary term of the lease, and, except for nonpayment of rental, the lessee would have been entitled to extension of his lease, pursuant to [section 226-1\(d\) of this title](#), the Secretary of the Interior may reinstate such lease notwithstanding the failure of the lessee to have made payment of the next year's rental, provided the conditions of subparagraphs (1) and (2) of section <sup>1</sup> (c) are satisfied.

[\(Feb. 25, 1920, ch. 85, §31, 41 Stat. 450 ; Aug. 8, 1946, ch. 916, §9, 60 Stat. 956 ; July 29, 1954, ch. 644, §1\(7\), 68 Stat. 585 ; Pub. L. 87-822, §1, Oct. 15, 1962, 76 Stat. 943 ; Pub. L. 91-245, §§1, 2, May 12, 1970, 84 Stat. 206 ; Pub. L. 97-451, title IV, §401, Jan. 12, 1983, 96 Stat. 2462 ; Pub. L. 100-203, title V, §§5102\(d\)\(2\), 5104, Dec. 22, 1987, 101 Stat. 1330-258 , 1330-259; Pub. L. 101-567, §1, Nov. 15, 1990, 104 Stat. 2802 ; Pub. L. 103-437, §11\(a\)\(1\), Nov. 2, 1994, 108 Stat. 4589 ; Pub. L. 109-58, title III, §371\(b\), Aug. 8, 2005, 119 Stat. 734 .\)](#)

## **Section 2 of the Mineral Leasing Act (30 U.S.C. 201(a))**

### **§201. Leases and exploration**

*(a) Leases*

(1) The Secretary of the Interior is authorized to divide any lands subject to this chapter which have been classified for coal leasing into leasing tracts of such size as he finds appropriate and in the public interest and which will permit the mining of all coal which can be economically extracted in such tract and thereafter he shall, in his discretion, upon the request of any qualified applicant or on his own motion, from time to time, offer such lands for leasing and shall award leases thereon by competitive bidding: *Provided*, That notwithstanding the competitive bidding requirement of this section, the Secretary may, subject to such conditions which he deems

appropriate, negotiate the sale at fair market value of coal the removal of which is necessary and incidental to the exercise of a right-of-way permit issued pursuant to title V of the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1761 et seq.]. [No less than 50 per centum of the total acreage offered for lease by the Secretary in any one year shall be leased under a system of deferred bonus payment. Upon default or cancellation of any coal lease for which bonus payments are due, any unpaid remainder of the bid shall be immediately payable to the United States.] A reasonable number of leasing tracts shall be reserved and offered for lease in accordance with this section to public bodies, including Federal agencies, rural electric cooperatives, or nonprofit corporations controlled by any of such entities: *Provided*, That the coal so offered for lease shall be for use by such entity or entities in implementing a definite plan to produce energy for their own use or for sale to their members or customers (except for short-term sales to others). No bid shall be accepted which is less than the fair market value, as determined by the Secretary, of the coal subject to the lease. Prior to his determination of the fair market value of the coal subject to the lease, the Secretary shall give opportunity for and consideration to public comments on the fair market value. Nothing in this section shall be construed to require the Secretary to make public his judgment as to the fair market value of the coal to be leased, or the comments he receives thereon prior to the issuance of the lease. He is authorized, in awarding leases for coal lands improved and occupied or claimed in good faith, prior to February 25, 1920, to consider and recognize equitable rights of such occupants or claimants.

(2)(A) The Secretary shall not issue a lease or leases under the terms of this chapter to any person, association, corporation, or any subsidiary, affiliate, or persons controlled by or under common control with such person, association, or corporation, where any such entity holds a lease or leases issued by the United States to coal deposits and has held such lease or leases for a period of ten years when such entity is not, except as provided for in [section 207\(b\) of this title](#), producing coal from the lease deposits in commercial quantities. In computing the ten-year period referred to in the preceding sentence, periods of time prior to August 4, 1976, shall not be counted.

(B) Any lease proposal which permits surface coal mining within the boundaries of a National Forest which the Secretary proposes to issue under this chapter shall be submitted to the Governor of each State within which the coal deposits subject to such lease are located. No such lease may be issued under this chapter before the expiration of the sixty-day period beginning on the date of such submission. If any Governor to whom a proposed lease was submitted under this subparagraph objects to the issuance of such lease, such lease shall not be issued before the expiration of the six-month period beginning on the date the Secretary is notified by the Governor of such objection. During such six-month period, the Governor may submit to the Secretary a statement of reasons why such lease should not be issued and the Secretary shall, on the basis of such statement, reconsider the issuance of such lease.

(3)(A)(i) No lease sale shall be held unless the lands containing the coal deposits have been included in a comprehensive land-use plan and such sale is compatible with such plan. The Secretary of the Interior shall prepare such land-use plans on lands under his responsibility where such plans have not been previously prepared. The Secretary of the Interior shall inform the Secretary of Agriculture of substantial development interest in coal leasing on lands within the National Forest System. Upon receipt of such notification from the Secretary of the Interior, the Secretary of Agriculture shall prepare a comprehensive land-use plan for such areas where such plans have not been previously prepared. The plan of the Secretary of Agriculture shall take into consideration the proposed coal development in these lands: *Provided*, That where the Secretary of the Interior finds that because of non-Federal interest in the surface or because the coal resources are insufficient to justify the preparation costs of a Federal comprehensive land-use plan, the lease sale can be held if the lands containing the coal deposits have been



included in either a comprehensive land-use plan prepared by the State within which the lands are located or a land use analysis prepared by the Secretary of the Interior.

(ii) In preparing such land-use plans, the Secretary of the Interior or, in the case of lands within the National Forest System, the Secretary of Agriculture, or in the case of a finding by the Secretary of the Interior that because of non-Federal interests in the surface or insufficient Federal coal, no Federal comprehensive land-use plans can be appropriately prepared, the responsible State entity shall consult with appropriate State agencies and local governments and the general public and shall provide an opportunity for public hearing on proposed plans prior to their adoption, if requested by any person having an interest which is, or may be, adversely affected by the adoption of such plans.

(iii) Leases covering lands the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior may be issued only upon consent of the other Federal agency and upon such conditions as it may prescribe with respect to the use and protection of the nonmineral interests in those lands.

(B) Each land-use plan prepared by the Secretary (or in the case of lands within the National Forest System, the Secretary of Agriculture pursuant to subparagraph (A)(i)) shall include an assessment of the amount of coal deposits in such land, identifying the amount of such coal which is recoverable by deep mining operations and the amount of such coal which is recoverable by surface mining operations.

(C) Prior to issuance of any coal lease, the Secretary shall consider effects which mining of the proposed lease might have on an impacted community or area, including, but not limited to, impacts on the environment, on agricultural and other economic activities, and on public services. Prior to issuance of a lease, the Secretary shall evaluate and compare the effects of recovering coal by deep mining, by surface mining, and by any other method to determine which method or methods or sequence of methods achieves the maximum economic recovery of the coal within the proposed leasing tract. This evaluation and comparison by the Secretary shall be in writing but shall not prohibit the issuance of a lease; however, no mining operating plan shall be approved which is not found to achieve the maximum economic recovery of the coal within the tract. Public hearings in the area shall be held by the Secretary prior to the lease sale.

(D) No lease sale shall be held until after the notice of the proposed offering for lease has been given once a week for three consecutive weeks in a newspaper of general circulation in the county in which the lands are situated in accordance with regulations prescribed by the Secretary.

(E) Each coal lease shall contain provisions requiring compliance with the Federal Water Pollution Control Act (33 U.S.C. 1151–1175) [33 U.S.C. 1251 et seq.] and the Clean Air Act [42 U.S.C. 7401 et seq.].

[(4)(A) The Secretary shall not require a surety bond or any other financial assurance to guarantee payment of deferred bonus bid installments with respect to any coal lease issued on a cash bonus bid to a lessee or successor in interest having a history of a timely payment of noncontested coal royalties and advanced coal royalties in lieu of production (where applicable) and bonus bid installment payments.]

(B) The Secretary may waive any requirement that a lessee provide a surety bond or other financial assurance to guarantee payment of deferred bonus bid installment with respect to any coal lease issued before August 8, 2005, only if the Secretary determines that the lessee has a history of making timely payments referred to in subparagraph (A).

(5) Notwithstanding any other provision of law, if the lessee under a coal lease fails to pay any installment of a deferred cash bonus bid within 10 days after the Secretary provides written notice that payment of the installment is past due—

(A) the lease shall automatically terminate; and

(B) any bonus payments already made to the United States with respect to the lease shall not be returned to the lessee or credited in any future lease sale.]

*(b) Exploration*

(1) The Secretary may, under such regulations as he may prescribe, issue to any person an exploration license. No person may conduct coal exploration for commercial purposes for any coal on lands subject to this chapter without such an exploration license. Each exploration license shall be for a term of not more than two years and shall be subject to a reasonable fee. An exploration license shall confer no right to a lease under this chapter. The issuance of exploration licenses shall not preclude the Secretary from issuing coal leases at such times and locations and to such persons as he deems appropriate. No exploration license will be issued for any land on which a coal lease has been issued. A separate exploration license will be required for exploration in each State. An application for an exploration license shall identify general areas and probable methods of exploration. Each exploration license shall contain such reasonable conditions as the Secretary may require, including conditions to insure the protection of the environment, and shall be subject to all applicable Federal, State, and local laws and regulations. Upon violation of any such conditions or laws the Secretary may revoke the exploration license.

(2) A licensee may not cause substantial disturbance to the natural land surface. He may not remove any coal for sale but may remove a reasonable amount of coal from the lands subject to this chapter included under his license for analysis and study. A licensee must comply with all applicable rules and regulations of the Federal agency having jurisdiction over the surface of the lands subject to this chapter. Exploration licenses covering lands the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior may be issued only upon such conditions as it may prescribe with respect to the use and protection of the nonmineral interests in those lands.

(3) The licensee shall furnish to the Secretary copies of all data (including, but not limited to, geological, geophysical,<sup>1</sup> and core drilling analyses) obtained during such exploration. The Secretary shall maintain the confidentiality of all data so obtained until after the areas involved have been leased or until such time as he determines that making the data available to the public would not damage the competitive position of the licensee, whichever comes first.

(4) Any person who willfully conducts coal exploration for commercial purposes on lands subject to this chapter without an exploration license issued hereunder shall be subject to a fine of not more than \$1,000 for each day of violation. All data collected by said person on any Federal lands as a result of such violation shall be made immediately available to the Secretary, who shall make the data available to the public as soon as it is practicable. No penalty under this subsection shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation.

(Feb. 25, 1920, ch. 85, §2(a), (b), 41 Stat. 438 ; June 3, 1948, ch. 379, §1, 62 Stat. 289 ; Pub. L. 86-252, §2, Sept. 9, 1959, 73 Stat. 490 ; Pub. L. 88-526, §2(a), (b), Aug. 31, 1964, 78 Stat. 710 ; Pub. L. 94-377, §§2-4, Aug. 4, 1976, 90 Stat. 1083, 1085; Pub. L. 95-554, §2, Oct. 30, 1978, 92 Stat. 2073 ; Pub. L. 109-58, title IV, §436, Aug. 8, 2005, 119 Stat. 762.)



## Section 108 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1718)

### §1718. Inspections

#### *(a) Motor vehicles on lease sites; vehicles not on lease site*

(1) On any lease site on Federal or Indian lands, any authorized and properly identified representative of the Secretary may stop and inspect any motor vehicle that he has probable cause to believe is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site, for the purpose of determining whether the driver of such vehicle has documentation related to such oil as required by law.

(2) Any authorized and properly identified representative of the Secretary, accompanied by any appropriate law enforcement officer, or an appropriate law enforcement officer alone, may stop and inspect any motor vehicle which is not on a lease site if he has probable cause to believe the vehicle is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site. Such inspection shall be for the purpose of determining whether the driver of such vehicle has the documentation required by law.

#### *(b) Inspection of lease sites for compliance with mineral leasing laws and this chapter*

Authorized and properly identified representatives of the Secretary may without advance notice, enter upon, travel across and inspect lease sites on Federal or Indian lands and may obtain from the operator immediate access to secured facilities on such lease sites, for the purpose of making any inspection or investigation for determining whether there is compliance with the requirements of the mineral leasing laws and this chapter. The Secretary shall develop guidelines setting forth the coverage and the frequency of such inspections.

#### *(c) Right of Secretary to enter upon and travel across lease sites*

For the purpose of making any inspection or investigation under this chapter, the Secretary shall have the same right to enter upon or travel across any lease site as the lessee or operator has acquired by purchase, condemnation, or otherwise.

#### **(d) INSPECTION FEES.—**

(1) IN GENERAL.—The designated operator under each oil and gas lease on Federal or Indian lands, or each unit and communitization agreement that includes one or more such Federal or Indian leases, that is subject to inspection under subsection (b) and that is in force at the start of the fiscal year 2021, shall pay a nonrefundable annual inspection fee in an amount that, except as provided in paragraph (2), is established by the Secretary by regulation and is

sufficient to recover the full costs incurred by the United States for inspection and enforcement with respect to such leases.

(2) AMOUNT.—Until the effective date of regulations under paragraph (1), the amount of the fee shall be—

(A) \$800 for each lease or unit or communitization agreement with no active or inactive wells, but with surface use, disturbance or reclamation;

(B) \$1,400 for each lease or unit or communitization agreement with 1 to 10 wells, with any combination of active or inactive wells;

(C) \$5,600 for each lease or unit or communitization agreement with 11 to 50 wells, with any combination of active or inactive wells; and

(D) \$11,300 for each lease or unit or communitization agreement with more than 50 wells, with any combination of active or inactive wells.

(3) DUE DATE.—Payment of the fee under this section shall be due, annually, not later than 30 days after the Secretary provides notice of the assessment of the fee.

(4) PENALTY.—If the designated operator fails to pay the full amount of the fee as prescribed in this section, the Secretary may, in addition to utilizing any other applicable enforcement authority, assess civil penalties against the operator under section 109 in the same manner as if this section were a mineral leasing law.

(5) EXEMPTION FOR TRIBAL OPERATORS.—An operator that is a Tribe or is controlled by a Tribe is not subject to paragraph (1) with respect to a lease, unit, or communitization agreement that is located entirely on the lands of such Tribe.

( [Pub. L. 97–451, title I, §108, Jan. 12, 1983, 96 Stat. 2453.](#) )

Section 22 of the Outer Continental Shelf Lands Act (43 U.S.C. 1348)

**§1348. Enforcement of safety and environmental regulations**

*(a) Utilization of Federal departments and agencies*

The Secretary, the Secretary of the Department in which the Coast Guard is operating, and the Secretary of the Army shall enforce safety and environmental regulations promulgated pursuant to this subchapter. Each such Federal department may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of other Federal departments and agencies for the enforcement of their respective regulations.

*(b) Duties of holders of lease or permit*

It shall be the duty of any holder of a lease or permit under this subchapter to-

(1) maintain all places of employment within the lease area or within the area covered by such permit in compliance with occupational safety and health standards and, in addition, free from recognized hazards to employees of the lease holder or permit holder or of any contractor or subcontractor operating within such lease area or within the area covered by such permit on the outer Continental Shelf;

(2) maintain all operations within such lease area or within the area covered by such permit in compliance with regulations intended to protect persons, property, and the environment on the outer Continental Shelf; and

(3) allow prompt access, at the site of any operation subject to safety regulations, to any inspector, and to provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

*(c) Onsite inspection of facilities*

The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for-

(1) scheduled onsite inspection, at least once a year, of each facility on the outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this subchapter, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

*(d) Investigation and report on major fires, oil spills, death, or serious injury*

(1) The Secretary or the Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on each major fire and each major oil spillage occurring as a result of operations conducted pursuant to this subchapter, and may, in his discretion, make an investigation and report of lesser oil spillages. For purposes of this

subsection, a major oil spillage is any spillage in one instance of more than two hundred barrels of oil during a period of thirty days. All holders of leases or permits issued or maintained under this subchapter shall cooperate with the appropriate Secretary in the course of any such investigation.

(2) The Secretary or the Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on any death or serious injury occurring as a result of operations conducted pursuant to this subchapter, and may, in his discretion, make an investigation and report of any injury. For purposes of this subsection, a serious injury is one resulting in substantial impairment of any bodily unit or function. All holders of leases or permits issued or maintained under this subchapter shall cooperate with the appropriate Secretary in the course of any such investigation.

*(e) Review of allegations of violations*

The Secretary, or, in the case of occupational safety and health, the Secretary of the Department in which the Coast Guard is operating, may review any allegation from any person of the existence of a violation of a safety regulation issued under this subchapter.

*(f) Summoning of witnesses and production of evidence*

In any investigation conducted pursuant to this section, the Secretary or the Secretary of the Department in which the Coast Guard is operating shall have power to summon witnesses and to require the production of books, papers, documents, and any other evidence. Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a similar process, as in the district courts of the United States. Such Secretary, or his designee, shall administer all necessary oaths to any witnesses summoned before such investigation.

**(g) INSPECTION FEES.—**

**(1) IN GENERAL.—**

**(A) ESTABLISHMENT.—**The Secretary shall collect from the operators of facilities subject to inspection under subsection (c) nonrefundable fees for such inspections—

(i) at an aggregate level equal to the amount necessary to offset the annual expenses of such inspections;

(ii) using a schedule that reflect the differences in complexity among the classes of facilities to be inspected; and

(iii) in accordance with subparagraph (C).

**(B) ADJUSTMENT FOR INFLATION.—**For each fiscal year beginning after fiscal year 2022, the Secretary shall adjust the amount of the fees collected under this paragraph for inflation.

**(C) FEES FOR FISCAL YEAR 2022.—**

(i) ANNUAL FEES.—For fiscal year 2022, the Secretary shall collect annual fees from the operator of facilities that are above the waterline, excluding drilling rigs, and are in place at the start of the fiscal year in the following amounts:

(I) \$11,725 for facilities with no wells, but with processing equipment or gathering lines.

(II) \$18,984 for facilities with 1 to 10 wells, with any combination of active or inactive wells.

(III) \$35,176 for facilities with more than 10 wells, with any combination of active or inactive wells.

(ii) FEES FOR DRILLING RIGS.—For fiscal year 2022, the Secretary shall collect fees for each inspection from the operators of drilling rigs in the following amounts:

(I) \$34,059 per inspection for rigs operating in water depths of 500 feet or more.

(II) \$18,649 per inspection for rigs operating in water depths of less than 500 feet.

(iii) FEES FOR NON-RIG UNITS.—For fiscal year 2022, the Secretary shall collect fees for each inspection from the operators of well operations conducted via non-rig units as outlined in subparts D, E, F, and Q of part 250 of title 30, Code of Federal Regulations (or any successor regulation), in the following amounts:

(I) \$13,260 per inspection for non-rig units operating in water depths of 2,500 feet or more.

(II) \$11,530 per inspection for non-rig units operating in water depths between 500 and 2,499 feet.

(III) \$4,470 per inspection for non-rig units operating in water depths of less than 500 feet.

(2) DISPOSITION.—Amounts collected as fees under paragraph (1) shall be deposited into the general fund of the Treasury.

(3) BILLING.—

(A) ANNUAL FEES.—The Secretary shall bill designated operators under paragraph (1)(C)(i) annually, with payment required no later than 30 days after such billing.

(B) FEES FOR DRILLING RIGS.—The Secretary shall bill designated operators under paragraph (1)(C)(ii) not later than 30 days after the end of the month in which the inspection occurred, with payment required not later than 30 days after such billing.

(4) PUBLICATION.—The Secretary shall annually make available to the public the following information about each fee deposited into the Fund:

(A) The facility that was inspected.

(B) The name of the operator of such facility.

(C) The amount of the payment.

(Aug. 7, 1953, ch. 345, §22, as added [Pub. L. 95–372, title II, §208, Sept. 18, 1978, 92 Stat. 655](#); amended [Pub. L. 105–362, title IX, §901\(l\)\(2\), Nov. 10, 1998, 112 Stat. 3290](#).)

## 30 U.S.C. 223

### §223. Leases; amount and survey of land; term of lease; royalties and annual rental

Upon establishing to the satisfaction of the Secretary of the Interior that valuable deposits of oil or gas have been discovered within the limits of the land embraced in any permit, the permittee shall be entitled to a lease for one-fourth of the land embraced in the prospecting permit: *Provided*, That the permittee shall be granted a lease for as much as one hundred and sixty acres of said lands, if there be that number of acres within the permit. The area to be selected by the permittee, shall be in reasonably compact form and, if surveyed, to be described by the legal subdivisions of the public-land surveys; if unsurveyed, to be surveyed by the Government at the expense of the applicant for lease in accordance with rules and regulations to be prescribed by the Secretary of the Interior, and the lands leased shall be conformed to and taken in accordance with the legal subdivisions of such surveys; deposits made to cover expense of surveys shall be deemed appropriated for that purpose, and any excess deposits may be repaid to the person or persons making such deposit or their legal representatives. Such leases shall be for a term of twenty years upon a royalty of 5 per centum in amount or value of the production and the annual payment in advance of a rental of \$1 per acre, the rental paid for any one year to be credited against the royalties as they accrue for that year, and shall continue in force otherwise as prescribed in [section 226 of this title](#) for leases issued prior to August 21, 1935. The permittee shall also be entitled to a preference right to a lease for the remainder of the land in his prospecting permit at a royalty of not less than 12½ per centum in amount or value of the production nor more than the royalty rate prescribed by regulation in force on January 1, 1935, for secondary leases issued under this section, and under such other conditions as are fixed for oil or gas leases issued under [section 226 of this title](#) the royalty to be determined by competitive bidding or fixed by such other method as the Secretary may by regulations prescribe: *Provided further*, That the Secretary shall have the right to reject any or all bids. Royalties shall be assessed with respect to oil and gas, other than gas vented or flared for not longer than 48 hours in an acute emergency situation that poses a danger to human health and gas used or gas consumed within the area of the lease tract for the benefit of the lease when the operator is a Tribe or is controlled by a Tribe that is located entirely on the lands of such Tribe, without regard to whether oil or gas is removed or sold from the leased land.

(Feb. 25, 1920, ch. 85, §14, 41 Stat. 442 ; Aug. 21, 1935, ch. 599, §1, 49 Stat. 676 .)

30 USC 251

**§251. Leases to claimants of withdrawn lands; terms and conditions; acreage; annual rentals and royalties; fraud of claimants**

Any bona fide occupant or claimant of oil or gas bearing lands in the Territory of Alaska, who, or whose predecessors in interest, prior to withdrawal had complied otherwise with the requirements of the mining laws, but had made no discovery of oil or gas in wells and who prior to withdrawal had made substantial improvements for the discovery of oil or gas on or for each location or had prior to February 25, 1920 expended not less than \$250 in improvements on or for each location shall be entitled, upon relinquishment or surrender to the United States within one year from February 25, 1920, or within six months after final denial or withdrawal of application for patent, to a lease or leases, under this chapter covering such lands, not exceeding five leases in number and not exceeding an aggregate of one thousand two hundred and eighty acres in each: *Provided*, That the annual lease rentals for lands in the Territory of Alaska not within any known geological structure of a producing oil or gas field and the royalty payments from production of oil or gas **sold or removed** from such lands shall be identical with those prescribed for such leases covering similar lands in the States of the United States, except that leases which may issue pursuant to applications or offers to lease such lands, which applications or offers were filed prior to and were pending on May 3, 1958, shall require the payment of 25 cents per acre as lease rental for the first year of such leases; but the aforesaid exception shall not apply in any way to royalties to be required under leases which may issue pursuant to offers or applications filed prior to May 3, 1958.

The Secretary of the Interior shall neither prescribe nor approve any cooperative or unit plan of development or operation nor any operating, drilling, or development contract establishing different royalty or rental rates for Alaska lands than for similar lands within the States of the United States.

No claimant for a lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section.

(Feb. 25, 1920, ch. 85, §22, 41 Stat. 446 ; Pub. L. 85–505, §10, July 3, 1958, 72 Stat. 324 .)

Section 6(a)(8) of the Outer Continental Shelf Lands Act (43 U.S.C. 1335(a)(8))

## §1335. Validation and maintenance of prior leases

### *(a) Requirements for validation*

The provisions of this section shall apply to any mineral lease covering submerged lands of the outer Continental Shelf issued by any State (including any extension, renewal, or replacement thereof heretofore granted pursuant to such lease or under the laws of such State) if-

(1) such lease, or a true copy thereof, is filed with the Secretary by the lessee or his duly authorized agent within ninety days from August 7, 1953, or within such further period or periods as provided in [section 1336 of this title](#) or as may be fixed from time to time by the Secretary;

(2) such lease was issued prior to December 21, 1948, and would have been on June 5, 1950, in force and effect in accordance with its terms and provisions and the law of the State issuing it had the State had the authority to issue such lease;

(3) there is filed with the Secretary, within the period or periods specified in paragraph (1) of this subsection, (A) a certificate issued by the State official or agency having jurisdiction over such lease stating that it would have been in force and effect as required by the provisions of paragraph (2) of this subsection, or (B) in the absence of such certificate, evidence in the form of affidavits, receipts, canceled checks, or other documents that may be required by the Secretary, sufficient to prove that such lease would have been so in force and effect;

(4) except as otherwise provided in [section 1336 of this title](#) hereof, all rents, royalties, and other sums payable under such lease between June 5, 1950, and August 7, 1953, which have not been paid in accordance with the provisions thereof, or to the Secretary or to the Secretary of the Navy, are paid to the Secretary within the period or periods specified in paragraph (1) of this subsection, and all rents, royalties, and other sums payable under such lease after August 7, 1953, are paid to the Secretary, who shall deposit such payments in the Treasury in accordance with [section 1338 of this title](#);

(5) the holder of such lease certifies that such lease shall continue to be subject to the overriding royalty obligations existing on August 7, 1953;

(6) such lease was not obtained by fraud or misrepresentation;

(7) such lease, if issued on or after June 23, 1947, was issued upon the basis of competitive bidding;

(8) such lease provides for a royalty to the lessor on oil and gas of not less than 12½ per centum and on sulphur of not less than 5 per centum in amount or value of the production [\[saved, removed, or sold\]](#) from the lease, or, in any case in which the lease provides for a lesser royalty, the holder thereof consents in writing, filed with the Secretary, to the increase of the royalty to the minimum herein specified;

(9) the holder thereof pays to the Secretary within the period or periods specified in paragraph (1) of this subsection an amount equivalent to any severance, gross production, or occupation taxes imposed by the State issuing the lease on the production from the lease, less the State's royalty interest in such production, between June 5, 1950, and August 7, 1953 and not heretofore paid to the State, and thereafter pays to the Secretary as an additional royalty on the production from the lease, less the United States' royalty interest in such production, a sum of money equal to the amount of the severance, gross production, or occupation taxes which would have been payable on such production to the State issuing the lease under its laws as they existed on August 7, 1953;



(10) such lease will terminate within a period of not more than five years from August 7, 1953 in the absence of production or operations for drilling, or, in any case in which the lease provides for a longer period, the holder thereof consents in writing, filed with the Secretary, to the reduction of such period so that it will not exceed the maximum period herein specified; and

(11) the holder of such lease furnishes such surety bond, if any, as the Secretary may require and complies with such other reasonable requirements as the Secretary may deem necessary to protect the interests of the United States.

*(b) Conduct of operations under lease; sulphur rights*

Any person holding a mineral lease, which as determined by the Secretary meets the requirements of subsection (a) of this section, may continue to maintain such lease, and may conduct operations thereunder, in accordance with (1) its provisions as to the area, the minerals covered, rentals and, subject to the provisions of paragraphs (8)–(10) of subsection (a) of this section, as to royalties and as to the term thereof and of any extensions, renewals, or replacements authorized therein or heretofore authorized by the laws of the State issuing such lease, or, if oil or gas was not being produced in paying quantities from such lease on or before December 11, 1950, or if production in paying quantities has ceased since June 5, 1950, or if the primary term of such lease has expired since December 11, 1950, then for a term from August 7, 1953 equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of such State, and (2) such regulations as the Secretary may under [section 1334 of this title](#) prescribe within ninety days after making his determination that such lease meets the requirements of subsection (a) of this section: *Provided, however*, That any rights to sulphur under any lease maintained under the provisions of this subsection shall not extend beyond the primary term of such lease or any extension thereof under the provisions of this subsection unless sulphur is being produced in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by such lease on the date of expiration of such primary term or extension: *Provided further*, That if sulphur is being produced in paying quantities on such date, then such rights shall continue to be maintained in accordance with such lease and the provisions of this subchapter: *Provided further*, That, if the primary term of a lease being maintained under this subsection has expired prior to August 7, 1953 and oil or gas is being produced in paying quantities on such date, then such rights to sulphur as the lessee may have under such lease shall continue for twenty-four months from August 7, 1953 and as long thereafter as sulphur is produced in paying quantities, or drilling, well working, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by the lease.

*(c) Nonwaiver of United States claims*

The permission granted in subsection (b) of this section shall not be construed to be a waiver of such claims, if any, as the United States may have against the lessor or the lessee or any other person respecting sums payable or paid for or under the lease, or respecting activities conducted under the lease, prior to August 7, 1953.

*(d) Judicial review of determination*

Any person complaining of a negative determination by the Secretary of the Interior under this section may have such determination reviewed by the United States District Court for the District of Columbia by filing a petition for review within sixty days after receiving notice of such action by the Secretary.

(e) *Lands beneath navigable waters*

In the event any lease maintained under this section covers lands beneath navigable waters, as that term is used in the Submerged Lands Act [[43 U.S.C. 1301 et seq.](#)], as well as lands of the outer Continental Shelf, the provisions of this section shall apply to such lease only insofar as it covers lands of the outer Continental Shelf.

([Aug. 7, 1953, ch. 345, §6, 67 Stat. 465.](#))

Section 344 of the Energy Policy Act of 2005 (42 U.S.C. 15904)

**[§15904. Incentives for natural gas production from deep wells in the shallow waters of the Gulf of Mexico]**

**(a) Royalty incentive regulations for ultra deep gas wells**

**(1) In general**

Not later than 180 days after August 8, 2005, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes of not less than 35 billion cubic feet with respect to the production of natural gas from ultra deep wells on leases issued in shallow waters less than 400 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes west longitude. Regulations issued under this subsection shall be retroactive to the date that the notice of proposed rulemaking is published in the Federal Register.

**(2) Suspension volumes**

The Secretary may grant suspension volumes of not less than 35 billion cubic feet in any case in which-

(A) the ultra deep well is a sidetrack; or

(B) the lease has previously produced from wells with a perforated interval the top of which is at least 15,000 feet true vertical depth below the datum at mean sea level.

**(3) Definitions**

In this subsection:

**(A) Ultra deep well**

The term "ultra deep well" means a well drilled with a perforated interval, the top of which is at least 20,000 true vertical depth below the datum at mean sea level.

**(B) Sidetrack**

**(i) In general**

The term "sidetrack" means a well resulting from drilling an additional hole to a new objective bottom-hole location by leaving a previously drilled hole.

**(ii) Inclusion**

The term "sidetrack" includes-

(I) drilling a well from a platform slot reclaimed from a previously drilled well;

(II) re-entering and deepening a previously drilled well; and

(III) a bypass from a sidetrack, including drilling around material blocking a hole or drilling to straighten a crooked hole.

**(b) Royalty incentive regulations for deep gas wells**

Not later than 180 days after August 8, 2005, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes with respect to production of natural gas from deep wells on leases issued in waters more than 200 meters but less than 400 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes west longitude. The suspension volumes for deep wells within 200 to 400 meters of water depth shall be calculated

using the same methodology used to calculate the suspension volumes for deep wells in the shallower waters of the Gulf of Mexico, and in no case shall the suspension volumes for deep wells within 200 to 400 meters of water depth be lower than those for deep wells in shallower waters. Regulations issued under this subsection shall be retroactive to the date that the notice of proposed rulemaking is published in the Federal Register.

***(c) Limitations***

The Secretary may place limitations on the royalty relief granted under this section based on market price. The royalty relief granted under this section shall not apply to a lease for which deep water royalty relief is available.

( Pub. L. 109–58, title III, §344, Aug. 8, 2005, 119 Stat. 702 .)]

**Section 345 of the Energy Policy Act of 2005 (42 U.S.C. 15905)**

**[§15905. Royalty relief for deep water production**

***(a) In general***

Subject to subsections (b) and (c), for each tract located in water depths of greater than 400 meters in the Western and Central Planning Area of the Gulf of Mexico (including the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude), any oil or gas lease sale under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) occurring during the 5-year period beginning on August 8, 2005, shall use the bidding system authorized under section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)).

***(b) Suspension of royalties***

The suspension of royalties under subsection (a) shall be established at a volume of not less than-

(1) 5,000,000 barrels of oil equivalent for each lease in water depths of 400 to 800 meters;

(2) 9,000,000 barrels of oil equivalent for each lease in water depths of 800 to 1,600 meters;

(3) 12,000,000 barrels of oil equivalent for each lease in water depths of 1,600 to 2,000 meters; and

(4) 16,000,000 barrels of oil equivalent for each lease in water depths greater than 2,000 meters.

***(c) Limitation***

The Secretary may place limitations on royalty relief granted under this section based on market price.

( Pub. L. 109–58, title III, §345, Aug. 8, 2005, 119 Stat. 703 .)]

## Section 107 of the Naval Petroleum Reserves Production Act of 1976

### §6506a. Competitive leasing of oil and gas

#### (a) *In general*

The Secretary shall conduct an expeditious program of competitive leasing of oil and gas in the Reserve in accordance with this Act.

#### (b) *Mitigation of adverse effects*

Activities undertaken pursuant to this Act shall include or provide for such conditions, restrictions, and prohibitions as the Secretary deems necessary or appropriate to mitigate reasonably foreseeable and significantly adverse effects on the surface resources of the National Petroleum Reserve in Alaska.

#### (c) *Land use planning; BLM wilderness study*

The provisions of section 1712 and [section 1782 of title 43](#) shall not be applicable to the Reserve.

#### (d) *First lease sale*

The; <sup>1</sup> first lease sale shall be conducted within twenty months of December 12, 1980: *Provided*, That the first lease sale shall be conducted only after publication of a final environmental impact statement if such is deemed necessary under the provisions of the National Environmental Policy Act of 1969 ([42 U.S.C. 4321 et seq.](#)).

#### (e) *Withdrawals*

The withdrawals established by [section 6502 of this title](#) are rescinded for the purposes of the oil and gas leasing program authorized under this section.

#### (f) *Bidding systems*

Bidding systems used in lease sales shall be based on bidding systems included in section 205(a)(1)(A) through (H) <sup>2</sup> of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629).

#### (g) *Geological structures*

Lease tracts may encompass identified geological structures.

#### (h) *Size of lease tracts*

The size of lease tracts may be up to sixty thousand acres, as determined by the Secretary.

#### (i) *Terms*

##### (1) *In general*

Each lease shall be issued for an initial period of not more than 10 years, and shall be extended for so long thereafter as oil or gas is produced from the lease in paying quantities, oil or gas is capable of being produced in paying quantities, or drilling or reworking operations, as approved by the Secretary, are conducted on the leased land.

##### ***(2) Renewal of leases with discoveries***

At the end of the primary term of a lease the Secretary shall renew for an additional 10-year term a lease that does not meet the requirements of paragraph (1) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease and the lessee certifies, and the Secretary agrees, that hydrocarbon resources were discovered on one or more wells drilled on the leased land in such quantities that a prudent operator would hold the lease for potential future development.

### *(3) Renewal of leases without discoveries*

At the end of the primary term of a lease the Secretary shall renew for an additional 10-year term a lease that does not meet the requirements of paragraph (1) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease and pays the Secretary a renewal fee of \$100 per acre of leased land, and-

(A) the lessee provides evidence, and the Secretary agrees that, the lessee has diligently pursued exploration that warrants continuation with the intent of continued exploration or future potential development of the leased land; or

(B) all or part of the lease-

(i) is part of a unit agreement covering a lease described in subparagraph (A); and

(ii) has not been previously contracted out of the unit.

### *(4) Applicability*

This subsection applies to a lease that is in effect on or after August 8, 2005.

### *(5) Expiration for failure to produce*

Notwithstanding any other provision of this Act, if no oil or gas is produced from a lease within 30 years after the date of the issuance of the lease the lease shall expire.

### *(6) Termination*

No lease issued under this section covering lands capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same due to circumstances beyond the control of the lessee.]

## *(j) Unit agreements*

### *(1) In general*

For the purpose of conservation of the natural resources of all or part of any oil or gas pool, field, reservoir, or like area, lessees (including representatives) of the pool, field, reservoir, or like area may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for all or part of the pool, field, reservoir, or like area (whether or not any other part of the oil or gas pool, field, reservoir, or like area is already subject to any cooperative or unit plan of development or operation), if the Secretary determines the action to be necessary or advisable in the public interest. In determining the public interest, the Secretary should consider, among other things, the extent to which the unit agreement will minimize the impact to surface resources of the leases and will facilitate consolidation of facilities.

### *(2) Consultation*

In making a determination under paragraph (1), the Secretary shall consult with and provide opportunities for participation by the State of Alaska or a Regional Corporation (as defined in [section 1602 of title 43](#)) with respect to the creation or expansion of units that include acreage in which the State of Alaska or the Regional Corporation has an interest in the mineral estate.

### *(3) Production allocation methodology*

(A) The Secretary may use a production allocation methodology for each participating area within a unit that includes solely Federal land in the Reserve.

(B) The Secretary shall use a production allocation methodology for each participating area within a unit that includes Federal land in the Reserve and non-Federal land based on the characteristics of each specific oil or gas pool, field, reservoir, or like area to take into account reservoir heterogeneity and area variation in reservoir producibility across diverse leasehold

interests. The implementation of the foregoing production allocation methodology shall be controlled by agreement among the affected lessors and lessees.

*(4) Benefit of operations*

Drilling, production, and well reworking operations performed in accordance with a unit agreement shall be deemed to be performed for the benefit of all leases that are subject in whole or in part to such unit agreement.

*(5) Pooling*

If separate tracts cannot be independently developed and operated in conformity with an established well spacing or development program, any lease, or a portion thereof, may be pooled with other lands, whether or not owned by the United States, under a communitization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the Secretary of the Interior (in consultation with the owners of the other land) to be in the public interest, and operations or production pursuant to such an agreement shall be deemed to be operations or production as to each such lease committed to the agreement.

*[(k) Exploration incentives]*

*(1) In general*

*(A) Waiver, suspension, or reduction*

To encourage the greatest ultimate recovery of oil or gas or in the interest of conservation, the Secretary may waive, suspend, or reduce the rental fees or minimum royalty, or reduce the royalty on an entire leasehold (including on any lease operated pursuant to a unit agreement), whenever (after consultation with the State of Alaska and the North Slope Borough of Alaska and the concurrence of any Regional Corporation for leases that include land that was made available for acquisition by the Regional Corporation under the provisions of section 1431(o) of the Alaska National Interest Lands Conservation Act) in the judgment of the Secretary it is necessary to do so to promote development, or whenever in the judgment of the Secretary the leases cannot be successfully operated under the terms provided therein.

*(B) Applicability*

This paragraph applies to a lease that is in effect on or after August 8, 2005..<sup>1</sup>

*(2) Suspension of operations and production*

The Secretary may direct or assent to the suspension of operations and production on any lease or unit.

*(3) Suspension of payments*

If the Secretary, in the interest of conservation, shall direct or assent to the suspension of operations and production on any lease or unit, any payment of acreage rental or minimum royalty prescribed by such lease or unit likewise shall be suspended during the period of suspension of operations and production, and the term of such lease shall be extended by adding any such suspension period to the lease.]

*(l) Receipts*

All receipts from sales, rentals, bonuses, and royalties on leases issued pursuant to this section shall be paid into the Treasury of the United States: *Provided*, That 50 percent thereof shall be paid by the Secretary of the Treasury semiannually, as soon thereafter as practicable after March 30 and September 30 each year, to the State of Alaska for: (1) planning; (2) construction, maintenance, and operation of essential public facilities; and (3) other necessary

provisions of public service: *Provided further*, That in the allocation of such funds, the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act.

*(m) Explorations*

Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the National Petroleum Reserve in Alaska which do not interfere with operations under any contract maintained or granted previously. Any information acquired in such explorations shall be subject to the conditions of [43 U.S.C. 1352\(a\)\(1\)\(A\)](#).

*(n) Environmental impact statements*

*(1) Judicial review*

Any action seeking judicial review of the adequacy of any program or site-specific environmental impact statement under section 102 of the National Environmental Policy Act of 1969 ([42 U.S.C. 4332](#)) concerning oil and gas leasing in the National Petroleum Reserve-Alaska shall be barred unless brought in the appropriate District Court within 60 days after notice of the availability of such statement is published in the Federal Register.

*(2) Initial lease sales*

The detailed environmental studies and assessments that have been conducted on the exploration program and the comprehensive land-use studies carried out in response to sections <sup>3</sup> 6505(b) and (c) of this title shall be deemed to have fulfilled the requirements of section 102(2)(c) <sup>4</sup> of the National Environmental Policy Act (Public Law 91–190) [[42 U.S.C. 4332\(2\)\(C\)](#)], with regard to the first two oil and gas lease sales in the National Petroleum Reserve-Alaska: *Provided*, That not more than a total of 2,000,000 acres may be leased in these two sales: *Provided further*, That any exploration or production undertaken pursuant to this section shall be in accordance with [section 6504\(a\) of this title](#).

*(o) Regulations*

As soon as practicable after August 8, 2005, the Secretary shall issue regulations to implement this section.

*(p) Waiver of administration for conveyed lands*

*(1) In general*

Notwithstanding [section 1613\(g\) of title 43-](#)

(A) the Secretary of the Interior shall waive administration of any oil and gas lease to the extent that the lease covers any land in the Reserve in which all of the subsurface estate is conveyed to the Arctic Slope Regional Corporation (referred to in this subsection as the "Corporation");

(B)(i) in a case in which a conveyance of a subsurface estate described in subparagraph (A) does not include all of the land covered by the oil and gas lease, the person that owns the subsurface estate in any particular portion of the land covered by the lease shall be entitled to all of the revenues reserved under the lease as to that portion, including, without limitation, all the royalty payable with respect to oil or gas produced from or allocated to that portion;

(ii) in a case described in clause (i), the Secretary of the Interior shall-

(I) segregate the lease into 2 leases, 1 of which shall cover only the subsurface estate conveyed to the Corporation; and

(II) waive administration of the lease that covers the subsurface estate conveyed to the Corporation; and



(iii) the segregation of the lease described in clause (ii)(I) has no effect on the obligations of the lessee under either of the resulting leases, including obligations relating to operations, production, or other circumstances (other than payment of rentals or royalties); and

(C) nothing in this subsection limits the authority of the Secretary of the Interior to manage the federally-owned surface estate within the Reserve.

(Pub. L. 94–258, title I, §107, formerly Pub. L. 96–514, title I, Dec. 12, 1980, 94 Stat. 2964; Pub. L. 98–620, title IV, §402(41), Nov. 8, 1984, 98 Stat. 3360; Pub. L. 105–83, title I, §128, Nov. 14, 1997, 111 Stat. 1568; renumbered Pub. L. 94–258, title I, §107, and amended Pub. L. 109–58, title III, §347(a)(2), (b), Aug. 8, 2005, 119 Stat. 704.)

## Section 39 of the Mineral Leasing Act (30 U.S.C. 209)

### **[§209. Suspension, waiver, or reduction of rents or royalties to promote development or operation; extension of lease on suspension of operations and production]**

The Secretary of the Interior, for the purpose of encouraging the greatest ultimate recovery of coal, oil, gas, oil shale <sup>1</sup> gilsonite (including all vein-type solid hydrocarbons),<sup>2</sup> phosphate, sodium, potassium and sulfur, and in the interest of conservation of natural resources, is authorized to waive, suspend, or reduce the rental, or minimum royalty, or reduce the royalty on an entire leasehold, or on any tract or portion thereof segregated for royalty purposes, whenever in his judgment it is necessary to do so in order to promote development, or whenever in his judgment the leases cannot be successfully operated under the terms provided therein.<sup>3</sup> *Provided, however,* That in order to promote development and the maximum production of tar sand, at the request of the lessee, the Secretary shall review, prior to commencement of commercial operations, the royalty rates established in each combined hydrocarbon lease issued in special tar sand areas. For purposes of this section, the term "tar sand" means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either: (1) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise, or (2) contains a hydrocarbonaceous material and is produced by mining or quarrying. In the event the Secretary of the Interior, in the interest of conservation, shall direct or shall assent to the suspension of operations and production under any lease granted under the terms of this chapter, any payment of acreage rental or of minimum royalty prescribed by such lease likewise shall be suspended during such period of suspension of operations and production; and the term of such lease shall be extended by adding any such suspension period thereto. The provisions of this section shall apply to all oil and gas leases issued under this chapter, including those within an approved or prescribed plan for unit or cooperative development and operation. Nothing in this section shall be construed as granting to the Secretary the authority to waive, suspend, or reduce advance royalties.

(Feb. 25, 1920, ch. 85, §39, as added Feb. 9, 1933, ch. 45, 47 Stat. 798; amended Aug. 8, 1946, ch. 916, §10, 60 Stat. 957; June 3, 1948, ch. 379, §7, 62 Stat. 291; Pub. L. 94-377, §14, Aug. 4, 1976, 90 Stat. 1091; Pub. L. 97-78, §1(3), (7), Nov. 16, 1981, 95 Stat. 1070, 1071.)

## 10 USC 8721(b)

### §8721. Jurisdiction and control

(a) The Secretary shall take possession of all properties inside the naval petroleum reserves that are or may become subject to the control of and use by the United States for national defense purposes, except as otherwise provided in this chapter.

(b) The Secretary has exclusive jurisdiction and control over those lands inside Naval Petroleum Reserves Numbered 1 and 2 that are covered by leases granted under sections 181–184, 185–188, 189–194, 201, 202–209, 211–214, 223, 224–226, 226d, 226e, 227–229a, 241, 251, and 261–263 of title 30, and shall administer those leases.

(Aug. 10, 1956, ch. 1041, 70A Stat. 457, §7421; Pub. L. 87–796, §1(1), Oct. 11, 1962, 76 Stat. 904; Pub. L. 94–258, title II, §201(2), Apr. 5, 1976, 90 Stat. 307; Pub. L. 98–525, title XIV, §1405(50), Oct. 19, 1984, 98 Stat. 2625; renumbered §8721, Pub. L. 115–232, div. A, title VIII, §807(d)(5), Aug. 13, 2018, 132 Stat. 1836.)

## Section 41 of the Mineral Leasing Act (30 U.S.C. 195)

### §195. Enforcement

#### (a) Violations

It shall be unlawful for any person:

- (1) to organize or participate in any scheme, arrangement, plan, or agreement to circumvent or defeat the provisions of this chapter or its implementing regulations, or
- (2) to seek to obtain or to obtain any money or property by means of false statements of material facts or by failing to state material facts concerning:
  - (A) the value of any lease or portion thereof issued or to be issued under this chapter;
  - (B) the availability of any land for leasing under this chapter;
  - (C) the ability of any person to obtain leases under this chapter; or
  - (D) the provisions of this chapter and its implementing regulations.

#### (b) Penalty

Any person who knowingly violates the provisions of subsection (a) of this section shall be punished by a fine of not more than \$[500,000] 1,000,000, imprisonment for not more than five years, or both.

#### (c) Civil actions

Whenever it shall appear that any person is engaged, or is about to engage, in any act which constitutes or will constitute a violation of subsection (a) of this section, the Attorney General may institute a civil action in the district court of the United States for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located, for a temporary restraining order, injunction, civil penalty of not more than \$[100,000] 250,000 for each violation, or other appropriate remedy, including but not limited to, a prohibition from participation in exploration, leasing, or development of any Federal mineral, or any combination of the foregoing.

*(d) Corporations*

(1) Whenever a corporation or other entity is subject to civil or criminal action under this section, any officer, employee, or agent of such corporation or entity who knowingly authorized, ordered, or carried out the proscribed activity shall be subject to the same action.

(2) Whenever any officer, employee, or agent of a corporation or other entity is subject to civil or criminal action under this section for activity conducted on behalf of the corporation or other entity, the corporation or other entity shall be subject to the same action, unless it is shown that the officer, employee, or agent was acting without the knowledge or consent of the corporation or other entity.

*(e) Remedies, fines, and imprisonment*

The remedies, penalties, fines, and imprisonment prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies, penalties, fines, and imprisonment prescribed in this section shall be in addition to any other remedies, penalties, fines, and imprisonment afforded by any other law or regulation.

*(f) State civil actions*

(1) A State may commence a civil action under subsection (c) of this section against any person conducting activity within the State in violation of this section. Civil actions brought by a State shall only be brought in the United States district court for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to order appropriate remedies and penalties as described in subsection (c) of this section.

(2) A State shall notify the Attorney General of the United States of any civil action filed by the State under this subsection within 30 days of filing of the action. The Attorney General of the United States shall notify a State of any civil action arising from activity conducted within that State filed by the Attorney General under this subsection within 30 days of filing of the action.

(3) Any civil penalties recovered by a State under this subsection shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate. If a civil action is jointly brought by the Attorney General and a State, by more than one State or by the Attorney General and more than one State, any civil penalties recovered as a result of the joint action shall be shared by the parties bringing the action in the manner determined by the court rendering judgment in such action.

(4) If a State has commenced a civil action against a person conducting activity within the State in violation of this section, the Attorney General may join in such action but may not institute a separate action arising from the same activity under this section. If the Attorney General has commenced a civil action against a person conducting activity within a State in violation of this section, that State may join in such action but may not institute a separate action arising from the same activity under this section.

(5) Nothing in this section shall deprive a State of jurisdiction to enforce its own civil and criminal laws against any person who may also be subject to civil and criminal action under this section.

(Feb. 25, 1920, ch. 85, §41, as added [Pub. L. 100–203, title V, §5108, Dec. 22, 1987, 101 Stat. 1330–260.](#))

## Section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719)

### §1719. Civil penalties

#### *(a) Failure to comply with applicable law, to permit inspection, or to notify Secretary of assignment; exceptions to application of penalty*

Any person who-

(1) after due notice of violation or after such violation has been reported under subparagraph (A), fails or refuses to comply with any requirements of this chapter or any mineral leasing law, any rule or regulation thereunder, or the terms of any lease or permit issued thereunder; or

(2) fails to permit inspection authorized in [section 1718 of this title](#) or fails to notify the Secretary of any assignment under section 1712(a)(2) <sup>1</sup> of this title shall be liable for a penalty of up to \$[500](#) [1,500](#) per violation for each day such violation continues, dating from the date of such notice or report. A penalty under this subsection may not be applied to any person who is otherwise liable for a violation of paragraph (1) if:

(A) the violation was discovered and reported to the Secretary or his authorized representative by the liable person and corrected within 20 days after such report or such longer time as the Secretary may agree to; or

(B) after the due notice of violation required in paragraph (1) has been given to such person by the Secretary or his authorized representative, such person has corrected the violation within 20 days of such notification or such longer time as the Secretary may agree to.

#### *(b) Failure to take corrective action*

If corrective action is not taken within 40 days or a longer period as the Secretary may agree to, after due notice or the report referred to in subsection (a)(1), such person shall be liable for a civil penalty of not more than \$[5,000](#) [15,000](#) per violation for each day such violation continues, dating from the date of such notice or report.

#### *(c) Failure to make royalty payment; failure to permit lawful entry, inspection, or audit; failure to notify Secretary of well production*

Any person who-

(1) knowingly or willfully fails to make any royalty payment by the date as specified by statute, regulation, order or terms of the lease;

(2) fails or refuses to permit lawful entry, inspection, or audit; or

(3) knowingly or willfully fails or refuses to comply with [section 1712\(b\)\(3\) of this title](#), shall be liable for a penalty of up to \$[10,000](#) [30,000](#) per violation for each day such violation continues.

#### *(d) False information; unauthorized removal, etc., of oil or gas; purchase, sale, etc., of stolen oil or gas*

Any person who-

(1) knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information;

(2) knowingly or willfully takes or removes, transports, uses or diverts any oil or gas from any lease site without having valid legal authority to do so; or

(3) purchases, accepts, sells, transports, or conveys to another, any oil or gas knowing or having reason to know that such oil or gas was stolen or unlawfully removed or diverted, shall be liable for a penalty of up to \$[25,000](#) [75,000](#) per violation for each day such violation continues.

***[(e)] (f) Hearing***

No penalty under this section shall be assessed until the person charged with a violation has been given the opportunity for a hearing on the record.

***[(f)] (g) Deduction of penalty from sums owed by United States***

The amount of any penalty under this section, as finally determined <sup>2</sup> may be deducted from any sums owing by the United States to the person charged.

***[(g)] (h) Compromise or reduction of penalties***

On a case-by-case basis the Secretary may compromise or reduce civil penalties under this section.

***[(h)] (i) Notice***

Notice under this <sup>3</sup> subsection (a) shall be by personal service by an authorized representative of the Secretary or by registered mail. Any person may, in the manner prescribed by the Secretary, designate a representative to receive any notice under this subsection.

***[(i)] (j) Reasons on record for amount of penalty***

In determining the amount of such penalty, or whether it should be remitted or reduced, and in what amount, the Secretary shall state on the record the reasons for his determinations.

***[(j)] (k) Review***

Any person who has requested a hearing in accordance with subsection (e) within the time the Secretary has prescribed for such a hearing and who is aggrieved by a final order of the Secretary under this section may seek review of such order in the United States district court for the judicial district in which the violation allegedly took place. Review by the district court shall be only on the administrative record and not de novo. Such an action shall be barred unless filed within 90 days after the Secretary's final order.

***[(k)] (l) Failure to pay penalty***

If any person fails to pay an assessment of a civil penalty under this chapter-

(1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with subsection (j), or

(2) after a court in an action brought under subsection (j) has entered a final judgment in favor of the Secretary,

the court shall have jurisdiction to award the amount assessed plus interest from the date of the expiration of the 90-day period referred to in subsection (j). Judgment by the court shall include an order to pay.

***[(l)] (m) Nonliability for leases automatically terminated***

No person shall be liable for a civil penalty under subsection (a) or (b) for failure to pay any rental for any lease automatically terminated pursuant to [section 188 of this title](#).

***(n) INFLATION ADJUSTMENT OF MAXIMUM PENALTIES.—***

(1) The maximum civil penalty amounts listed in subsections (a) through (d) shall automatically adjust for inflation on the 1st day of each calendar year in accordance with the provisions of this subsection.

(2) The inflation adjustment under this subsection shall be based on the Consumer Price Index published by the Department of Labor for all Urban Consumers (CPI-U) and shall be calculated by the percentage change, if any, by which the CPI-U for the month of October preceding the adjustment date exceeds the CPI-U for the month of October one year before.

(3) The Secretary will provide sufficient notice of adjusted penalties by publishing the adjusted maximum civil penalty amounts on a public website of the Department.

( [Pub. L. 97-451, title I, §109, Jan. 12, 1983, 96 Stat. 2454 .](#) )

## **Section 110 (30 U.S.C. 1720)**

### **§1720. Criminal penalties**

Any person who commits an act for which a civil penalty is provided in [section 1719\(d\) of this title](#) shall, upon conviction, be punished by a fine of not more than \$[50,000](#) [150,000](#), or by imprisonment for not more than 2 years, or both.

( [Pub. L. 97-451, title I, §110, Jan. 12, 1983, 96 Stat. 2455 .](#) )



## Section 24(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1350(b))

### §1350. Remedies and penalties

#### *(a) Injunctions, restraining orders, etc.*

At the request of the Secretary, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this subchapter, any regulation or order issued under this subchapter, or any term of a lease, license, or permit issued pursuant to this subchapter.

#### *[(b) Civil penalties; hearing]*

(1) Except as provided in paragraph (2), if any person fails to comply with any provision of this subchapter, or any term of a lease, license, or permit issued pursuant to this subchapter, or any regulation or order issued under this subchapter, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than \$20,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing. The Secretary shall, by regulation at least every 3 years, adjust the penalty specified in this paragraph to reflect any increases in the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor.

(2) If a failure described in paragraph (1) constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment, a civil penalty may be assessed without regard to the requirement of expiration of a period allowed for corrective action.]

#### **(b) CIVIL PENALTIES.—**

(1) **IN GENERAL.**—Except as provided in paragraph (2), any person who fails to comply with any provision of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, shall be liable for a civil administrative penalty of not more than \$75,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty.

(2) **OPPORTUNITY FOR A HEARING.**—No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

(3) **ADJUSTMENT FOR INFLATION.**—The Secretary shall, by regulation at least every 3 years, adjust the penalty specified in this paragraph to reflect any increases in inflation.

(4) **THREAT OF HARM.**—If a failure described in paragraph (1) constitutes or constituted a threat of harm or damage to life, property, any mineral deposit, or the marine, coastal, or human environment, a civil penalty of not more than \$150,000 shall be assessed for each day of the continuance of the failure.

*(c) Criminal penalties*

Any person who knowingly and willfully (1) violates any provision of this subchapter, any term of a lease, license, or permit issued pursuant to this subchapter, or any regulation or order issued under the authority of this subchapter designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this subchapter, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this subchapter, or (4) reveals any data or information required to be kept confidential by this subchapter shall, upon conviction, be punished by a fine of not more than \$[100,000] 1,000,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

*(d) Liability of corporate officers and agents for violations by corporation*

Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who [knowingly and willfully authorized, ordered, or carried out] authorized, ordered, carried out, or through reckless disregard of the law caused the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

*(e) Concurrent and cumulative nature of penalties*

The remedies and penalties prescribed in this subchapter shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this subchapter shall be in addition to any other remedies and penalties afforded by any other law or regulation.

(Aug. 7, 1953, ch. 345, §24, as added [Pub. L. 95-372, title II, §208, Sept. 18, 1978, 92 Stat. 659](#); amended [Pub. L. 101-380, title VIII, §8201, Aug. 18, 1990, 104 Stat. 570](#).)

## Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1702)

### §1702. Definitions

For the purposes of this chapter, the term-

(1) "Federal land" means all land and interests in land owned by the United States which are subject to the mineral leasing laws, including mineral resources or mineral estates reserved to the United States in the conveyance of a surface or nonmineral estate;

(2) "Indian allottee" means any Indian for whom land or an interest in land is held in trust by the United States or who holds title subject to Federal restriction against alienation;

(3) "Indian lands" means any lands or interest in lands of an Indian tribe or an Indian allottee held in trust by the United States or which is subject to Federal restriction against alienation or which is administered by the United States pursuant to [section 1613\(g\) of title 43](#), including mineral resources and mineral estates reserved to an Indian tribe or an Indian allottee in the conveyance of a surface or nonmineral estate, except that such term does not include any lands subject to the provisions of section 3 of the Act of June 28, 1906 (34 Stat. 539);

(4) "Indian tribe" means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indians, including the Metlakatla Indian Community of Annette Island Reserve, for which any land or interest in land is held by the United States in trust or which is subject to Federal restriction against alienation or which is administered by the United States pursuant to [section 1613\(g\) of title 43](#);

(5) "lease" means any contract, profit-share arrangement, joint venture, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, extraction of, or removal of oil or gas;

(6) "lease site" means any lands or submerged lands, including the surface of a severed mineral estate, on which exploration for, or extraction or removal of, oil or gas is authorized pursuant to a lease;

(7) "lessee" means any person to whom the United States issues an oil and gas lease or any person to whom operating rights in a lease have been assigned;

(8) "mineral leasing law" means any Federal law administered by the Secretary authorizing the disposition under lease of oil or gas;

(9) "oil or gas" means any oil or gas originating from, or allocated to, the Outer Continental Shelf, Federal, or Indian lands;

(10) "Outer Continental Shelf" has the same meaning as provided in the Outer Continental Shelf Lands Act (Public Law 95-372);

(11) "operator" means any person, including a lessee, who has control of, or who manages operations on, an oil and gas lease site on Federal or Indian lands or on the Outer Continental Shelf;

(12) "person" means any individual, firm, corporation, association, partnership, consortium, or joint venture;

(13) "production" means those activities which take place for the removal of oil or gas, including such removal, field operations, transfer of oil or gas off the lease site, operation monitoring, maintenance, and workover drilling;

(14) "royalty" means any payment based on the value or volume of production which is due to the United States or an Indian tribe or an Indian allottee on production of oil or gas from the Outer Continental Shelf, Federal, or Indian lands, or any minimum royalty owed to the United States or an Indian tribe or an Indian allottee under any provision of a lease;

(15) "Secretary" means the Secretary of the Interior or his designee;

(16) "State" means the several States of the Union, the District of Columbia, Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands;

(17) "adjustment" means an amendment to a previously filed report on an obligation, and any additional payment or credit, if any, applicable thereto, to rectify an underpayment or overpayment on an obligation;

(18) "administrative proceeding" means any Department of the Interior agency process in which a demand, decision or order issued by the Secretary or a delegated State is subject to appeal or has been appealed;

(19) "assessment" means any fee or charge levied or imposed by the Secretary or a delegated State other than-

(A) the principal amount of any royalty, minimum royalty, rental bonus, net profit share or proceed of sale;

(B) any interest; or

(C) any civil or criminal penalty;

(20) "commence" means-

(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, cross claim, or other pleading seeking affirmative relief or seeking credit or recoupment: **[Provided, That if the Secretary commences a judicial proceeding]** against a designee, the Secretary shall give notice of that commencement to the lessee who designated the designee, but the Secretary is not required to give notice to other lessees who may be liable pursuant to [section 1712\(a\) of this title](#), for the obligation that is the subject of the judicial proceeding; or

(B) with respect to a demand, the receipt by the Secretary or a delegated State or a lessee or its designee **[(with written notice to the lessee who designated the designee)]** of the demand;

(21) "credit" means the application of an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

(22) "delegated State" means a State which, pursuant to an agreement or agreements under [section 1735 of this title](#), performs authorities, duties, responsibilities, or activities of the Secretary;

(23) "demand" means-

(A) an order to pay issued by the Secretary or the applicable delegated State to a lessee or its designee **[(with written notice to the lessee who designated the designee)]** that has a reasonable basis to conclude that the obligation in the amount of the demand is due and owing; or

(B) a separate written request by a lessee or its designee which asserts an obligation due the lessee or its designee that provides a reasonable basis to conclude that the obligation in the amount of the demand is due and owing, but does not mean any royalty or production report, or any information contained therein, required by the Secretary or a delegated State;

(24) **["designee" means the person designated by a lessee pursuant to [section 1712\(a\) of this title](#), with such written designation effective on the date such designation is received by**

the Secretary and remaining in effect until the Secretary receives notice in writing that the designation is modified or terminated;]

"designee" means a person who pays, offsets, or credits monies, makes adjustments, requests and receives refunds, or submits reports with respect to payments a lessee must make pursuant to section 102(a);

(25) "obligation" means-

(A) any duty of the Secretary or, if applicable, a delegated State-

(i) to take oil or gas royalty in kind; or

(ii) to pay, refund, offset, or credit monies including (but not limited to)-

(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale; or

(II) any interest; and

(B) any duty of a lessee or its designee [(subject to the provisions of section 1712(a) of this title)]-

(i) to deliver oil or gas royalty in kind; or

(ii) to pay, offset or credit monies including (but not limited to)-

(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

(II) any interest;

(III) any penalty; or

[(IV) any assessment, which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;]

(IV) any assignment, that arises from or relates to any lease, easement, right-of-way, permit, or other agreement regardless of form administered by the Secretary for, or any mineral leasing law related to, the exploration, production, and development of oil and gas or other energy resources on Federal lands or the Outer Continental Shelf;

(26) "order to pay" means a written order issued by the Secretary or the applicable delegated State to a lessee or its designee (with notice to the lessee who designated the designee) which-

(A) asserts a specific, definite, and quantified obligation claimed to be due, and

(B) specifically identifies the obligation by lease, production month and monetary amount of such obligation claimed to be due and ordered to be paid, as well as the reason or reasons such obligation is claimed to be due, but such term does not include any other communication or action by or on behalf of the Secretary or a delegated State;

(27) "overpayment" means any payment by a lessee or its designee in excess of an amount legally required to be paid on an obligation and includes the portion of any estimated payment for a production month that is in excess of the royalties due for that month;

(28) "payment" means satisfaction, in whole or in part, of an obligation;

(29) "penalty" means a statutorily authorized civil fine levied or imposed for a violation of this chapter, any mineral leasing law, or a term or provision of a lease or permit administered by the Secretary;

(30) "refund" means the return of an overpayment;

(31) "State concerned" means, with respect to a lease, a State which receives a portion of royalties or other payments under the mineral leasing laws from such lease;

(32) "underpayment" means any payment or nonpayment by a lessee or its designee that is less than the amount legally required to be paid on an obligation; and

(33) "United States" means the United States Government and any department, agency, or instrumentality thereof, the several States, the District of Columbia, and the territories of the United States.

( Pub. L. 97-451, §3, Jan. 12, 1983, 96 Stat. 2448; Pub. L. 92-203, §29(f)(1), as added Pub. L. 100-241, §15, Feb. 3, 1988, 101 Stat. 1813; Pub. L. 104-185, §2, Aug. 13, 1996, 110 Stat. 1700; Pub. L. 104-200, §1(1), Sept. 22, 1996, 110 Stat. 2421..)

## Section 101 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1711)

### §1711. Duties of Secretary

#### *(a) Establishment of inspection, collection, and accounting and auditing system*

The Secretary shall establish a comprehensive inspection, collection and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed, and to collect and account for such amounts in a timely manner.

#### *(b) Annual inspection of lease sites; training*

The Secretary shall-

(1) establish procedures to ensure that authorized and properly identified representatives of the Secretary will inspect at least once annually each lease site producing or expected to produce significant quantities of oil or gas in any year or which has a history of noncompliance with applicable provisions of law or regulations; and

(2) establish and maintain adequate programs providing for the training of all such authorized representatives in methods and techniques of inspection and accounting that will be used in the implementation of this chapter.

#### *(c) Audit and reconciliation of lease accounts; contracts with certified public accountants; availability of books, accounts, records, etc., necessary for audit*

(1) The Secretary shall audit and reconcile, to the extent practicable, all current and past lease accounts for leases of oil or gas and take appropriate actions to make additional collections or refunds as warranted. The Secretary shall conduct audits and reconciliations of lease accounts in conformity with the business practices and recordkeeping systems which were required of the lessee by the Secretary for the period covered by the audit. The Secretary shall give priority to auditing those lease accounts identified by a State or Indian tribe as having significant potential for underpayment. The Secretary may also audit accounts and records of selected lessees and operators.

(2) The Secretary may enter into contracts or other appropriate arrangements with independent certified public accountants to undertake audits of accounts and records of any lessee or operator relating to the lease of oil or gas. Selection of such independent certified public accountants shall be by competitive bidding in accordance with chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, except that the Secretary may not enter into a contract or other arrangement with any independent certified public accountant to audit any lessee or operator where such lessee or operator is a primary audit client of such certified public accountant.

(3) All books, accounts, financial records, reports, files, and other papers of the Secretary, or used by the Secretary, which are reasonably necessary to facilitate the audits required under this section shall be made available to any person or governmental entity conducting audits under this chapter.

(d) The Secretary may, as an adjunct to audits of accounts for leases, conduct compliance reviews of accounts. Such reviews shall not constitute nor substitute for audits of lease accounts. The Secretary shall immediately refer any disparity uncovered in such a compliance review to a program auditor. The Secretary shall, before completion of a compliance review, provide notice of the review to designees whose obligations are the subject of the review.

( [Pub. L. 97-451, title I, §101, Jan. 12, 1983, 96 Stat. 2449.](#) )



**Section 102(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1712(a))**

**§1712. Duties of lessees, operators, and motor vehicle transporters**

***[(a) Liability for royalty payments]***

In order to increase receipts and achieve effective collections of royalty and other payments, a lessee who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary or the applicable delegated State. A lessee may designate a person to make all or part of the payments due under a lease on the lessee's behalf and shall notify the Secretary or the applicable delegated State in writing of such designation, in which event said designated person may, in its own name, pay, offset or credit monies, make adjustments, request and receive refunds and submit reports with respect to payments required by the lessee. Notwithstanding any other provision of this chapter to the contrary, a designee shall not be liable for any payment obligation under the lease. The person owning operating rights in a lease shall be primarily liable for its pro rata share of payment obligations under the lease. If the person owning the legal record title in a lease is other than the operating rights owner, the person owning the legal record title shall be secondarily liable for its pro rata share of such payment obligations under the lease.]

**(a) LIABILITY FOR ROYALTY PAYMENTS.—**

**(1) TIME AND MANNER OF PAYMENT.—**In order to increase receipts and achieve effective collections of royalty and other payments, a lessee who is required to make any royalty or other payment under a lease, easement, right-of-way, permit, or other agreement, regardless of form, or under the mineral leasing laws, shall make such payment in the time and manner as may be specified by the Secretary or the applicable delegated State.

**(2) DESIGNEE.—**Any person who pays, offsets, or credits monies, makes adjustments, requests and receives refunds, or submits reports with respect to payments the lessee must make is the lessee's designee under this Act.

**(3) LIABILITY.—**A designee shall be liable for any payment obligation of any lessee on whose behalf the designee pays royalty under the lease. The person owning operating rights in a lease and a person owning legal record title in a lease shall be liable for that person's pro rata share of payment obligations under the lease.

***(b) Development of and compliance with site security plan and minimum site security measures by operators; notification to Secretary of well production***

An operator shall-

(1) develop and comply with a site security plan designed to protect the oil or gas produced or stored on an onshore lease site from theft, which plan shall conform with such minimum standards as the Secretary may prescribe by rule, taking into account the variety of circumstances at lease sites;

(2) develop and comply with such minimum site security measures as the Secretary deems appropriate to protect oil or gas produced or stored on a lease site or on the Outer Continental Shelf from theft; and

(3) not later than the 5th business day after any well begins production anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well which has been off of production for more than 90 days, notify the Secretary, in the manner prescribed by the Secretary, of the date on which such production has begun or resumed.

*(c) Possession of documentation by transporters of oil or gas by motor vehicle or pipeline*

(1) Any person engaged in transporting by motor vehicle any oil from any lease site, or allocated to any such lease site, shall carry, on his person, in his vehicle, or in his immediate control, documentation showing, at a minimum, the amount, origin, and intended first destination of the oil.

(2) Any person engaged in transporting any oil or gas by pipeline from any lease site, or allocated to any lease site, on Federal or Indian lands shall maintain documentation showing, at a minimum, amount, origin, and intended first destination of such oil or gas.

( Pub. L. 97-451, title I, §102, Jan. 12, 1983, 96 Stat. 2450 ; Pub. L. 104-185, §6(g), Aug. 13, 1996, 110 Stat. 1715 .)

**Section 103(b) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1713(b))**

**§1713. Required recordkeeping**

*[(a) Maintenance and availability of records, reports, and information for inspection and duplication*

A lessee, operator, or other person directly involved in developing, producing, transporting, purchasing, or selling oil or gas subject to this chapter through the point of first sale or the point of royalty computation, whichever is later, shall establish and maintain any records, make any reports, and provide any information that the Secretary may, by rule, reasonably require for the purposes of implementing this chapter or determining compliance with rules or orders under this chapter. Upon the request of any officer or employee duly designated by the Secretary or any State or Indian tribe conducting an audit or investigation pursuant to this chapter, the appropriate records, reports, or information which may be required by this section shall be made available for inspection and duplication by such officer or employee, State, or Indian tribe.]

(a) A lessee, operator, or other person directly involved in developing, producing, treating, transporting, processing, purchasing, or selling oil or gas subject to this chapter through the point of first arm's-length sale, the point of royalty determination, or the point that processing is complete, whichever is later, shall establish and maintain any records, make any reports, and provide any information that the Secretary may, by rule, reasonably require for the purposes of implementing this chapter or determining compliance with rules or orders under this chapter. Upon the request of any officer or employee duly designated by the Secretary or any State or Indian Tribe conducting an audit or investigation pursuant to this chapter, the appropriate records, reports, or information which may be required by this section shall be made available for inspection and duplication by such officer or employee, State, or Indian Tribe.

*(b) Length of time maintenance required*

Records required by the Secretary with respect to oil and gas leases from Federal or Indian lands or the Outer Continental Shelf shall be maintained for **[6] 7** years after the records are

generated unless the Secretary notifies the record holder that he has initiated an audit or investigation involving such records and that such records must be maintained for a longer period. In any case when an audit or investigation is underway, records shall be maintained until the Secretary releases the record holder of the obligation to maintain such records.

( [Pub. L. 97-451, title I, §103, Jan. 12, 1983, 96 Stat. 2451 .](#) )

## **Section 111A of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721a)**

### **§1721a. Adjustments and refunds**

#### *(a) Adjustments to royalties paid to Secretary or a delegated State*

(1) If, during the adjustment period, a lessee or its designee determines that an adjustment or refund request is necessary to correct an underpayment or overpayment of an obligation, the lessee or its designee shall make such adjustment or request a refund within a reasonable period of time and only during the adjustment period. The filing of a royalty report which reflects the underpayment or overpayment of an obligation shall constitute prior written notice to the Secretary or the applicable delegated State of an adjustment.

(2)(A) For any adjustment, the lessee or its designee shall calculate and report the interest due attributable to such adjustment at the same time the lessee or its designee adjusts the principle <sup>1</sup> amount of the subject obligation, except as provided by subparagraph (B).

(B) In the case of a lessee or its designee who determines that subparagraph (A) would impose a hardship, the Secretary or such delegated State shall calculate the interest due and notify the lessee or its designee within a reasonable time of the amount of interest due, unless such lessee or its designee elects to calculate and report interest in accordance with subparagraph (A).

[(3) An adjustment or a request for a refund for an obligation may be made after the adjustment period only upon written notice to and approval by the Secretary or the applicable delegated State, as appropriate, during an audit of the period which includes the production month for which the adjustment is being made. If an overpayment is identified during an audit, then the Secretary or the applicable delegated State, as appropriate, shall allow a credit or refund in the amount of the overpayment.]

(3)(A) An adjustment or a request for a refund for an obligation may be made after the adjustment period only upon written notice to and approval by the Secretary or the applicable delegated State, as appropriate, during an audit of the period which includes the production month for which the adjustment is being made.

(B) Except as provided in subparagraph (C), no adjustment may be made with respect to an obligation after the completion of an audit or compliance review of such obligation unless such adjustment is approved by the Secretary or the applicable delegated State, as appropriate.

(C) If an overpayment is identified during an audit, the Secretary shall allow a credit in the amount of the overpayment.

(4) For purposes of this section, the adjustment period for any obligation [shall] may be the [six] four-year period following the date on which an obligation became due. The adjustment period shall be suspended, tolled, extended, enlarged, or terminated by the same actions as the limitation period in [section 1724 of this title](#).

*(b) Refunds*

*(1) In general*

A request for refund is sufficient if it-

(A) is made in writing to the Secretary and, for purposes of [section 1724 of this title](#), is specifically identified as a demand;

(B) identifies the person entitled to such refund;

(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought; [and]

(D) provides the reasons why the payment was an overpayment[.] ; and

(E) is made within the adjustment period for that obligation.

*(2) Payment by Secretary of the Treasury*

The Secretary shall certify the amount of the refund to be paid under paragraph (1) to the Secretary of the Treasury who shall make such refund. Such refund shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act [[30 U.S.C. 181 et seq.](#)] and the Outer Continental Shelf Lands Act [[43 U.S.C. 1331 et seq.](#)], which are not payable to a State or the Reclamation Fund. The portion of any such refund attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any recipient prescribed by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.

*(3) Payment period*

A refund under this subsection shall be paid or denied (with an explanation of the reasons for the denial) within 120 days of the date on which the request for refund is received by the Secretary. Such refund shall be subject to later audit by the Secretary or the applicable delegated State and subject to the provisions of this chapter.

*(4) Prohibition against reduction of refunds or credits*

In no event shall the Secretary or any delegated State directly or indirectly claim or offset any amount or amounts against, or reduce any refund or credit (or interest accrued thereon) by the amount of any obligation the enforcement of which is barred by [section 1724 of this title](#).

(Pub. L. 97-451, title I, §111A, as added Pub. L. 104-185, §5(a), Aug. 13, 1996, 110 Stat. 1710 .)

Section 115(b)(1) of the Federal Oil and Gas Royalty Management Act of 1982  
(30 U.S.C. 1724(b)(1))

## **§1724. Secretarial and delegated States' actions and limitation periods**

### *(a) In general*

The respective duties, responsibilities, and activities with respect to a lease shall be performed by the Secretary, delegated States, and lessees or their designees in a timely manner.

### *(b) Limitation period*

#### ***[(1) In general***

A judicial proceeding or demand which arises from, or relates to an obligation, shall be commenced within seven years from the date on which the obligation becomes due and if not so commenced shall be barred. If commencement of a judicial proceeding or demand for an obligation is barred by this section, the Secretary, a delegated State, or a lessee or its designee (A) shall not take any other or further action regarding that obligation, including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty or the initiation, pursuit or completion of an audit with respect to that obligation; and (B) shall not pursue any other equitable or legal remedy, whether under statute or common law, with respect to an action on or an enforcement of said obligation.]

(1) The Secretary or a delegated State shall commence a judicial proceeding or demand which arises from, or relates to an obligation, within seven years from the date on which the obligation becomes due and if not so commenced shall be barred. A lessee shall commence a judicial proceeding or demand which arises from, or relates to an obligation, within four years from the date on which an obligation becomes due and if not so commenced shall be barred. If the Secretary, a delegated State, a lessee, or designee is barred from commencement of a judicial proceeding or demand for an obligation, it—

(A) shall not take any other or further action regarding that obligation, including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty or the initiation, pursuit or completion of an audit with respect to that obligation; and

(B) shall not pursue any other equitable or legal remedy, including equitable recoupment, whether under statute or common law, with respect to an action on, defense against, or an enforcement of said obligation.

*(2) Rule of construction*

A judicial proceeding or demand that is timely commenced under paragraph (1) against a designee shall be considered timely commenced as to any lessee who is liable pursuant to [section 1712\(a\) of this title](#) for the obligation that is the subject of the judicial proceeding or demand.

*(3) Application of certain limitations*

The limitations set forth in [sections 2401, 2415, 2416, and 2462 of title 28](#) and [section 226–2 of this title](#) shall not apply to any obligation to which this chapter applies. [Section 3716 of title 31](#) may be applied to an obligation the enforcement of which is not barred by this chapter, but may not be applied to any obligation the enforcement of which is barred by this chapter.

*(c) Obligation becomes due*

*(1) In general*

For purposes of this chapter, an obligation becomes due when the right to enforce the obligation is fixed.

*(2) Royalty obligations*

The right to enforce any royalty obligation for any given production month for a lease is fixed for purposes of this chapter on the last day of the calendar month following the month in which oil or gas is produced.

**(3) ADJUSTMENTS.**—In the case of an adjustment under [section 111A\(a\)](#) in which a recoupment by the lessee results in an underpayment of an obligation, the obligation becomes due on the date the lessee or its designee makes the adjustment.

*(d) Tolling of limitation period*

The running of the limitation period under subsection (b) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including an action by the Secretary or a delegated State, other than the following:

*(1) Tolling agreement*

A written agreement executed during the limitation period between the Secretary or a delegated State and a lessee or its designee [\[\(with notice to the lessee who designated the designee\)\]](#) shall toll the limitation period for the amount of time during which the agreement is in effect. A tolling agreement executed by a designee shall bind both the owner of legal record title in a lease and the owner of operating rights in a lease, and any designee. The owner of the legal record title and the owner of operating rights in a lease shall be bound by the tolling agreement to the extent of their pro rata share of payment obligations under the lease.

*(2) Subpoena*

(A) The issuance of a subpoena to a lessee or its designee [\[\(with notice to the lessee who designated the designee, which notice shall not constitute a subpoena to the lessee\)\]](#) in accordance with the provisions of subparagraph (B)(i) shall toll the limitation period with

respect to the obligation which is the subject of a subpoena only for the period beginning on the date the lessee or its designee receives the subpoena and ending on the date on which (i) the lessee or its designee has produced such subpoenaed records for the subject obligation, (ii) the Secretary or a delegated State receives written notice that the subpoenaed records for the subject obligation are not in existence or are not in the lessee's or its designee's possession or control, or (iii) a court has determined in a final decision that such records are not required to be produced, whichever occurs first.

(B)(i) A subpoena for the purposes of this section which requires a lessee or its designee to produce records necessary to determine the proper reporting and payment of an obligation due the Secretary may be issued only by an Assistant Secretary of the Interior or an Acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations), or the Director or Acting Director of the respective bureau or agency, and may not be delegated to any other person. If a State has been delegated authority pursuant to [section 1735 of this title](#), the State, acting through the highest State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such subpoena, but may not delegate such authority to any other person.

(ii) A subpoena described in clause (i) may only be issued against a lessee or its designee during the limitation period provided in this section and only after the Secretary or a delegated State has in writing requested the records from the lessee or its designee related to the obligation which is the subject of the subpoena and has determined that-

(I) the lessee or its designee has failed to respond within a reasonable period of time to the Secretary's or the applicable delegated State's written request for such records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or such delegated State's responsibilities under this chapter; or

(II) the lessee or its designee has in writing denied the Secretary's or the applicable delegated State's written request to produce such records in the lessee's or its designee's possession or control necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or such delegated State's responsibilities under this chapter; or

(III) the lessee or its designee has unreasonably delayed in producing records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or the applicable delegated State's responsibilities under this chapter after the Secretary's or delegated State's written request.

(C) In seeking records, the Secretary or the applicable delegated State shall afford the lessee or its designee a reasonable period of time after a written request by the Secretary or such delegated State in which to provide such records prior to the issuance of any subpoena.

### *(3) Misrepresentation or concealment*

The intentional misrepresentation or concealment of a material fact for the purpose of evading the payment of an obligation in which case the limitation period shall be tolled for the period of such misrepresentation or such concealment.

### *(4) Order to perform restructured accounting*

(A)(i) The issuance of a notice under subparagraph (D) that the lessee or its designee has not substantially complied with the requirement to perform a restructured accounting shall toll the limitation period with respect to the obligation which is the subject of the notice only for the period beginning on the date the lessee or its designee receives the notice and ending



120 days after the date on which (I) the Secretary or the applicable delegated State receives written notice that the accounting or other requirement has been performed, or (II) a court has determined in a final decision that the lessee is not required to perform the accounting, whichever occurs first.

(ii) If the lessee or its designee initiates an administrative appeal or judicial proceeding to contest an order to perform a restructured accounting issued under subparagraph (B)(i), the limitation period in subsection (b) shall be tolled from the date the lessee or its designee received the order until a final, nonappealable decision is issued in any such proceeding.

(B)(i) The Secretary or the applicable delegated State may issue an order to perform a restructured accounting to a lessee or its designee when the Secretary or such delegated State determines during an audit of a lessee or its designee that the lessee or its designee should recalculate royalty due on an obligation based upon the Secretary's or the delegated State's finding that the lessee or its designee has made identified underpayments or overpayments which are demonstrated by the Secretary or the delegated State to be based upon repeated, systemic reporting errors for a significant number of leases or a single lease for a significant number of reporting months with the same type of error which constitutes a pattern of violations and which are likely to result in either significant underpayments or overpayments.

(ii) The power of the Secretary to issue an order to perform a restructured accounting may not be delegated below the most senior career professional position having responsibility for the royalty management program, which position is currently designated as the "Associate Director for Royalty Management", and may not be delegated to any other person. If a State has been delegated authority pursuant to [section 1735 of this title](#), the State, acting through the highest ranking State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such order to perform, which may not be delegated to any other person. An order to perform a restructured accounting shall-

(I) be issued within a reasonable period of time from when the audit identifies the systemic, reporting errors;

(II) specify the reasons and factual bases for such order;

(III) be specifically identified as an "order to perform a restructured accounting";

(IV) provide the lessee or its designee a reasonable period of time (but not less than 60 days) within which to perform the restructured accounting; and

(V) provide the lessee or its designee 60 days within which to file an administrative appeal of the order to perform a restructured accounting.

(C) An order to perform a restructured accounting shall not mean or be construed to include any other action by or on behalf of the Secretary or a delegated State.

(D) If a lessee or its designee fails to substantially comply with the requirement to perform a restructured accounting pursuant to this subsection, a notice shall be issued to the lessee or its designee that the lessee or its designee has not substantially complied with the requirements to perform a restructured accounting. A lessee or its designee shall be given a reasonable time within which to perform the restructured accounting. Such notice may be issued under this section only by an Assistant Secretary of the Interior or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated to any other person. If a State has been delegated authority pursuant to [section 1735 of this title](#), the State, acting through the highest State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such notice, which may not be delegated to any other person.

*(e) Termination of limitations period*

An action or an enforcement of an obligation by the Secretary or delegated State or a lessee or its designee shall be barred under this section prior to the running of the seven-year period provided in subsection (b) in the event-

- (1) the Secretary or a delegated State has notified the lessee or its designee in writing that a time period is closed to further audit; or
- (2) the Secretary or a delegated State and a lessee or its designee have so agreed in writing.

For purposes of this subsection, notice to, or an agreement by, the designee shall be binding on any lessee who is liable pursuant to [section 1712\(a\) of this title](#) for obligations that are the subject of the notice or agreement.

*(f) Records required for determining collections*

Records required pursuant to [section 1713 of this title](#) by the Secretary or any delegated State for the purpose of determining obligations due and compliance with any applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for the same period of time during which a judicial proceeding or demand may be commenced under subsection (b). If a judicial proceeding or demand is timely commenced, the record holder shall maintain such records until the final nonappealable decision in such judicial proceeding is made, or with respect to that demand is rendered, unless the Secretary or the applicable delegated State authorizes in writing an earlier release of the requirement to maintain such records. Notwithstanding anything herein to the contrary, under no circumstance shall a record holder be required to maintain or produce any record relating to an obligation for any time period which is barred by the applicable limitation in this section. In connection with any hearing, administrative proceeding, inquiry, investigation, or audit by the Secretary or a delegated State under this chapter, the Secretary or the delegated State shall minimize the submission of multiple or redundant information and make a good faith effort to locate records previously submitted by a lessee or a designee to the Secretary or the delegated State, prior to requiring the lessee or the designee to provide such records.

*(g) Timely collections*

In order to most effectively utilize resources available to the Secretary to maximize the collection of oil and gas receipts from lease obligations to the Treasury within the seven-year period of limitations, and consequently to maximize the State share of such receipts, the Secretary should not perform or require accounting, reporting, or audit activities if the Secretary and the State concerned determine that the cost of conducting or requiring the activity exceeds the expected amount to be collected by the activity, based on the most current 12 months of activity. This subsection shall not provide a defense to a demand or an order to perform a restructured accounting. To the maximum extent possible, the Secretary and delegated States shall reduce costs to the United States Treasury and the States by discontinuing requirements for unnecessary or duplicative data and other information, such as separate allowances and payor information, relating to obligations due. If the Secretary and the State concerned determine that collection will result sooner, the Secretary or the applicable delegated State may waive or forego interest in whole or in part.

*(h) Appeals and final agency action*

*(1) [33] 48-month period*

Demands or orders issued by the Secretary or a delegated State are subject to administrative appeal in accordance with the regulations of the Secretary. No State shall impose any conditions which would hinder a lessee's or its designee's immediate appeal of an order to the Secretary or the Secretary's designee. The Secretary shall issue a final decision in any administrative proceeding, including any administrative proceedings pending on August 13, 1996, within [33] 48 months from the date such proceeding was commenced or [33] 48 months from August 13, 1996, whichever is later. The [33] 48-month period may be extended by any period of time agreed upon in writing by the Secretary and the appellant.

*(2) Effect of failure to issue decision*

If no such decision has been issued by the Secretary within the [33] 48-month period referred to in paragraph (1)-

(A) the Secretary shall be deemed to have issued and granted a decision in favor of the appellant as to any nonmonetary obligation and any monetary obligation the principal amount of which is less than \$10,000; and

(B) the Secretary shall be deemed to have issued a final decision in favor of the Secretary, which decision shall be deemed to affirm those issues for which the agency rendered a decision prior to the end of such period, as to any monetary obligation the principal amount of which is \$10,000 or more, and the appellant shall have a right to judicial review of such deemed final decision in accordance with title 5.

*(i) Collections of disputed amounts due*

To expedite collections relating to disputed obligations due within the seven-year period beginning on the date the obligation became due, the parties shall hold not less than one settlement consultation and the Secretary and the State concerned may take such action as is appropriate to compromise and settle a disputed obligation, including waiving or reducing interest and allowing offsetting of obligations among leases.

*(j) Enforcement of claim for judicial review*

In the event a demand subject to this section is properly and timely commenced, the obligation which is the subject of the demand may be enforced beyond the seven-year limitations period without being barred by this statute of limitations. In the event a demand subject to this section is properly and timely commenced, a judicial proceeding challenging the final agency action with respect to such demand shall be deemed timely so long as such judicial proceeding is commenced within 180 days from receipt of notice by the lessee or its designee of the final agency action.

*(k) Implementation of final decision*

In the event a judicial proceeding or demand subject to this section is timely commenced and thereafter the limitation period in this section lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement a final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund or credit.

*(l) Stay of payment obligation pending review*

Any person ordered by the Secretary or a delegated State to pay any obligation (other than an assessment) shall be entitled to a stay of such payment without bond or other surety instrument pending an administrative or judicial proceeding if the person periodically demonstrates to the satisfaction of the Secretary that such person is financially solvent or

otherwise able to pay the obligation. In the event the person is not able to so demonstrate, the Secretary may require a bond or other surety instrument satisfactory to cover the obligation. Any person ordered by the Secretary or a delegated State to pay an assessment shall be entitled to a stay without bond or other surety instrument.

(Pub. L. 97–451, title I, §115, as added [Pub. L. 104–185, §4\(a\), Aug. 13, 1996, 110 Stat. 1704](#) ; amended [Pub. L. 104–200, §1\(2\), Sept. 22, 1996, 110 Stat. 2421](#) .)

Section 206 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1736)

### **§1736. Shared civil penalties**

An amount equal to 50 per centum of any civil penalty collected by the Federal Government under this chapter resulting from activities conducted by a State or Indian tribe pursuant to a cooperative agreement under [section 1732 of this title](#) or a State under a delegation under [section 1735 of this title](#), shall be payable to such State or tribe. [\[Any payments under this section shall be reduced by an amount equal to any payments provided or due to such State or Indian tribe under the cooperative agreement or delegation, as applicable, during the fiscal year in which the civil penalty is received, up to the total amount provided or due for that fiscal year.\]](#)

( [Pub. L. 97–451, title II, §206, Jan. 12, 1983, 96 Stat. 2460](#) ; [Pub. L. 113–76, div. G, title I, §121, Jan. 17, 2014, 128 Stat. 314](#) .)

Section 111(i) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(i))

**§1721. Royalty terms and conditions, interest, and penalties**

*(a) Charge on late royalty payment or royalty payment deficiency*

In the case of oil and gas leases where royalty payments are not received by the Secretary on the date that such payments are due, or are less than the amount due, the Secretary shall charge interest on such late payments or underpayments at the rate applicable under [section 6621 of title 26](#). In the case of an underpayment or partial payment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount due.

*(b) Charge on late payment made by Secretary to States*

Any payment made by the Secretary to a State under [section 191 of this title](#) and any other payment made by the Secretary to a State from any oil or gas royalty received by the Secretary which is not paid on the date required under [section 191 of this title](#) shall include an interest charge computed at the rate applicable under [section 6621 of title 26](#).

*(c) Deposit in royalty accounts of charges on royalties due and owing Indians*

All interest charges collected under this chapter or under other applicable laws because of nonpayment, late payment or underpayment of royalties due and owing an Indian tribe or an Indian allottee shall be deposited to the same account as the royalty with respect to which such interest is paid.

*(d) Charge on late deposit of royalty fund to an Indian account*

Any deposit of royalty funds made by the Secretary to an Indian account which is not made by the date required under [section 1714 of this title](#) shall include an interest charge computed at the rate applicable under [section 6621 of title 26](#).

*(e) Nonliability of States for Secretary's failure to comply with the Emergency Petroleum Allocation Act of 1973 or regulations thereunder*

Notwithstanding any other provision of law, no State will be assessed for any interest or penalties found to be due against the Secretary for failure to comply with the Emergency Petroleum Allocation Act of 1973 [[15 U.S.C. 751 et seq.](#)] or regulation of the Secretary of Energy thereunder concerning crude oil certification or pricing with respect to crude oil taken by the Secretary in kind as royalty. Any State share of an overcharge, resulting from such failure to comply, shall be assessed against moneys found to be due and owing to such State as a result of audits of royalty accounts for transactions which took place prior to January 12, 1983, except that if after the completion of such audits, sufficient moneys have not been found due and owing to any State, the State shall be assessed the balance of that State's share of the overcharge.

*(f) Limitation on interest charged*

Interest shall be charged under this section only for the number of days a payment is late.

*(g) Omitted*

*(h) Estimated payment*

A lessee or its designee may make a payment for the approximate amount of royalties (hereinafter in this subsection "estimated payment") that would otherwise be due for such lease by the date royalties are due for that lease. When an estimated payment is made, actual royalties are payable at the end of the month following the month in which the estimated payment is made. If the estimated payment was less than the amount of actual royalties due,

interest is owed on the underpaid amount. If the lessee or its designee makes a payment for such actual royalties, the lessee or its designee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated at any time by the lessee or its designee.

***[(i) Volume allocation of oil and gas production]***

(1) Except as otherwise provided by this subsection-

(A) a lessee or its designee of a lease in a unit or communitization agreement which contains only Federal leases with the same royalty rate and funds distribution shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee;

(B) a lessee or its designee of a lease in any other unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allocated to the lease in accordance with the terms of the agreement; and

(C) a lessee or its designee of a lease that is not contained in a unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.

(2) This subsection applies only to requirements for reporting and paying royalties. Nothing in this subsection is intended to alter a lessee's liability for royalties on oil or gas production based on the share of production allocated to the lease in accordance with the terms of the lease, a unit or communitization agreement, or any other agreement.

(3) For any unit or communitization agreement if all lessees contractually agree to an alternative method of royalty reporting and payment, the lessees may submit such alternative method to the Secretary or the delegated State for approval and make payments in accordance with such approved alternative method so long as such alternative method does not reduce the amount of the royalty obligation.

(4) The Secretary or the delegated State shall grant an exception from the reporting and payment requirements for marginal properties by allowing for any calendar year or portion thereof royalties to be paid each month based on the volume of production sold. Interest shall not accrue on the difference for the entire calendar year or portion thereof between the amount of oil and gas actually sold and the share of production allocated to the lease until the beginning of the month following such calendar year or portion thereof. Any additional royalties due or overpaid royalties and associated interest shall be paid, refunded, or credited within six months after the end of each calendar year in which royalties are paid based on volumes of production sold. For the purpose of this subsection, the term "marginal property" means a lease that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90 thousand cubic feet of gas per well per day, or a combination thereof, determined by dividing the average daily production of crude oil and natural gas from producing wells on such lease by the number of such wells, unless the Secretary, together with the State concerned, determines that a different production is more appropriate.

(5) Not later than two years after August 13, 1996, the Secretary shall issue any appropriate demand for all outstanding royalty payment disputes regarding who is required to report and pay royalties on production from units and communitization agreements outstanding on August 13, 1996, and collect royalty amounts owed on such production.]

(i) VOLUME ALLOCATION OF OIL AND GAS PRODUCTION.—Except as otherwise provided by this subsection—

(A) a lessee or its designee of a lease in any unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allocated to the lease in accordance with the terms of the agreement; and

(B) a lessee or its designee of a lease that is not contained in a unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from the lease unless the Secretary promulgates a final rule to allow or require that the lessee report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.

*(j) Production allocation*

The Secretary shall issue all determinations of allocations of production for units and communitization agreements within 120 days of a request for determination. If the Secretary fails to issue a determination within such 120-day period, the Secretary shall waive interest due on obligations subject to the determination until the end of the month following the month in which the determination is made.

([Pub. L. 97–451, title I, §111, Jan. 12, 1983, 96 Stat. 2455](#); [Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095](#); [Pub. L. 104–185, §6\(a\)–\(e\), \(h\)\(1\), Aug. 13, 1996, 110 Stat. 1712–1715](#); [Pub. L. 104–200, §1\(3\)–\(6\), Sept. 22, 1996, 110 Stat. 2421](#); [Pub. L. 113–67, div. A, title III, §305\(a\), Dec. 26, 2013, 127 Stat. 1183](#); [Pub. L. 113–291, div. B, title XXX, §3021\(c\)\(2\), Dec. 19, 2014, 128 Stat. 3761](#); [Pub. L. 114–94, div. C, title XXXII, §32301, Dec. 4, 2015, 129 Stat. 1741](#).)