117TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
117–632

ENDING TAXPAYER WELFARE FOR OIL AND GAS COMPANIES ACT OF 2021

DECEMBER 14, 2022.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GRIJALVA, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1517]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1517) to amend the Mineral Leasing Act to make certain adjustments to the fiscal terms for fossil fuel development and to make other reforms to improve returns to taxpayers for the development of Federal energy resources, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ending Taxpayer Welfare for Oil and Gas Companies Act of 2021".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is the following:

39–006

SEC. 3. ONSHORE FOSSIL FUEL ROYALTY RATES.

The Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended—

(1) in section 7—

(A) by striking "12½" and inserting "18.75"; and

(B) by adding at the end the following:

"(d) PERIODIC EVALUATION OF ROYALTY RATES.—The Secretary shall establish a periodic process of evaluating increases in royalty rates to achieve a fair market value return for the public. The process should include:

"(1) publishing annually the average, weighted by relative production per State, of the top fossil fuel royalty rates charged by States for fossil fuels production on State-owned public lands;

"(2) evaluating triennially increases in the Federal fossil fuel royalty rates above the minimum rates required under this Act to match the production-weighted average of State royalty rates. The triennial review shall include and benefit from public participation through written comment, public hearings and other meetings open to all interested parties; and

"(3) submitting the triennial evaluation to Congress, including a summary of the views expressed in the public participation processes related to the evaluation.".

(2) in section 17, by—

(A) striking "12.5" each place such term appears and inserting "18.75"; and

(B) striking "12½" each place such term appears and inserting "18.75"; and

(3) in section 31(e), by striking "16⅔" both places such term appears and inserting "25".

SEC. 4. MINIMUM BID AMOUNT.

Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended—

(1) in subsection (b)(1)(B)—

(A) by striking "$2 per acre" and inserting "$10 per acre, except as otherwise provided by this paragraph"; and

(B) by striking "Federal Onshore Oil and Gas Leasing Reform Act of 1987" and inserting "Ending Taxpayer Welfare for Oil and Gas Companies Act of 2021";

(2) in subsection (b)(2)(C), by striking "$2 per acre" and inserting "$10 per acre"; and

(3) by adding at the end the following:

"(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 the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics; and

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

SEC. 5. ONSHORE OIL AND GAS RENTAL RATES.

The Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended—

(1) in section 17(d)—

(A) by striking "$1.50 per acre" and inserting "$3 per acre"; and

(B) by striking "$2 per acre" and inserting "$5 per acre"; and

(2) in section 31(e), by striking "$10" and inserting "$20".

SEC. 6. INSPECTION FEE.

(a) IN GENERAL.—Section 108 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1718) is amended by adding at the end the following:

"(d) INSPECTION FEE.—

"(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 fiscal year 2021, shall pay a nonrefundable 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) $700 for each lease or unit or communitization agreement with no active or inactive wells, but with surface use, disturbance or reclamation;

"(B) $1,225 for each lease or unit or communitization agreement with 1 to 10 wells, with any combination of active or inactive wells;

"(C) $4,900 for each lease or unit or communitization agreement with 11 to 50 wells, with any combination of active or inactive wells; and

"(D) $9,800 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 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.".

(b) ASSESSMENT FOR FISCAL YEAR 2020.—The Secretary of the Interior shall assess the fee under the amendment made by subsection (a) for fiscal year 2020, and provide notice of such assessment to each designated operator who is liable for such fee, by not later than 60 days after the date of the enactment of this Act.

SEC. 7. PENALTIES.

(a) MINERAL LEASING ACT.—Section 41 of the Mineral Leasing Act (30 U.S.C. 195) is amended—

(1) in subsection (b), by striking "$500,000" and inserting "$1,000,000"; and

(2) in subsection (c), by striking "$100,000" and inserting "$250,000".

(b) FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT OF 1982.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended—

(1) in section 109—

(A) in subsection (a), by striking "$500" and inserting "$1,500";

(B) in subsection (b), by striking "$5,000" and inserting "$15,000";

(C) in subsection (c), by striking "$10,000" and inserting "$25,000"; and

(D) in subsection (d), by striking "$25,000" and inserting "$75,000"; and

(2) in section 110, by striking "$50,000" and inserting "$150,000".

(c) OUTER CONTINENTAL SHELF LANDS ACT.—

(1) CIVIL PENALTY, GENERALLY.—Section 24(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1350(b)) is amended to read as follows:

"(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 the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor.

"(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.".

(2) KNOWING AND WILLFUL VIOLATIONS.—Section 24(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1350(c)) is amended by striking "$100,000" and inserting "$1,000,000".

(3) OFFICERS AND AGENTS OF CORPORATIONS.—Section 24(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1350(d)) is amended by striking "knowingly and willfully authorized, ordered, or carried out" and inserting "authorized, ordered, carried out, or through reckless disregard of the law caused".

SEC. 8. ROYALTY RELIEF.

(a) GULF OF MEXICO ROYALTY RELIEF.—The following provisions of the Energy Policy Act of 2005 (42 U.S.C. 15801 et seq.) are hereby repealed:

(1) Section 344 (42 U.S.C. 15904) (relating to incentives for natural gas production from deep wells in the shallow waters of the Gulf of Mexico).

(2) Section 345 (42 U.S.C. 15905) (relating to royalty relief for deep water production).

(b) ALASKA ROYALTY RELIEF.—

(1) PROVISIONS RELATING TO PLANNING AREAS OFFSHORE ALASKA.—Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by striking "and in the Planning Areas offshore Alaska" after "West longitude".

(2) PROVISIONS RELATING TO NAVAL PETROLEUM RESERVE IN ALASKA.—Section 107 of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6506a) is amended—

(A) in subsection (i)—

(i) by striking "(1) IN GENERAL"; and

(ii) by striking paragraphs (2) through (6); and

(B) by striking subsection (k).

SEC. 9. ROYALTY IN KIND.

(a) ONSHORE OIL AND GAS LEASE ROYALTIES.—Section 36 of the Mineral Leasing Act (30 U.S.C. 192) is amended by inserting ", except that the Secretary may not demand such payment in oil or gas if the amount of such payment would exceed the amount necessary to fill the strategic petroleum reserve" after "in oil or gas".

(b) OFFSHORE OIL AND GAS LEASE ROYALTIES.—Section 27(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)) is amended by striking the period at the end and inserting ", except that the Secretary may not demand such payment in oil or gas if the amount of such payment would exceed the amount necessary to fill the strategic petroleum reserve.".

SEC. 10. AMENDMENTS TO DEFINITIONS.

Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1702) is amended—

(1) in paragraph (20)(A), by striking ": *Provided,* That" and all that follows through "subject of the judicial proceeding";

(2) in paragraph (20)(B), by striking "(with written notice to the lessee who designated the designee)";

(3) in paragraph (23)(A), by striking "(with written notice to the lessee who designated the designee)";

(4) by amending paragraph (24) to read as follows:

"(24) '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);";

(5) in paragraph (25), in subparagraph (B)—

(A) by striking "(subject to the provisions of section 102(a) of this Act)"; and

(B) in clause (ii), by striking subclause (IV) and all that follows through the end of the subparagraph and inserting the following:

"(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 resource on Federal lands or the Outer Continental Shelf;";

(6) in paragraph (29), by inserting "or permit" after "lease"; and

(7) by striking "and" after the semicolon at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting a semicolon, and by adding at the end the following new paragraphs:

"(34) 'compliance review' means an examination of a lessee's lease accounts to compare one or all elements of the royalty equation (volume, value, royalty rate, and allowances) against anticipated elements of the royalty equation to test for variances; and

"(35) 'marketing affiliate' means an affiliate of a lessee whose function is to acquire the lessee's production and to market that production.".

SEC. 11. COMPLIANCE REVIEWS.

Section 101 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1711) is amended by adding at the end the following new subsection:

"(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.".

SEC. 12. LIABILITY FOR ROYALTY PAYMENTS.

Section 102(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1712(a)) is amended to read as follows:

"(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.—Notwithstanding any other provision of this Act, 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.".

SEC. 13. RECORDKEEPING.

Section 103(b) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1713(b)) is amended by striking "6" and inserting "7".

SEC. 14. ADJUSTMENTS AND REFUNDS.

Section 111A of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721a) is amended—

(1) in subsection (a)—

(A) by amending paragraph (3) to read as follows:

"(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."; and

(B) in paragraph (4)—

(i) by striking "six-year" and inserting "four-year"; and

(ii) by striking "period shall" and inserting "period may"; and

(2) in subsection (b)(1)—

(A) in subparagraph (C), by striking "and";

(B) in subparagraph (D), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(E) is made within the adjustment period for that obligation.".

SEC. 15. OBLIGATION PERIOD.

Section 115(c) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(c)) is amended by adding at the end the following new paragraph:

"(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.".

SEC. 16. TOLLING AGREEMENTS AND SUBPOENAS.

(a) TOLLING AGREEMENTS.—Section 115(d)(1) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(d)(1)) is amended by striking "(with notice to the lessee who designated the designee)".

(b) SUBPOENAS.—Section 115(d)(2)(A) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(d)(2)(A)) is amended by striking "(with notice to the lessee who designated the designee, which notice shall not constitute a subpoena to the lessee)".

SEC. 17. APPEALS.

Section 115(h) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(h)) is amended—

(1) in paragraph (1), in the heading, by striking "33-MONTH" and inserting "48-MONTH";

(2) by striking "33 months" each place it appears and inserting "48 months"; and

(3) by striking "33-month" each place it appears and inserting "48-month".

SEC. 18. ASSESSMENTS.

Section 116 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724) is repealed.

SEC. 19. PILOT PROJECT ON AUTOMATIC DATA TRANSFER.

(a) PILOT PROJECT.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior shall complete a pilot project with willing operators of oil and gas leases on the outer Continental Shelf (as such term is defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.)) that assesses the costs and benefits of automatic transmission of data regarding the volume and quality of oil and gas produced under Federal leases on the outer Continental Shelf in order to improve the production verification systems used to ensure accurate royalty collection and audit.

(b) REPORT.—The Secretary shall submit to Congress a report on findings and recommendations based on the pilot project not later than 3 years after the date of enactment of this Act.

SEC. 20. PENALTY FOR LATE OR INCORRECT REPORTING OF DATA.

(a) IN GENERAL.—The Secretary of the Interior shall issue regulations by not later than 1 year after the date of enactment of this Act that establish a civil penalty for late or incorrect reporting of data under the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.).

(b) AMOUNT.—The amount of the civil penalty shall be—

(1) an amount (subject to paragraph (2)) that the Secretary determines is sufficient to ensure filing of data in accordance with that Act; and

(2) not less than $10 for each failure to file correct data in accordance with that Act.

(c) CONTENT OF REGULATIONS.—Except as provided in subsection (b), the regulations issued under this section shall be substantially similar to section 216.40 of title 30, Code of Federal Regulations, as most recently in effect before the date of enactment of this Act.

SEC. 21. REQUIRED RECORDKEEPING FOR NATURAL GAS PLANTS.

Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall publish final regulations with respect to required recordkeeping of natural gas measurement data as set forth in section 250.1203 of title 30, Code of Federal Regulations (as in effect on the date of enactment of this Act), to include operators and other persons involved in the transporting, purchasing, or selling of gas under the requirements of that rule, under the authority provided in section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1713).

SEC. 22. SHARED PENALTIES.

Section 206 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1736) is amended by striking "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.".

SEC. 23. APPLICABILITY TO OTHER MINERALS.

Section 304 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1753) is amended by adding at the end the following new subsection:

"(e) APPLICABILITY TO OTHER MINERALS.—

"(1) Notwithstanding any other provision of law, sections 107, 109, and 110 of this Act and the regulations duly promulgated with respect thereto shall apply to any lease authorizing the development of coal or any other solid mineral on any Federal lands or Indian lands, to the same extent as if such lease were an oil and gas lease, on the same terms and conditions as those authorized for oil and gas leases.

"(2) Notwithstanding any other provision of law, sections 107, 109, and 110 of this Act and the regulations issued under such sections shall apply with re-

spect to any lease, easement, right-of-way, or other agreement, regardless of form (including any royalty, rent, or other payment due thereunder)—

"(A) under section 8(k) or 8(p) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k) and 1337(p)); or

"(B) under the Geothermal Steam Act (30 U.S.C. 1001 et seq.), to the same extent as if such lease, easement, right-of-way, or other agreement were an oil and gas lease on the same terms and conditions as those authorized for oil and gas leases.

"(3) For the purposes of this subsection, the term 'solid mineral' means any mineral other than oil, gas, and geo-pressured-geothermal resources, that is authorized by an Act of Congress to be produced from public lands (as that term is defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)).".

SEC. 24. ENTITLEMENTS.

(a) DIRECTED RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall publish final regulations prescribing when a Federal lessee or designee must report and pay royalties on—

(1) the volume of oil and gas such lessee or designee produces or takes under a Federal lease or Indian lease; or

(2) the volume of oil and gas that such lessee or designee is entitled to based on its ownership interest under a unitization agreement for Federal leases or Indian leases.

(b) 100 PERCENT ENTITLEMENT REPORTING AND PAYING.—The Secretary shall give consideration to requiring 100 percent entitlement reporting and paying based on Federal or Indian oil and gas lease ownership.

SEC. 25. ROYALTIES ON ALL EXTRACTED METHANE.

(a) ASSESSMENT ON ALL PRODUCTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), royalties otherwise authorized or required under the mineral leasing laws (as that term is defined in the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.)) to be paid for gas shall be assessed on all gas produced under the mineral leasing laws, including—

(A) gas used or consumed within the area of the lease tract for the benefit of the lease; and

(B) all gas that is consumed or lost by venting, flaring, or fugitive releases through any equipment during upstream operations.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to—

(A) gas vented or flared for not longer than 48 hours in an acute emergency situation that poses a danger to human health;

(B) gas injected into the ground on a lease tract in order to enhance production of an oil or gas well or for some other purpose; and

(C) gas used or 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.

(b) CONFORMING AMENDMENTS.—

(1) MINERAL LEASING ACT.—The Mineral Leasing Act is amended—

(A) in section 14 (30 U.S.C. 223), by adding at the end the following: "Notwithstanding any other provision of this Act (including this section), royalty shall be assessed with respect to oil and gas, other than gas described in section 124(a)(2) of the Ending Taxpayer Welfare for Oil and Gas Companies Act of 2021, without regard to whether oil or gas is removed or sold from the leased land.";

(B) in section 17 (30 U.S.C. 226), by striking "removed or sold" each place it appears;

(C) in section 22 (30 U.S.C. 251), by striking "sold or removed"; and

(D) in section 31 (30 U.S.C. 188), by striking "removed or sold" each place it appears.

(2) OUTER CONTINENTAL SHELF LANDS ACT.—The Outer Continental Shelf Lands Act is amended—

(A) in section 6(a)(8) (43 U.S.C. 1335(a)(8)), by striking "saved, removed, or sold" each place it appears; and

(B) in section 8(a) (43 U.S.C. 1337(a))—

(i) in paragraph (1), by striking "saved, removed, or sold" each place it appears; and

(ii) by adding at the end the following:

"(9) Notwithstanding any other provision of this Act (including this section), royalty under this Act shall be assessed with respect to oil and gas, other than gas described in section 124(a)(2) of the Ending Taxpayer Welfare for Oil and

Gas Companies Act of 2021, without regard to whether oil or gas is removed or sold from the leased land.".

(c) APPLICATION.—The provisions of this section and the amendments made by this section shall apply only with respect to leases issued on or after the date of the enactment of this Act.

PURPOSE OF THE BILL

The purpose of H.R. 1517 is to make certain adjustments to the fiscal terms for fossil fuel development and to make other reforms to improve returns to taxpayers for the development of federal energy resources.

BACKGROUND AND NEED FOR LEGISLATION

The Mineral Leasing Act (MLA) of 1920 authorizes the Department of the Interior (DOI) to lease the rights to develop oil and gas resources on public land.[1] The Bureau of Land Management (BLM) within DOI is the federal agency primarily responsible for managing oil and gas resources on U.S. public land. The BLM administers more than 247 million acres of land and 700 million acres of subsurface mineral estate. The U.S. Forest Service (USFS) cooperates with BLM in coordinating access to federal oil and gas resources on approximately one-third of the over 150 national forests and grasslands. Most onshore public oil and gas resources are located and developed in the western United States, particularly California, Colorado, New Mexico, Utah, and Wyoming.

The Federal Land Policy and Management Act of 1976 requires that "the United States receive the fair market value of the use of public lands and their resources unless otherwise provided by statute."[2] The MLA does not contain an explicit "fair market value" requirement for oil and gas but does state that the Secretary of the Interior can include lease terms necessary to protect U.S. interests and safeguard public welfare.[3]

The MLA established a minimum royalty rate of 12.5 percent for onshore oil and gas. In 2008, the Government Accountability Office (GAO) published a report that found that "the inflexibility of royalty rates to changing oil and gas prices has cost the federal government billions of dollars in foregone revenues."[4] In 2017, GAO published another report that concluded raising the royalty rate would increase revenues and lead to only a minor decrease in production.[5] A 2016 Congressional Budget Office study estimated that raising the onshore oil and gas royalty rate to 18.75 percent would increase net federal revenue by $200 million over the first ten years, and potentially by much more over the following decade, depending on market conditions.[6]

In September 2020, the non-profit organization Resources for the Future published a working paper that modeled the emissions, rev-

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[1] 30 U.S.C. 181, et seq.
[2] 43 U.S.C. § 1701(a)(9).
[3] 30 U.S.C. § 187.
[4] "Oil and Gas Royalties: The Federal System for Collecting Oil and Gas Revenues Needs Comprehensive Reassessment." *U.S. Government Accountability Office*. September 2008. https://www.gao.gov/assets/280/279991.pdf.
[5] "Oil, Gas, and Coal Royalties: Raising Federal Rates Could Decrease Production on Federal Lands but Increase Federal Revenue." *U.S. Government Accountability Office*. June 2017. https://www.gao.gov/assets/690/685335.pdf.
[6] "Options for Increasing Federal Income From Crude Oil and Natural Gas on Federal Lands." *Congressional Budget Office*. April 2016. https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/51421-oil_and_gas_options-OneCol-3.pdf.

enue, and production implications of several federal fossil fuel leasing policies, including increasing the onshore oil and gas royalty rate to 18.75 percent.[7] According to the analysis, increasing the royalty rate would not significantly impact federal production, but would raise between $1–3 billion in revenue annually depending on the price of oil and gas.

From 1920 to 2022, the Department of the Interior failed to update the federal royalty rate from 12.5 percent. Over the same period, state governments increased the royalties operators pay to produce on state lands: Colorado increased its maximum rate from 16.67 percent to 20 percent in 2016, New Mexico increased from 18.75 percent to 20 percent, and in recent years considered increasing the rate to 25% to match neighboring Texas.[8] [9] The federal onshore royalty rate increased in 2022 to 16.67% as part of the Inflation Reduction Act (IRA), signed into law in August 2022.

FEDERAL ONSHORE OIL AND GAS ROYALTY RATES LAG BEHIND STATE RATES; RATES APPLICABLE TO NEW LEASES [10]

Jurisdiction	Maximum rate (%)
Texas	25
Colorado	20
New Mexico	20
North Dakota	18.75
Montana	16.67
Utah	16.67
Wyoming	16.67
Federal Onshore[11]	16.67

Not all natural gas produced on federal lands is assessed for royalty payments. Gas produced and used within the lands of a lease is not counted towards royalty payments, and until the passage of the IRA, natural gas that was intentionally released (vented), intentionally burned (flared), or leaked from oil and gas facilities on federal and tribal land were not subject to royalty payments either.[12] For years, GAO faulted BLM for failing to accurately measure the amount of natural gas lost through venting and flaring on public land. In 2011, the GAO designated BLM's management of oil and gas resources as a program at high risk for fraud, waste, abuse, and mismanagement in part because of this issue. As of 2022, BLM's oil and gas program was still on GAO's high-risk list.[13]

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[7] Prest, Brian. "Working Paper (20–16) Supply-Side Reforms to Oil and Gas Production on Federal Lands: Modeling the Implications for Climate Emissions, Revenues, and Production Shifts." *Resources for the Future*. Sept. 16, 2020. https://www.rff.org/publications/working-papers/supply-side-reforms-oil-and-gas-production-federal-lands/.

[8] U.S. General Accountability Office, "Oil, Gas, and Coal Royalties: Raising Federal Rates Could Decrease Production on Federal Lands but Increase Federal Revenue," GAO–17–540, June 2017, pp 21–22.

[9] "New Mexico shuns proposal to raise royalty rates on oil." Associated Press. February 15, 2019. https://apnews.com/article/15d16d7fc01945dba75a5e7bc57d54e1.

[10] All state maximum royalty rates are current as of 2017. See: U.S. General Accountability Office, "Oil, Gas, and Coal Royalties: Raising Federal Rates Could Decrease Production on Federal Lands but Increase Federal Revenue," GAO–17–540, June 2017, p 9.

[11] Inflation Reduction Act of 2022, Pub. L. No. 117–169 (2022). https://www.congress.gov/bill/117th-congress/house-bill/5376/text.

[12] 30 U.S.C. § 181 et seq.

[13] "High Risk List." *U.S. Government Accountability Office*. https://www.gao.gov/high-risk-list. Accessed October 19, 2022.

Rental rates—paid by companies on leases that aren't producing oil or gas—had also not been updated in years until the IRA, depriving taxpayers of hundreds of millions of dollars. The MLA first set the rental rate at "not less than $1 per acre" per year. Congress reduced the rate to $0.25 per acre in 1935, increased it to $0.50 in 1960, and increased it $1.50 per year for the first five years and $2 per year afterwards in 1987.[14] Had Congress simply indexed the 1987 rental rate to inflation, BLM could have collected nearly $30 million in additional revenues in FY 2017, and more than $440 million in additional revenues between FY 2008–2017.[15]

H.R. 1517 would update the fiscal terms for fossil fuel development on federal lands. Section 3 raises the minimum onshore royalty rates to 18.75 percent for all new oil and gas and coal leases. Section 4 raises the current onshore oil and gas minimum bid from $2 to $5 and requires it to be indexed to inflation. Section 5 raises per-acre onshore rental rates for oil and gas leases from their current values of $1.50 for the first 5 years and $2 for the second five years, to $3 for the first 5 years and $5 for the second 5 years. Section 6 requires companies to pay annual user fees to cover the cost of the BLM oil and gas inspection program. Section 7 raises civil and criminal penalties for operators on public lands and waters. Sections 8 through 25 make a variety of largely technical reforms to improve royalty collection oversight and enforcement.

The IRA made significant updates to oil and gas royalties, rental rates, and minimum bids. It raised the onshore oil and gas royalty rate from 12.5 to 16.67 percent and set the royalty rate for reinstated leases at 20%; increased the minimum bid from $2 to $10 per acre; and raised the rental rate for unused leases to $3 per acre for the first 2 years, $5 per acre for the next 6 years, and $15 per acre thereafter. It also increased the rent in reinstated leases from $10 to $20. The IRA also required royalties on all gas produced on a lease; including gas that is vented, flared, or leaked; but does not charge royalties on gas produced and used beneficially on the same lease.[16]

COMMITTEE ACTION

H.R. 1517 was introduced on March 2, 2021, by Representative Katie Porter (D–CA). The bill was referred solely to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On March 9, 2021, the Subcommittee held a hearing on the bill. On May 5, 2021, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Rep. Porter offered an amendment designated Porter #2. The amendment was agreed to by a roll call vote of 24 yeas and 15 nays, as follows:

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[14] "Federal Oil and Gas Leasing: Getting a Fair Return from Rental Rates." *Taxpayers for Common Sense*. Nov. 2018. https://www.taxpayer.net/energy-natural-resources/intro-to-oil-and-gas-leasing-rental-rates/.

[15] *Id.*

[16] Inflation Reduction Act of 2022, Pub. L. No. 117–169 (2022). https://www.congress.gov/bill/117th-congress/house-bill/5376/text.

Date: May 5, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: H.R. 1517

Amendment: Rep. Porter #2 amendment

Disposition: Agreed to by a roll call vote of 24 yeas and 15 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA	X		
2	Mr. Case, HI	X		
3	Mr. Cohen, TN	X		
4	Mr. Costa, CA	X		
5	Ms. DeGette, CO	X		
6	Mrs. Dingell, MI	X		
7	Mr. Gallego, AZ	X		
8	Mr. García, IL	X		
9	Mr. Grijalva, AZ *(Chair)*	X		
10	Mr. Huffman, CA	X		
11	Ms. Leger Fernández, NM	X		
12	Mr. Levin, CA	X		
13	Mr. Lowenthal, CA	X		
14	Ms. Matsui, CA	X		
15	Ms. McCollum, MN	X		
16	Mr. McEachin, VA			
17	Mrs. Napolitano, CA	X		
18	Mr. Neguse, CO	X		
19	Ms. Porter, CA	X		
20	Mr. Sablan, MP	X		
21	Mr. San Nicolas, GU			
22	Mr. Soto, FL	X		
23	Ms. Tlaib, MI	X		
24	Mr. Tonko, NY	X		
25	Ms. Trahan, MA	X		
26	Ms. Velázquez, NY	X		
	REP. MEMBERS (22)	**Y**	**N**	**P**
1	*Mr. Bentz, OR*		X	
2	*Mrs. Boebert, CO*			
3	*Mr. Carl, AL*		X	
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*			
6	*Miss González-Colón, PR*		X	
7	*Mr. Gosar, AZ*		X	
8	*Mr. Graves, LA*		X	
9	*Ms. Herrell, NM*		X	
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*		X	
12	*Mr. McClintock, CA*			
13	*Mr. Moore, UT*		X	
14	*Mr. Obernolte, CA*		X	
15	*Mrs. Radewagen, AS*		X	
16	*Mr. Rosendale, MT*		X	
17	*Mr. Stauber, MN*		X	
18	*Mr. Tiffany, WI*		X	
19	*Mr. Webster, FL*			
20	*Mr. Westerman, AR (RM)*		X	
21	*Mr. Wittman, VA*		X	
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	24	15	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

5/7/2021 8:49 AM

By unanimous consent, Rep. Pete Stauber (R–MN) offered an amendment on behalf of Rep. Lauren Boebert (R–CO) designated Boebert #1. The amendment was not agreed to by a roll call vote of 15 yeas and 24 nays, as follows:

Date: May 5, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: H.R. 1517

Amendment: Rep. Boebert #1 amendment

Disposition: Not agreed to by a roll call vote of 15 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. García, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. Matsui, CA		X	
15	Ms. McCollum, MN		X	
16	Mr. McEachin, VA			
17	Mrs. Napolitano, CA		X	
18	Mr. Neguse, CO		X	
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP		X	
21	Mr. San Nicolas, GU			
22	Mr. Soto, FL		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)	**Y**	**N**	**P**
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*			
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*			
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*			
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*			
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	15	24	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

5/7/2021 8:51 AM

Rep. Matt Rosendale (R–MT) offered an amendment designated Rosendale #1. The amendment was not agreed to by voice vote. Rep. Rosendale offered an amendment designated Rosendale #2. The amendment was not agreed to by voice vote. Rep. Rosendale offered an amendment designated Rosendale #3. The amendment was not agreed to by a roll call vote of 15 yeas and 22 nays, as follows:

Date: May 5, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: H.R. 1517

Amendment: Rep. Rosendale #3 amendment

Disposition: Not agreed to by a roll call vote of 15 yeas and 22 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. García, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. Matsui, CA			
15	Ms. McCollum, MN		X	
16	Mr. McEachin, VA			
17	Mrs. Napolitano, CA		X	
18	Mr. Neguse, CO			
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP		X	
21	Mr. San Nicolas, GU			
22	Mr. Soto, FL		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)	**Y**	**N**	**P**
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*			
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*			
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*			
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*			
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	15	22	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

5/7/2021 11:20 AM

Rep. Stauber offered an amendment designated Stauber #1. The amendment was not agreed to by voice vote. Rep. Garret Graves (R–LA) offered an amendment designated Graves #7. The amendment was not agreed to by a roll call vote of 15 yeas and 23 nays, as follows:

Date: May 5, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: H.R. 1517

Amendment: Rep. Graves #7 amendment

Disposition: Not agreed to by a roll call vote of 15 yeas and 23 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. Matsui, CA		X	
15	Ms. McCollum, MN		X	
16	Mr. McEachin, VA			
17	Mrs. Napolitano, CA		X	
18	Mr. Neguse, CO			
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP		X	
21	Mr. San Nicolas, GU			
22	Mr. Soto, FL		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)	**Y**	**N**	**P**
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*			
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*			
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*			
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*			
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	15	23	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

5/7/2021 8:52 AM

By unanimous consent, Rep. Graves offered amendments designated Graves #8 and Graves #12 *en bloc*. The *en bloc* amendments were not agreed to by a voice vote. By unanimous consent, Rep. Graves offered amendments designated Graves #10 and Graves #11 *en bloc*. The en bloc amendments were not agreed to by voice vote. Rep. Graves offered an amendment designated Graves #6. The amendment was not agreed to by a roll call vote of 15 yeas and 23 nays, as follows:

Date: May 5, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: H.R. 1517

Amendment: Rep. Graves #6 amendment

Disposition: Not agreed to by a roll call vote of 15 yeas and 23 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. García, IL		X	
9	Mr. Grijalva, AZ (*Chair*)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. Matsui, CA		X	
15	Ms. McCollum, MN		X	
16	Mr. McEachin, VA			
17	Mrs. Napolitano, CA		X	
18	Mr. Neguse, CO			
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP		X	
21	Mr. San Nicolas, GU			
22	Mr. Soto, FL		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)	**Y**	**N**	**P**
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*			
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*			
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*			
13	*Mr. Moore, UT*	X		
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*			
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	15	23	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

5/10/2021 9:32 AM

By unanimous consent, Ranking Member Bruce Westerman (R–AR) offered an amendment on behalf of Rep. Boebert designated Boebert #2. The amendment was not agreed to by a roll call vote of 14 yeas and 22 nays, as follows:

Date: May 5, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: H.R. 1517

Amendment: Rep. Boebert #2 amendment

Disposition: Not agreed to by a roll call vote of 14 yeas and 22 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI			
7	Mr. Gallego, AZ		X	
8	Mr. García, IL		X	
9	Mr. Grijalva, AZ *(Chair)*		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. Matsui, CA		X	
15	Ms. McCollum, MN		X	
16	Mr. McEachin, VA			
17	Mrs. Napolitano, CA		X	
18	Mr. Neguse, CO			
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP		X	
21	Mr. San Nicolas, GU			
22	Mr. Soto, FL		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY		X	
	REP. MEMBERS (22)	**Y**	**N**	**P**
1	*Mr. Bentz, OR*	X		
2	*Mrs. Boebert, CO*			
3	*Mr. Carl, AL*	X		
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*			
6	*Miss González-Colón, PR*	X		
7	*Mr. Gosar, AZ*	X		
8	*Mr. Graves, LA*	X		
9	*Ms. Herrell, NM*	X		
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*	X		
12	*Mr. McClintock, CA*			
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*	X		
15	*Mrs. Radewagen, AS*	X		
16	*Mr. Rosendale, MT*	X		
17	*Mr. Stauber, MN*	X		
18	*Mr. Tiffany, WI*	X		
19	*Mr. Webster, FL*			
20	*Mr. Westerman, AR (RM)*	X		
21	*Mr. Wittman, VA*	X		
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	14	22	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

5/7/2021 8:53 AM

The bill, as amended, was adopted and ordered favorably reported to the House of Representatives by a roll call vote of 23 yeas and 14 nays, as follows:

Date: May 5, 2021

COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL

Bill / Motion: H.R. 1517

Amendment:

Disposition: Final Passage: H.R. 1517, as amended, was ordered favorably reported to the House of Representatives by a roll call vote of 23 yeas and 14 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA	X		
2	Mr. Case, HI	X		
3	Mr. Cohen, TN	X		
4	Mr. Costa, CA	X		
5	Ms. DeGette, CO	X		
6	Mrs. Dingell, MI	X		
7	Mr. Gallego, AZ	X		
8	Mr. García, IL	X		
9	Mr. Grijalva, AZ (*Chair*)	X		
10	Mr. Huffman, CA	X		
11	Ms. Leger Fernández, NM	X		
12	Mr. Levin, CA	X		
13	Mr. Lowenthal, CA	X		
14	Ms. Matsui, CA	X		
15	Ms. McCollum, MN	X		
16	Mr. McEachin, VA			
17	Mrs. Napolitano, CA	X		
18	Mr. Neguse, CO			
19	Ms. Porter, CA	X		
20	Mr. Sablan, MP	X		
21	Mr. San Nicolas, GU			
22	Mr. Soto, FL	X		
23	Ms. Tlaib, MI	X		
24	Mr. Tonko, NY	X		
25	Ms. Trahan, MA	X		
26	Ms. Velázquez, NY	X		
	REP. MEMBERS (22)	**Y**	**N**	**P**
1	*Mr. Bentz, OR*		X	
2	*Mrs. Boebert, CO*			
3	*Mr. Carl, AL*		X	
4	*Mr. Fulcher, ID*			
5	*Mr. Gohmert, TX*			
6	*Miss González-Colón, PR*		X	
7	*Mr. Gosar, AZ*		X	
8	*Mr. Graves, LA*		X	
9	*Ms. Herrell, NM*		X	
10	*Mr. Hice, GA*			
11	*Mr. Lamborn, CO*		X	
12	*Mr. McClintock, CA*			
13	*Mr. Moore, UT*			
14	*Mr. Obernolte, CA*		X	
15	*Mrs. Radewagen, AS*		X	
16	*Mr. Rosendale, MT*		X	
17	*Mr. Stauber, MN*		X	
18	*Mr. Tiffany, WI*		X	
19	*Mr. Webster, FL*			
20	*Mr. Westerman, AR (RM)*		X	
21	*Mr. Wittman, VA*		X	
22	*Mr. Young, AK*			
	Total: 48 / Quorum: 16 / Report: 25	23	14	
	TOTALS	**YEAS**	**NAYS**	**PRESENT**

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Energy and Mineral Resources held on March 9, 2021.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides the short title of the bill, the "Ending Taxpayer Welfare for Oil and Gas Companies Act of 2021."

Section 2. Table of contents

Section 3. Onshore fossil fuel royalty rates

Section 3 amends the Mineral Leasing Act (30 U.S.C. 181) to raise the onshore royalty rates from 12.5 percent to 18.75 percent for all new oil, gas, and coal leases. This section also establishes a process the Secretary of the Interior will use to periodically re-evaluate royalty rates to ensure taxpayers are getting a fair market value for oil, gas, and coal leases.

Section 4. Minimum bid amount

This section raises the minimum bid amount for onshore oil and gas leases from $2 to $5 per acre and indexes the minimum bid amount to inflation, requiring minimum bid amounts to be updated at least every four years.

Section 5. Onshore oil and gas rental rates

This section raises the per-acre onshore rental rates for oil and gas leases to $3 per acre for the first five years and $5 per acre for the second five years and raises the rental rate for reinstated leases from $10 to $20 per acre.

Section 6. Inspection fee

This section modifies the Federal Oil and Gas Royalty Management Act of 1982 to charge companies user fees to cover the cost of the onshore oil and gas inspection program. These fees are set at $700 for leases without wells but with some oil and gas-related land use or disturbance, $1,225 for leases with 1–10 wells, $4,900 for leases with 11–50 wells, and $9,800 for leases with more than 50 wells.

Section 7. Penalties

This section increases civil and criminal penalties in the Mineral Leasing Act, the Federal Oil and Gas Royalty Management Act of 1982, and the Outer Continental Shelf Lands Act.

Section 8. Royalty relief

This section repeals royalty relief provisions for deep gas wells in shallow water and deep water production in the Energy Policy Act of 2005. This section amends the Outer Continental Shelf Lands Act to repeal royalty relief for oil and gas development in Alaska's Outer Continental Shelf, and amends the Naval Petroleum Reserves Production Act by altering the lengths of leases in

the Reserve and revoking the subsidies for oil and gas production within the Reserve.

Section 9. Royalty in kind

This section amends the Mineral Leasing Act to revoke the Secretary of the Interior's authority to take in-kind oil and gas royalties except to as needed to fill the strategic energy reserve.

Section 10. Amendments to definitions

This section amends and adds definitions in the Federal Oil and Gas Royalty Management Act of 1982, simplifying and strengthening royalty payment oversight.

Section 11. Compliance reviews

This section amends the Federal Oil and Gas Royalty Management Act to give the Secretary of the Interior statutory authority to conduct compliance reviews of royalty payments and requires the Secretary to report any discrepancies discovered to an auditor.

Section 12. Liability for royalty payments

This section modifies the Federal Oil and Gas Royalty Management Act to clarify responsibilities for lease payments. It gives the Secretary the power to specify how and when lessees must pay their royalties, makes designees liable for lease royalties, and makes lease owners and operators liable for their pro-rated share of payment obligations under said lease.

Section 13. Recordkeeping

This section amends the Federal Oil and Gas Royalty Management Act by requiring payors to keep oil and gas records for seven years instead of six. This aligns record-keeping requirements with the statute of limitations for the government to collect unpaid royalties established under the Royalty Fairness and Simplification Act of 1995.

Section 14. Adjustments and refunds

This section amends the Federal Oil and Gas Royalty Management Act so that lessees cannot adjust a lease's royalty obligations after an audit or compliance review has been completed on the lease in question. It also shortens the amount of time lessees have to make adjustments to their royalty obligations from six years to four years after the date royalties were initially due.

Section 15. Obligation period

This section modifies the Federal Oil and Gas Royalty Management Act so that if an adjustment made by a lessee results in an underpayment of royalties, that lessee must repay that amount, with interest, from the date the lessee made the adjustment.

Section 16. Tolling agreements and subpoenas

This section amends the Federal Oil and Gas Royalty Management Act to allow the Secretary of the Interior to communicate directly with lease designees instead of individual lessees in the case of subpoenas or agreements to pause the statute of limitations (tolling agreements).

Section 17. Appeals

This section amends the Federal Oil and Gas Royalty Management Act to give the Secretary more time to issue final decisions on appeals on demands or orders to pay royalties or penalties, extending the timeframe from 33 months to 48.

Section 18. Assessments

This section repeals section 116 of the Federal Oil and Gas Royalty Management Act, which prohibits the Secretary from imposing assessments on payors who repeatedly submit erroneous royalty reports.

Section 19. Pilot project on automatic data transfer

This section creates a pilot project to automate transmission of electronic data from offshore wellheads and meters to the federal government, to improve the accuracy and efficiency of data and royalty collection. The Secretary will report the outcomes of the pilot project and make recommendations to Congress within 3 years after this law is enacted.

Section 20. Penalty for late or incorrect reporting of data

This section establishes a civil penalty for companies that file late or incorrect data. The Secretary will determine a penalty level that will ensure that companies file correct data on time, with a minimum penalty of $10 per incorrect line of data.

Section 21. Required recordkeeping for natural gas plants

This section requires the Secretary to promulgate a regulation requiring transporters, purchasers, and sellers of federal natural gas to maintain and provide records, following the Federal Oil and Gas Royalty Management Act's recordkeeping requirements for oil and gas lessees and operators.

Section 22. Shared penalties

Under Section 206 of the Federal Oil and Gas Royalty Management Act, states and Indian tribes receive 50 percent of civil penalties they collect on behalf of the federal government. This section of this bill strikes a portion of section 206 that reduces those penalty payments by the amount of other payments due to that state or tribe under said state or tribe's cooperative or delegation agreement with the federal government.

Section 23. Applicability to other minerals

This section extends the civil and criminal authority in the Federal Oil and Gas Royalty Management Act to coal and other solid minerals on Federal and Indian lands, and to other solid minerals and alternative energy development on the Outer Continental Shelf.

Section 24. Entitlements

This section requires the Secretary of the Interior to publish final regulations for reporting and paying royalties on oil and gas production, including for entitled shares of production from unitized leases when lessees do not sell their share of production from that lease.

Section 25. Royalties on all extracted methane

This section eliminates the royalty waiver for natural gas produced and subsequently used on the lease and requires royalties to be paid on all gas vented, flared, or lost through leakage.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act*. With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) and clause 3(d) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee adopts as its own cost estimate the forthcoming cost estimate of the Director of the Congressional Budget Office, should such cost estimate be made available before House passage of the bill.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. *General Performance Goals and Objectives*. As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill are to make certain adjustments to the fiscal terms for fossil fuel development and to make other reforms to improve returns to taxpayers for the development of federal energy resources.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

An estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chair of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee, if such estimate is not publicly available on the Congressional Budget Office website.

EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

MINERAL LEASING ACT

* * * * * * *

SEC. 7. (a) A coal lease shall be for a term of twenty 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 years shall be terminated. The Secretary shall by regulation prescribe annual rentals on leases. A lease shall require payment of a royalty in such amount as the Secretary shall determine of not less than [12½] *18.75* 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 years and at the end of each ten-year period thereafter if the lease is extended.

(b)(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 years.

(6) 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) 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) 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.

(d) PERIODIC EVALUATION OF ROYALTY RATES.—The Secretary shall establish a periodic process of evaluating increases in royalty rates to achieve a fair market value return for the public. The process should include:

(1) publishing annually the average, weighted by relative production per State, of the top fossil fuel royalty rates charged by States for fossil fuels production on State-owned public lands;

(2) evaluating triennially increases in the Federal fossil fuel royalty rates above the minimum rates required under this Act to match the production-weighted average of State royalty rates. The triennial review shall include and benefit from public participation through written comment, public hearings and other meetings open to all interested parties; and

(3) submitting the triennial evaluation to Congress, including a summary of the views expressed in the public participation processes related to the evaluation.

* * * * * * *

SEC. 14. That 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 be 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 17 hereof for leases issued prior to the effective date of this amendatory Act. 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 17 of this Act 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. *Notwithstanding any other provision of this Act (including this section), royalty shall be assessed with respect to oil and gas, other than gas described in section 124(a)(2) of the Ending Taxpayer Welfare for Oil and Gas Companies Act of 2021, without regard to whether oil or gas is removed or sold from the leased land.*

* * * * * * *

SEC. 17. (a) All lands subject to disposition under this Act which are known or believed to contain oil or gas deposits may be leased by the Secretary.

(b)(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**]** *18.75* 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 the date of enactment of the [Federal Onshore Oil and Gas Leasing Reform Act of 1987] *Ending Taxpayer Welfare for Oil and Gas Companies Act of 2021*. 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 102(2)(C) of the National Environmental Policy Act of 1969.

(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] *18.75* per centum in amount of value of production [removed or sold] from the lease subject to section 17(k)(1)(c).

(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 Act, 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 per acre] *$10 per acre*.

(D) The Secretary may waive, suspend, or alter any requirement under section 26 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 the date of enactment of this paragraph, if the election is made before the date that is 1 year after the date of enactment of this paragraph;

(ii) in the case of an interest which vests within 1 year after the date of enactment of this paragraph, if the election is made before the date that is 2 years after the date of enactment of this paragraph; 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 3 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 352), 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 Act. Such lease shall be subject to all terms and conditions under this Act 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)(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 Act 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⟧ *18.75* 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.

(d) 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] *$3 per acre* per year for the first through fifth years of the lease and not less than [$2 per acre] *$5 per acre* per year for each year thereafter. 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) Competitive and noncompetitive leases 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) 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) 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 Act, 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 Act 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. 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 Act.

(h) 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) 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 Act.

(j) 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) 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 7 of the Multiple

Mineral Development Act of August 13, 1954 (68 Stat. 708), as amended (30 U.S.C. 527), whether such filing occur prior to enactment of the Mineral Leasing Act Revision of 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) 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] *18.75* per centum in amount of value of the production [removed or sold] from such leases, except that the royalty rate shall be [12½] *18.75* 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) 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 collective 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 Act 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 Act.

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 Act 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 Act.

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 Act. 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)(1)(A) The owner of (1) an oil and gas lease issued prior to the date of enactment of the Combined Hydrocarbon Leasing Act of 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 the date of enactment of that Act 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 the effective date of this Act. If any oil and gas lease eligible for conversion under this section would otherwise expire after the date of this Act 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] *18.75* 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 the enactment of such Act.

(o) CERTAIN OUTSTANDING OIL AND GAS.—(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 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 the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics; and

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

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ALASKA OIL PROVISO

SEC. 22. That 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 the passage of this Act 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 the date of this Act, or within six months after final denial or withdrawal of application for patent, to a lease or leases, under this Act 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.

* * * * * * *

SEC. 31. (a) Except as otherwise herein provided, any lease issued under the provisions of this Act 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 Act, of the lease, or of the general regulations promulgated under this Act 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) Any lease issued after August 21, 1935, under the provisions of section 17 of this Act 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 sec-

tion 17(m) of this Act 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 the date of this Act or (2) the lessee fails to pay the deficiency within a period prescribed in a notice of deficiency sent to him by the Secretary.

(c) 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)(1) Where any oil and gas lease issued pursuant to section 17(b) or section 17(c) of this Act 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 the date of the enactment of the Energy Policy Act of 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 the date of the enactment of the Energy Policy Act of 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) 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 17(b) of this Act 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 17(c) of this Act 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 17(b) of this Act of a requirement for future royalties at a rate of not less than [16⅔] *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 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 17(c) of this Act of a requirement for future royalties at a rate not less than [16⅔] *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) 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 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), 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 17(e) of this Act, 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 the date of enactment of the Federal Oil and Gas Royalty Management Act of 1982, on or before the one hundred and twentieth day after such date of enactment, or

(B) with respect to any claim deemed conclusively abandoned after such date of enactment, 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)(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 17(b) or 17(c) of this Act.

(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 17(c) of this Act.

(3) Notwithstanding any other provision of law, any lease issued pursuant to section 14 of this Act 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 subsection 17(c) of this Act (30 U.S.C. 226(c)) 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) Notwithstanding any other provision of law, any lease issued pursuant to section 14 of the Act shall, upon renewal on or after enactment of this paragraph, continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.

(h) The minimum royalty provisions of section 17(m) and the provisions of section 39 of this Act shall be applicable to leases issued pursuant to subsections (d) and (f) of this section.

(i)(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) 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 or rental, the lessee would have been entitled to extension of his lease, pursuant to section 4(d) of the Act of September 2, 1960 (74 Stat. 790), 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 (c) are satisfied.

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SEC. 36. That all royalty accruing to the United States under any oil or gas lease or permit under this Act on demand of the Secretary of the Interior shall be paid in oil or gas*, except that the Secretary may not demand such payment in oil or gas if the amount of such payment would exceed the amount necessary to fill the strategic petroleum reserve*.

Upon granting any oil or gas lease under this Act, and from time to time thereafter during said lease, the Secretary of the Interior shall, except whenever in his judgment it is desirable to retain the same for the use of the United States, offer for sale for such period as he may determine, upon notice and advertisement on sealed bids or at public auction, all royalty oil and gas accruing or reserved to the United States under such lease. Such advertisement and sale shall reserve to the Secretary of the Interior the right to reject all bids whenever within his judgment the interest of the United States demands; and in cases where no satisfactory bid is received or where the accepted bidder fails to complete the purchase, or

where the Secretary of the Interior shall determine that it is unwise in the public interest to accept the offer of the highest bidder, the Secretary of the Interior, within his discretion, may readvertise such royalty for sale, or sell at private sale at not less than the market price for such period, or accept the value thereof from the lessee: *Provided,* That inasmuch as the public interest will be served by the sale of royalty oil to refineries not having their own source of supply for crude oil, the Secretary of the Interior, when he determines that sufficient supplies of crude oil are not available in the open market to such refineries, is authorized and directed to grant preference to such refineries in the sale of oil under the provisions of this section, for processing or use in such refineries and not for resale in kind, and in so doing may sell to such refineries at private sale at not less than the market price any royalty oil accruing or reserved to the United States under leases issued pursuant to this Act, as amended: *Provided further,* That in selling such royalty oil the Secretary of the Interior may at his discretion prorate such oil among such refineries in the area in which the oil is produced: *Provided, however,* That pending the making of a permanent contract for the sale of any royalty, oil or gas as herein provided, the Secretary of the Interior may sell the current product at private sale, at not less than the market price: *And provided further,* That any royalty, oil, or gas may be sold at not less than the market price at private sale to any department or agency of the United States.

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SEC. 41. 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 Act 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 Act;

(B) the availability of any land for leasing under this Act;

(C) the ability of any person to obtain leases under this Act; or

(D) the provisions of this Act 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.

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FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT OF 1982

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DEFINITIONS

SEC. 3. For the purposes of this Act, 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 14(g) of Public Law 92–203, as amended, 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 14(g) of Public Law 92–203, as amended;

(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 102(a) of this Act, 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 205 of this Act, 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 102(a) of this Act, 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;]

(24) "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 102(a) of this Act)]—

(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 resource 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 Act, 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[.]*;*

(34) "compliance review" means an examination of a lessee's lease accounts to compare one or all elements of the royalty equation (volume, value, royalty rate, and allowances) against anticipated elements of the royalty equation to test for variances; and

(35) "marketing affiliate" means an affiliate of a lessee whose function is to acquire the lessee's production and to market that production.

TITLE I—FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

DUTIES OF THE SECRETARY

SEC. 101. (a) 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) 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 Act.

(c)(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 the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252), 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 Act.

(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.

DUTIES OF LESSEES, OPERATORS, AND MOTOR VEHICLE TRANSPORTERS

SEC. 102. [(a) 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 Act 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.—Notwithstanding any other provision of this Act, 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) 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)(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.

REQUIRED RECORDKEEPING

SEC. 103. (a) A lessee, operator, or other person directly involved in developing, producing, transporting, purchasing, or selling oil or gas subject to this Act 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 Act or determining compliance with rules or orders under this Act. 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 Act, 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) 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.

* * * * * * *

INSPECTIONS

SEC. 108. (a)(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) 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 Act. The Secretary shall develop guidelines setting forth the coverage and the frequency of such inspections.

(c) For the purpose of making any inspection or investigation under this Act, 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 FEE.—

(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 fiscal year 2021, shall pay a nonrefundable 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) $700 for each lease or unit or communitization agreement with no active or inactive wells, but with surface use, disturbance or reclamation;

(B) $1,225 for each lease or unit or communitization agreement with 1 to 10 wells, with any combination of active or inactive wells;

(C) $4,900 for each lease or unit or communitization agreement with 11 to 50 wells, with any combination of active or inactive wells; and

(D) $9,800 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 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.

CIVIL PENALTIES

SEC. 109. (a) 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 Act 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 108 or fails to notify the Secretary of any assignment under section 102(a)(2)

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) 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) 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 subsection 102(b)(3),

shall be liable for a penalty of up to [$10,000] *$25,000* per violation for each day such violation continues.

(d) 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) 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) The amount of any penalty under this section, as finally determined may be deducted from any sums owing by the United States to the person charged.

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

(h) Notice under this 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) 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) 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) If any person fails to pay an assessment of a civil penalty under this Act—

(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) 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 31 of the Mineral Leasing Act of 1920.

CRIMINAL PENALTIES

SEC. 110. Any person who commits an act for which a civil penalty is provided in section 109(d) shall, upon conviction, be punished by a fine or not more than [$50,000] *$150,000*, or by imprisonment for not more than 2 years, or both.

* * * * * * *

SEC. 111A. ADJUSTMENTS AND REFUNDS.

(a) ADJUSTMENTS TO ROYALTIES PAID TO THE 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 ad-

justment at the same time the lessee or its designee adjusts the principle 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 be the [six-year] *four-year* period following the date on which an obligation became due. The adjustment [period shall] *period may* be suspended, tolled, extended, enlarged, or terminated by the same actions as the limitation period in section 115.

(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 115, 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 in-

terest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act and the Outer Continental Shelf Lands Act, 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 Act.

(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 115 of this Act.

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SEC. 115. 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.

(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 102(a) of this Act 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, United States Code, and section 42 of the Mineral Leasing Act (30 U.S.C. 226–2) shall not apply to any obligation to which this Act applies. Section 3716 of title 31, United States Code, may be applied to an obligation the enforcement of which is not barred by this Act, but may not be applied to any obligation the enforcement of which is barred by this Act.

(c) OBLIGATION BECOMES DUE.—

(1) IN GENERAL.—For purposes of this Act, 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 Act 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.

(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 respec-

tive bureau or agency, and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, 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 Act; 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 Act; 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 Act 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 de-

termined 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 205 of this Act, 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 rea-

sonable 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 205, 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 102(a) for obligations that are the subject of the notice or agreement.

(f) RECORDS REQUIRED FOR DETERMINING COLLECTIONS.—Records required pursuant to section 103 of this Act 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 Act, 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-MONTH] *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 the date of enactment of this section, within [33 months] *48 months* from the date such proceeding was commenced or [33 months] *48 months* from the date of such enactment, whichever is later. The [33-month] *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-month] *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 of the United States Code.

(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 A 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 so 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 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.

[SEC. 116. ASSESSMENTS.

[Beginning eighteen months after the date of enactment of this section, to encourage proper royalty payment the Secretary or the delegated State shall impose assessments on a person who chronically submits erroneous reports under this Act. Assessments under this Act may only be issued as provided for in this section.]

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TITLE II—STATES AND INDIAN TRIBES

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SHARED CIVIL PENALTIES

SEC. 206. An amount equal to 50 per centum of any civil penalty collected by the Federal Government under this Act resulting from activities conducted by a State or Indian tribe pursuant to a cooperative agreement under section 202 or a State under a delegation under section 205, 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.]

TITLE III—GENERAL PROVISIONS

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RELATION TO OTHER LAWS

SEC. 304. (a) The penalties and authorities provided in this Act are supplemental to, and not in derogation of, any penalties or authorities contained in any other provision of law.

(b) Nothing in this Act shall be construed to reduce the responsibilities of the Secretary to ensure prompt and proper collection of revenues from coal, uranium and other energy and nonenergy minerals on Federal and Indian lands, or to restrain the Secretary from entering into cooperative agreements or other appropriate arrangements with States and Indian tribes to share royalty management responsibilities and activities for such minerals under existing authorities.

(c) Nothing in this Act shall be construed to enlarge, diminish, or otherwise affect the authority or responsibility of the Inspector General of the Department of the Interior or of the Comptroller General of the United States.

(d) No provisions of this Act impairs or affects lands and interests in land entrusted to the Tennessee Valley Authority.

(e) APPLICABILITY TO OTHER MINERALS.—

(1) Notwithstanding any other provision of law, sections 107, 109, and 110 of this Act and the regulations duly promulgated with respect thereto shall apply to any lease authorizing the development of coal or any other solid mineral on any Federal lands or Indian lands, to the same extent as if such lease were an oil and gas lease, on the same terms and conditions as those authorized for oil and gas leases.

(2) Notwithstanding any other provision of law, sections 107, 109, and 110 of this Act and the regulations issued under such sections shall apply with respect to any lease, easement, right-of-way, or other agreement, regardless of form (including any royalty, rent, or other payment due thereunder)—

(A) under section 8(k) or 8(p) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k) and 1337(p)); or

(B) under the Geothermal Steam Act (30 U.S.C. 1001 et seq.), to the same extent as if such lease, easement, right-of-way, or other agreement were an oil and gas lease on the same terms and conditions as those authorized for oil and gas leases.

(3) For the purposes of this subsection, the term "solid mineral" means any mineral other than oil, gas, and geo-pressured-geothermal resources, that is authorized by an Act of Congress to be produced from public lands (as that term is defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)).

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OUTER CONTINENTAL SHELF LANDS ACT

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SEC. 6. MAINTENANCE OF LEASES ON OUTER CONTINENTAL SHELF.—(a) 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 replace-

ment 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 the effective date of this Act, or within such further period or periods as provided in section 7 hereof 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 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 7 hereof, all rents, royalties, and other sums payable under such lease between June 5, 1950, and the effective date of this Act, 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 the effective date of this Act, are paid to the Secretary, who shall deposit such payments in the Treasury in accordance with section 9 of this Act;

(5) the holder of such lease certifies that such lease shall continue to be subject to the overriding royalty obligations existing on the effective date of this Act;

(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 the effective date of this Act 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 the effective date of this Act;

(10) such lease will terminate within a period of not more than five years from the effective date of this Act 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) 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), (9) and (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 or 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 the effective date hereof 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 5 of this Act 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 such subsection (b) 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 Act: *Provided further,* That, if the primary term of a lease being maintained under subsection (b) hereof has expired prior to the effective date of this Act 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 the effective date of this Act 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) 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 the effective date of this Act.

(d) 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) In the event any lease maintained under this section covers lands beneath navigable waters, as that term is used in the Submerged Lands Act, 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.

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SEC. 8. LEASES, EASEMENTS, AND RIGHTS-OF-WAY ON THE OUTER CONTINENTAL SHELF.—(a)(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 6 of this Act. 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 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 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 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 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 Act, 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[3] 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)(i) Notwithstanding the provisions of this Act other than this subparagraph, with respect to any lease or unit in existence on the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act 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

[3] Indentation so in original. Probably should be flush.

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 10(a) of the Administrative Procedures Act (5 U.S.C. 702), 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 the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; 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 the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act.

(v) During the production of volumes determined pursuant to clauses (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 (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 Representative, 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 the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and policies of this Act, 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 Act.

(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 the date of enactment of this subsection, unless the Secretary determines that the requirements set forth in this subparagraph are inconsistent with the purposes and policies of this Act.

(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 area 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) Notwithstanding any other provision of this Act (including this section), royalty under this Act shall be assessed with respect to oil and gas, other than gas described in section 124(a)(2) of the Ending Taxpayer Welfare for Oil and Gas Companies Act of 2021, without regard to whether oil or gas is removed or sold from the leased land.

(b) 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 Act;

(5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to section 5 of this Act;

(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 appli-

cable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973.

(c)(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) 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) No lease issued under this Act 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) Nothing in this Act 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)(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, in addition to the information required by section 26 of this Act, shall 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 26 of this Act 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 26 of this Act 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 Act, 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 7 of this Act 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 revenue 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 7 of this Act, 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 7 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 7 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 Act, 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 Act, 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) 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) 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 subsection (a) of section 6 of this Act, 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) 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 of value of the sulphur at the wellhead, and (4) contained 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)(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 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453), that promote the policy set forth in section 303 of that Act (16 U.S.C. 1452).

(D) Any Federal agency which proposes to make use of sand, gravel and shell resources subject to the provisions of this Act 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) Notices 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) 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 9 of this Act.

(n) The issuance of any lease by the Secretary pursuant to this Act, or the making of any interim arrangements by the Secretary pursuant to section 7 of this Act 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) 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 Act, 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 pre-

viously used for activities authorized under this Act, 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 the date of enactment of this section 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 the date of enactment of the Energy Policy Act of 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.

* * * * * * *

SEC. 24. REMEDIES AND PENALTIES.—(a) 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 Act, any regulation or order issued under this Act, or any term of a lease, license, or permit issued pursuant to this Act.

[(b)(1) Except as provided in paragraph (2), if any person fails to comply with any provision of this Act, or any term of a lease, or permit issued pursuant to this Act, or any regulation or order issued under this Act, 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 the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor.

(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) Any person who knowingly and willfully (1) violates any provision of this Act, any term of a lease, license, or permit issued pursuant to this Act, or any regulations or order issued under the authority of this Act 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 Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act 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 devise or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

(d) 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) The remedies and penalties prescribed in this Act 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 Act shall be in addition to any other remedies and penalties afforded by any other law or regulation.

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SEC. 27. FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS.—(a)(1) Except as may be necessary to comply with the provisions of sections 6 and 7 of this Act, all royalties or net profit shares, or both accruing to the United States under any oil and gas lease issued or maintained in accordance with this Act, shall, on demand of the Secretary, be paid in oil or gas[.] *, except that the Secretary may not demand such payment in oil or gas if the amount of such payment would exceed the amount necessary to fill the strategic petroleum reserve.*

(2) The United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease issued or maintained in accordance with this Act, at the regulated price, or, if no regulated price applies, at the fair market value at the well head of the oil and gas saved, removed, or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Secretary of Energy, for disposal within the Federal Government.

(b)(1) The Secretary, except as provided in this subsection, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value, any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

(2) Whenever, after consultation with the Secretary of Energy, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this Act, or purchased by the United States pursuant to subsection (a)(2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any allocation or lottery sale to assure such access and shall publish notice of such allocation or sale, and the terms thereof, at least thirty days in advance. Such notice shall include qualifications for participation, the amount of

oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.

(3) The Secretary may only sell or otherwise dispose of oil described in paragraph (1) of this subsection in accordance with any provision of law, or regulations issued in accordance with such provisions, which provide for the Secretary of Energy to allocate, transfer, exchange, or sell oil in amounts or at prices determined by such provision of law or regulations.

(c)(1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

(2) Whenever, after consultation with and advice from the Secretary of Energy, the Federal Energy Regulatory Commission determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this section, the Secretary of the Interior may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocation or lottery sale of such gas to any person servicing such region, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to selling or allocating any gas pursuant to this subsection, the Secretary shall consult with the Federal Energy Regulatory Commission.

(d) The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a)(3) of this section, and shall pay to the United States a cash amount equal to the regulated price, or, if no regulated price applies, the fair market value of the oil or gas so obtained.

(e) As used in this section—

(1) the term "regulated price" means the highest price—

(A) at which oil may be sold pursuant to the Emergency Petroleum Allocation Act of 1973 and any rule or order issued under such Act;

(B) at which natural gas Act, any other Act, regulations governing natural gas pricing, or any rule or order issued under any such Act or any such regulations; or

(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas; and

(2) the term "small refiner" has the meaning given such term by Small Business Administration Standards 128.3–8 (d) and (g), as in effect on the date of enactment of this section or as thereafter revised or amended.

(f) Nothing in this section shall prohit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf as provided by section 12(b) of this Act.

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ENERGY POLICY ACT OF 2005

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TITLE III—OIL AND GAS

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Subtitle E—Production Incentives

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[SEC. 344. 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 the date of enactment of this Act, 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 the date of enactment of this Act, 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.

[SEC. 345. 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 the date of enactment of this Act 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.]

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NAVAL PETROLEUM RESERVES PRODUCTION ACT OF 1976

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TITLE I—NATIONAL PETROLEUM RESERVE IN ALASKA

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SEC. 107. 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 202 and section 603 of the Federal Lands Policy and Management Act of 1976 (90 Stat. 2743) shall not be applicable to the Reserve.

(d) FIRST LEASE SALE.—The first lease sale shall be conducted within twenty months of the date of enactment of this Act: *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 102 of Public Law 94-258 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) 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 the date of enactment of the Energy Policy Act of 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 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) 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 (16 U.S.C. 3101 et seq.)) 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 the date of enactment of the Energy Policy Act of 2005.

[(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)(l)(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 105 (b) and (c) of Public Law 94-258 shall be deemed to have fulfilled the requirements of section 102(2)(c) of the National Environmental Policy Act (Public Law 91-190), 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 104(a).

(o) REGULATIONS.—As soon as practicable after the date of enactment of the Energy Policy Act of 2005, the Secretary shall issue regulations to implement this section.

(p) WAIVER OF ADMINISTRATION FOR CONVEYED LANDS.—

(1) IN GENERAL.—Notwithstanding section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g))—

(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.

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DISSENTING VIEWS ON H.R. 1517

H.R. 1517 would make numerous alterations to the Mineral Leasing Act of 1920, the Outer Continental Shelf Lands Act, and the Federal Oil and Gas Royalty Management Act that will make oil and gas leasing on federal land more difficult, and in turn reduce domestic energy development, driving up energy costs for American families. H.R. 1517 would increase virtually every royalty rate and fee for federal oil and gas leasing and production is increased. This would have the effect of "nickel and diming" federal oil and gas operations into a potentially unprofitable state. Committee Republicans are strongly opposed.

H.R. 1517 has been described by supporters as "seeking greater return for the taxpayer" by raising royalties, minimum bids, and rental fees for federal oil and gas development. However, raising rates and fees would make development on federal land less attractive to operators compared to state and private lands. State royalty rates are higher than the federal royalty rate, but operators do not have to contend with the cumbersome, costly and unpredictable federal regulatory process on state- and privately-owned lands. As a result, even with higher royalty rates, state- and privately-owned lands are often more attractive to investment.

H.R. 1517 would also make several other unnecessary and politically motivated changes to the statutes that govern mineral leasing onshore and offshore. For instance, it would repeal the Secretary of the Interior's authority to relax royalty rates in certain areas offshore Alaska and the Gulf of Mexico to incentivize investment. Additionally, the bill would allow the Secretary to take more time to issue a decision on administrative appeals, adding more uncertainty and cost to the federal leasing and permitting process. H.R. 1517 would also require royalty payments on all gas produced on a federal lease, including gas utilized for lease operations and gas that is released via venting and flaring.

Disincentivizing production on federal lands will directly impact funding to energy producing states. For instance, onshore states receive approximately half of the revenues produced within their borders, which they go on to use for public services such as education. Arbitrarily increasing the cost of operating on federal lands will also reduce the supply of reliable, affordable energy, as well as threatening well-paying jobs in rural and coastal communities. Legislative efforts should instead focus on how to allow for responsible development of federal oil and gas resources as part of America's energy mix.

For these reasons, I oppose H.R. 1517.

BRUCE WESTERMAN.