

Calendar No. 500

104TH CONGRESS  
2D SESSION  
**H. R. 1975**

---

---

**AN ACT**

To improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

---

---

JULY 17, 1996

Received; read twice and placed on the calendar

## Calendar No. 500

104TH CONGRESS  
2D SESSION

# H. R. 1975

---

IN THE SENATE OF THE UNITED STATES

JULY 17, 1996

Received; read twice and placed on the calendar

---

## AN ACT

To improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Oil and Gas  
3 Royalty Simplification and Fairness Act of 1996”.

4 **SEC. 2. DEFINITIONS.**

5 Section 3 of the Federal Oil and Gas Royalty Man-  
6 agement Act of 1982 (30 U.S.C. 1701 et seq.) is amend-  
7 ed—

8 (1) by amending paragraph (7) to read as fol-  
9 lows:

10 “(7) ‘lessee’ means any person to whom the  
11 United States issues an oil and gas lease or any per-  
12 son to whom operating rights in a lease have been  
13 assigned;”; and

14 (2) by striking “and” at the end of paragraph  
15 (15), by striking the period at the end of paragraph  
16 (16) and inserting a semicolon, and by adding at the  
17 end the following:

18 “(17) ‘adjustment’ means an amendment to a  
19 previously filed report on an obligation, and any ad-  
20 ditional payment or credit, if any, applicable thereto,  
21 to rectify an underpayment or overpayment on an  
22 obligation;

23 “(18) ‘administrative proceeding’ means any  
24 Department of the Interior agency process in which  
25 a demand, decision or order issued by the Secretary

1 or a delegated State is subject to appeal or has been  
2 appealed;

3 “(19) ‘assessment’ means any fee or charge lev-  
4 ied or imposed by the Secretary or a delegated State  
5 other than—

6 “(A) the principal amount of any royalty,  
7 minimum royalty, rental bonus, net profit share  
8 or proceed of sale;

9 “(B) any interest; or

10 “(C) any civil or criminal penalty;

11 “(20) ‘commence’ means—

12 “(A) with respect to a judicial proceeding,  
13 the service of a complaint, petition, counter-  
14 claim, cross claim, or other pleading seeking af-  
15 firmative relief or seeking credit or recoupment:

16 *Provided*, That if the Secretary commences a  
17 judicial proceeding against a designee, the Sec-  
18 retary shall give notice of that commencement  
19 to the lessee who designated the designee, but  
20 the Secretary is not required to give notice to  
21 other lessees who may be liable pursuant to sec-  
22 tion 102(a) of this Act, for the obligation that  
23 is the subject of the judicial proceeding; or

24 “(B) with respect to a demand, the receipt  
25 by the Secretary or a delegated State or a les-

1 see or its designee (with written notice to the  
2 lessee who designated the designee) of the de-  
3 mand;

4 “(21) ‘credit’ means the application of an over-  
5 payment (in whole or in part) against an obligation  
6 which has become due to discharge, cancel or reduce  
7 the obligation;

8 “(22) ‘delegated State’ means a State which,  
9 pursuant to an agreement or agreements under sec-  
10 tion 205 of this Act, performs authorities, duties, re-  
11 sponsibilities, or activities of the Secretary;

12 “(23) ‘demand’ means—

13 “(A) an order to pay issued by the Sec-  
14 retary or the applicable delegated State to a les-  
15 see or its designee (with written notice to the  
16 lessee who designated the designee) that has a  
17 reasonable basis to conclude that the obligation  
18 in the amount of the demand is due and owing;  
19 or

20 “(B) a separate written request by a lessee  
21 or its designee which asserts an obligation due  
22 the lessee or its designee that provides a rea-  
23 sonable basis to conclude that the obligation in  
24 the amount of the demand is due and owing,  
25 but does not mean any royalty or production re-

1                   port, or any information contained therein, re-  
2                   quired by the Secretary or a delegated State;

3                   “(24) ‘designee’ means the person designated  
4                   by a lessee pursuant to section 102(a) of this Act,  
5                   with such written designation effective on the date  
6                   such designation is received by the Secretary and re-  
7                   maining in effect until the Secretary receives notice  
8                   in writing that the designation is modified or termi-  
9                   nated;

10                  “(25) ‘obligation’ means—

11                  “(A) any duty of the Secretary or, if appli-  
12                  cable, a delegated State—

13                  “(i) to take oil or gas royalty in kind;  
14                  or

15                  “(ii) to pay, refund, offset, or credit  
16                  monies including (but not limited to)—

17                  “(I) the principal amount of any  
18                  royalty, minimum royalty, rental,  
19                  bonus, net profit share or proceed of  
20                  sale; or

21                  “(II) any interest; and

22                  “(B) any duty of a lessee or its designee  
23                  (subject to the provision of section 102(a) of  
24                  this Act)—

1                     “(i) to deliver oil or gas royalty in  
2                     kind; or

3                     “(ii) to pay, offset or credit monies in-  
4                     cluding (but not limited to)—

5                     “(I) the principal amount of any  
6                     royalty, minimum royalty, rental,  
7                     bonus, net profit share or proceed of  
8                     sale;

9                     “(II) any interest;

10                    “(III) any penalty; or

11                    “(IV) any assessment,

12                    which arises from or relates to any lease  
13                     administered by the Secretary for, or any  
14                     mineral leasing law related to, the explo-  
15                     ration, production and development of oil  
16                     or gas on Federal lands or the Outer Con-  
17                     tinental Shelf;

18                    “(26) ‘order to pay’ means a written order is-  
19                     sued by the Secretary or the applicable delegated  
20                     State to a lessee or its designee (with notice to the  
21                     lessee who designated the designee) which—

22                    “(A) asserts a specific, definite, and quan-  
23                     tified obligation claimed to be due, and

24                    “(B) specifically identifies the obligation by  
25                     lease, production month and monetary amount

1           of such obligation claimed to be due and or-  
2           dered to be paid, as well as the reason or rea-  
3           sons such obligation is claimed to be due, but  
4           such term does not include any other commu-  
5           nication or action by or on behalf of the Sec-  
6           retary or a delegated State;

7           “(27) ‘overpayment’ means any payment by a  
8           lessee or its designee in excess of an amount legally  
9           required to be paid on an obligation and includes the  
10           portion of any estimated payment for a production  
11           month that is in excess of the royalties due for that  
12           month;

13           “(28) ‘payment’ means satisfaction, in whole or  
14           in part, of an obligation;

15           “(29) ‘penalty’ means a statutorily authorized  
16           civil fine levied or imposed for a violation of this Act,  
17           any mineral leasing law, or a term or provision of  
18           a lease administered by the Secretary;

19           “(30) ‘refund’ means the return of an overpay-  
20           ment;

21           “(31) ‘State concerned’ means, with respect to  
22           a lease, a State which receives a portion of royalties  
23           or other payments under the mineral leasing laws  
24           from such lease;

1               “(32) ‘underpayment’ means any payment or  
2               nonpayment by a lessee or its designee that is less  
3               than the amount legally required to be paid on an  
4               obligation; and

5               “(33) ‘United States’ means the United States  
6               Government and any department, agency, or instru-  
7               mentality thereof, the several States, the District of  
8               Columbia, and the territories of the United States.”.

9 **SEC. 3. DELEGATION OF ROYALTY COLLECTIONS AND RE-  
10               RELATED ACTIVITIES.**

11               (a) GENERAL AUTHORITY.—Section 205 of the Fed-  
12               eral Oil and Gas Royalty Management Act of 1982 (30  
13               U.S.C. 1735) is amended to read as follows:

14 **“SEC. 205. DELEGATION OF ROYALTY COLLECTIONS AND  
15               RELATED ACTIVITIES.**

16               “(a) Upon written request of any State, the  
17               Secretary is authorized to delegate, in accordance  
18               with the provisions of this section, all or part of the  
19               authorities and responsibilities of the Secretary  
20               under this Act to:

21               “(1) conduct inspections, audits, and investiga-  
22               tions;

23               “(2) receive and process production and finan-  
24               cial reports;

25               “(3) correct erroneous report data;

1           “(4) perform automated verification; and  
2           “(5) issue demands, subpoenas, and orders to  
3           perform restructured accounting, for royalty man-  
4           agement enforcement purposes,  
5           to any State with respect to all Federal land within the  
6           State.

7           “(b) After notice and opportunity for a hearing, the  
8           Secretary is authorized to delegate such authorities and  
9           responsibilities granted under this section as the State has  
10           requested, if the Secretary finds that—

11           “(1) it is likely that the State will provide ade-  
12           quate resources to achieve the purposes of this Act;  
13           “(2) the State has demonstrated that it will ef-  
14           fectively and faithfully administer the rules and reg-  
15           ulations of the Secretary under this Act in accord-  
16           ance with the requirements of subsections (c) and  
17           (d) of this section;

18           “(3) such delegation will not create an unrea-  
19           sonable burden on any lessee;

20           “(4) the State agrees to adopt standardized re-  
21           porting procedures prescribed by the Secretary for  
22           royalty and production accounting purposes, unless  
23           the State and all affected parties (including the Sec-  
24           retary) otherwise agree;

1           “(5) the State agrees to follow and adhere to  
2        regulations and guidelines issued by the Secretary  
3        pursuant to the mineral leasing laws regarding valua-  
4        tion of production; and

5           “(6) where necessary for a State to have au-  
6        thority to carry out and enforce a delegated activity,  
7        the State agrees to enact such laws and promulgate  
8        such regulations as are consistent with relevant Fed-  
9        eral laws and regulations

10      with respect to the Federal lands within the State.

11       “(c) After notice and opportunity for hearing, the  
12      Secretary shall issue a ruling as to the consistency of a  
13      State’s proposal with the provisions of this section and  
14      regulations under subsection (d) within 90 days after sub-  
15      mission of such proposal. In any unfavorable ruling, the  
16      Secretary shall set forth the reasons therefor and state  
17      whether the Secretary will agree to delegate to the State  
18      if the State meets the conditions set forth in such ruling.

19       “(d) After consultation with State authorities, the  
20      Secretary shall by rule promulgate, within 12 months after  
21      the date of enactment of this section, standards and regu-  
22      lations pertaining to the authorities and responsibilities to  
23      be delegated under subsection (a), including standards  
24      and regulations pertaining to—

25           “(1) audits to be performed;

1           “(2) records and accounts to be maintained;

2           “(3) reporting procedures to be required by

3           States under this section;

4           “(4) receipt and processing of production and

5           financial reports;

6           “(5) correction of erroneous report data;

7           “(6) performance of automated verification;

8           “(7) issuance of standards and guidelines in

9           order to avoid duplication of effort;

10           “(8) transmission of report data to the Sec-

11           retary; and

12           “(9) issuance of demands, subpoenas, and or-

13           ders to perform restructured accounting, for royalty

14           management enforcement purposes.

15   Such standards and regulations shall be designed to pro-

16   vide reasonable assurance that a uniform and effective

17   royalty management system will prevail among the States.

18   The records and accounts under paragraph (2) shall be

19   sufficient to allow the Secretary to monitor the perform-

20   ance of any State under this section.

21           “(e) If, after notice and opportunity for a hearing,

22   the Secretary finds that any State to which any authority

23   or responsibility of the Secretary has been delegated under

24   this section is in violation of any requirement of this sec-

25   tion or any rule thereunder, or that an affirmative finding

1 by the Secretary under subsection (b) can no longer be  
2 made, the Secretary may revoke such delegation. If, after  
3 providing written notice to a delegated State and a reason-  
4 able opportunity to take corrective action requested by the  
5 Secretary, the Secretary determines that the State has  
6 failed to issue a demand or order to a Federal lessee with-  
7 in the State, that such failure may result in an underpay-  
8 ment of an obligation due the United States by such les-  
9 see, and that such underpayment may be uncollected with-  
10 out Secretarial intervention, the Secretary may issue such  
11 demand or order in accordance with the provisions of this  
12 Act prior to or absent the withdrawal of delegated author-  
13 ity.

14       “(f) Subject to appropriations, the Secretary shall  
15 compensate any State for those costs which may be nec-  
16 essary to carry out the delegated activities under this Sec-  
17 tion. Payment shall be made no less than every quarter  
18 during the fiscal year. Compensation to a State may not  
19 exceed the Secretary’s reasonably anticipated expenditure  
20 for performance of such delegated activities by the Sec-  
21 retary. Such costs shall be allocable for the purposes of  
22 section 35(b) of the Act entitled ‘An act to promote the  
23 mining of coal, phosphate, oil, oil shale, gas and sodium  
24 on the public domain’, approved February 25, 1920 (com-  
25 monly known as the Mineral Leasing Act) (30 U.S.C. 191

1 (b)) to the administration and enforcement of laws provid-  
2 ing for the leasing of any onshore lands or interests in  
3 land owned by the United States. Any further allocation  
4 of costs under section 35(b) made by the Secretary for  
5 oil and gas activities, other than those costs to compensate  
6 States for delegated activities under this Act, shall be only  
7 those costs associated with onshore oil and gas activities  
8 and may not include any duplication of costs allocated  
9 pursuant to the previous sentence. Nothing in this section  
10 affects the Secretary's authority to make allocations under  
11 section 35(b) for non-oil and gas mineral activities. All  
12 moneys received from sales, bonuses, rentals, royalties, as-  
13 sessments and interest, including money claimed to be due  
14 and owing pursuant to a delegation under this section,  
15 shall be payable and paid to the Treasury of the United  
16 States.

17       “(g) Any action of the Secretary to approve or dis-  
18 approve a proposal submitted by a State under this section  
19 shall be subject to judicial review in the United States dis-  
20 trict court which includes the capital of the State submit-  
21 ting the proposal.

22       “(h) Any State operating pursuant to a delegation  
23 existing on the date of enactment of this Act may continue  
24 to operate under the terms and conditions of the delega-

1 tion, except to the extent that a revision of the existing  
2 agreement is adopted pursuant to this section.”.

3 (b) CLERICAL AMENDMENT.—The item relating to  
4 section 205 in the table of contents in section 1 of the  
5 Federal Oil and Gas Royalty Management Act of 1982  
6 (30 U.S.C. 1701) is amended to read as follows:

“Sec. 205. Delegation of royalty collections and related activities.”.

7 **SEC. 4. SECRETARIAL AND DELEGATED STATES' ACTIONS  
8 AND LIMITATION PERIODS.**

9 (a) IN GENERAL.—The Federal Oil and Gas Royalty  
10 Management Act of 1982 (30 U.S.C. 1701 et seq.) is  
11 amended by adding after section 114 the following new  
12 section:

13 **“SEC. 115. SECRETARIAL AND DELEGATED STATES' AC-  
14 TIONS AND LIMITATION PERIODS.**

15 “(a) IN GENERAL.—The respective duties, respon-  
16 sibilities, and activities with respect to a lease shall be per-  
17 formed by the Secretary, delegated States, and lessees or  
18 their designees in a timely manner.

19 “(b) LIMITATION PERIOD.—

20 “(1) IN GENERAL.—A judicial proceeding or de-  
21 mand which arises from, or relates to an obligation,  
22 shall be commenced within seven years from the  
23 date on which the obligation becomes due and if not  
24 so commenced shall be barred. If commencement of  
25 a judicial proceeding or demand for an obligation is

1       barred by this section, the Secretary, a delegated  
2       State, or a lessee or its designee (A) shall not take  
3       any other or further action regarding that obliga-  
4       tion, including (but not limited to) the issuance of  
5       any order, request, demand or other communication  
6       seeking any document, accounting, determination,  
7       calculation, recalculation, payment, principal, inter-  
8       est, assessment, or penalty or the initiation, pursuit  
9       or completion of an audit with respect to that obliga-  
10      tion; and (B) shall not pursue any other equitable or  
11      legal remedy, whether under statute or common law,  
12      with respect to an action on or an enforcement of  
13      said obligation.

14       “(2) RULE OF CONSTRUCTION.—A judicial pro-  
15      ceeding or demand that is timely commenced under  
16      paragraph (1) against a designee shall be considered  
17      timely commenced as to any lessee who is liable pur-  
18      suant to section 102(a) of this Act for the obligation  
19      that is the subject of the judicial proceeding or de-  
20      mand.

21       “(3) APPLICATION OF CERTAIN LIMITATIONS.—  
22      The limitations set forth in sections 2401, 2415,  
23      2416, and 2462 of title 28, United States Code, and  
24      section 42 of the Mineral Leasing Act (30 U.S.C.  
25      226–2) shall not apply to any obligation to which

1       this Act applies. Section 3716 of title 31, United  
2       States Code, may be applied to an obligation the en-  
3       forcement of which is not barred by this Act, but  
4       may not be applied to any obligation the enforce-  
5       ment of which is barred by this Act.

6       “(c) OBLIGATION BECOMES DUE.—

7           “(1) IN GENERAL.—For purposes of this Act,  
8       an obligation becomes due when the right to enforce  
9       the obligation is fixed.

10          “(2) ROYALTY OBLIGATIONS.—The right to en-  
11       force any royalty obligation for any given production  
12       month for a lease is fixed for purposes of this Act  
13       on the last day of the calendar month following the  
14       month in which oil or gas is produced.

15          “(d) TOLLING OF LIMITATION PERIOD.—The run-  
16       ning of the limitation period under subsection (b) shall  
17       not be suspended, tolled, extended, or enlarged for any ob-  
18       ligation for any reason by any action, including an action  
19       by the Secretary or a delegated State, other than the fol-  
20       lowing:

21           “(1) TOLLING AGREEMENT.—A written agree-  
22       ment executed during the limitation period between  
23       the Secretary or a delegated State and a lessee or  
24       its designee (with notice to the lessee who designated  
25       the designee) shall toll the limitation period for the

1       amount of time during which the agreement is in ef-  
2       fect.

3       “(2) SUBPOENA.—

4               “(A) The issuance of a subpoena to a les-  
5       see or its designee (with notice to the lessee  
6       who designated the designee, which notice shall  
7       not constitute a subpoena to the lessee) in ac-  
8       cordance with the provisions of subparagraph  
9       (B)(i) shall toll the limitation period with re-  
10      spect to the obligation which is the subject of  
11      a subpoena only for the period beginning on the  
12      date the lessee or its designee receives the sub-  
13      poena and ending on the date on which (i) the  
14      lessee or its designee has produced such subpoe-  
15      naed records for the subject obligation, (ii) the  
16      Secretary or a delegated State receives written  
17      notice that the subpoenaed records for the sub-  
18      ject obligation are not in existence or are not in  
19      the lessee’s or its designee’s possession or con-  
20      trol, or (iii) a court has determined in a final  
21      decision that such records are not required to  
22      be produced, whichever occurs first.

23               “(B)(i) A subpoena for the purposes of  
24      this section which requires a lessee or its des-  
25      ignee to produce records necessary to determine

1                   the proper reporting and payment of an obliga-  
2                   tion due the Secretary may be issued only by an  
3                   Assistant Secretary of the Interior or an Acting  
4                   Assistant Secretary of the Interior who is a  
5                   schedule C employee (as defined by section  
6                   213.3301 of title 5, Code of Federal Regula-  
7                   tions), or the Director or Acting Director of the  
8                   respective bureau or agency, and may not be  
9                   delegated to any other person. If a State has  
10                   been delegated authority pursuant to section  
11                   205, the State, acting through the highest State  
12                   official having ultimate authority over the col-  
13                   lection of royalties from leases on Federal lands  
14                   within the State, may issue such subpoena, but  
15                   may not delegate such authority to any other  
16                   person.

17                   “(ii) A subpoena described in clause (i)  
18                   may only be issued against a lessee or its des-  
19                   signee during the limitation period provided in  
20                   this section and only after the Secretary or a  
21                   delegated State has in writing requested the  
22                   records from the lessee or its designee related  
23                   to the obligation which is the subject of the  
24                   subpoena and has determined that—

1                     “(I) the lessee or its designee has  
2                     failed to respond within a reasonable pe-  
3                     riod of time to the Secretary’s or the appli-  
4                     cable delegated State’s written request for  
5                     such records necessary for an audit, inves-  
6                     tigation or other inquiry made in accord-  
7                     ance with the Secretary’s or such delegated  
8                     State’s responsibilities under this Act; or

9                     “(II) the lessee or its designee has in  
10                    writing denied the Secretary’s or the appli-  
11                    cable delegated State’s written request to  
12                    produce such records in the lessee’s or its  
13                    designee’s possession or control necessary  
14                    for an audit, investigation or other inquiry  
15                    made in accordance with the Secretary’s or  
16                    such delegated State’s responsibilities  
17                    under this Act; or

18                     “(III) the lessee or its designee has  
19                    unreasonably delayed in producing records  
20                    necessary for an audit, investigation or  
21                    other inquiry made in accordance with the  
22                    Secretary’s or the applicable delegated  
23                    State’s responsibilities under this Act after  
24                    the Secretary’s or delegated State’s written  
25                    request.

1                   “(C) In seeking records, the Secretary or  
2                   the applicable delegated State shall afford the  
3                   lessee or its designee a reasonable period of  
4                   time after a written request by the Secretary or  
5                   such delegated State in which to provide such  
6                   records prior to the issuance of any subpoena.

7                   “(3) MISREPRESENTATION OR CONCEAL-  
8                   MENT.—The intentional misrepresentation or con-  
9                   cealment of a material fact for the purpose of evad-  
10                  ing the payment of an obligation in which case the  
11                  limitation period shall be tolled for the period of  
12                  such misrepresentation or such concealment.

13                  “(4) ORDER TO PERFORM RESTRUCTURED AC-  
14                  COUNTING.—A)(i) The issuance of a notice under  
15                  subparagraph (D) that the lessee or its designee has  
16                  not substantially complied with the requirement to  
17                  perform a restructured accounting shall toll the limi-  
18                  tation period with respect to the obligation which is  
19                  the subject of the notice only for the period begin-  
20                  ning on the date the lessee or its designee receives  
21                  the notice and ending 120 days after the date on  
22                  which (I) the Secretary or the applicable delegated  
23                  State receives written notice that the accounting or  
24                  other requirement has been performed, or (II) a  
25                  court has determined in a final decision that the les-

1 see is not required to perform the accounting, which-  
2 ever occurs first.

3       “(ii) If the lessee or its designee initiates an ad-  
4 ministrative appeal or judicial proceeding to contest  
5 an order to perform a restructured accounting is-  
6 sued under subparagraph (B)(i), the limitation pe-  
7 riod in subsection (b) shall be tolled from the date  
8 the lessee or its designee received the order until a  
9 final, nonappealable decision is issued in any such  
10 proceeding.

11       “(B)(i) The Secretary or the applicable dele-  
12 gated State may issue an order to perform a restruc-  
13 tured accounting to a lessee or its designee when the  
14 Secretary or such delegated State determines during  
15 an audit of a lessee or its designee that the lessee  
16 or its designee should recalculate royalty due on an  
17 obligation based upon the Secretary’s or the dele-  
18 gated State’s finding that the lessee or its designee  
19 has made identified underpayments or overpayments  
20 which are demonstrated by the Secretary or the dele-  
21 gated State to be based upon repeated, systemic re-  
22 porting errors for a significant number of leases or  
23 a single lease for a significant number of reporting  
24 months with the same type of error which con-  
25 stitutes a pattern of violations and which are likely

1 to result in either significant underpayments or over-  
2 payments.

3                 “(ii) The power of the Secretary to issue an  
4 order to perform a restructured accounting may not  
5 be delegated below the most senior career profes-  
6 sional position having responsibility for the royalty  
7 management program, which position is currently  
8 designated as the ‘Associate Director for Royalty  
9 Management’, and may not be delegated to any  
10 other person. If a State has been delegated authority  
11 pursuant to section 205 of this Act, the State, act-  
12 ing through the highest ranking State official having  
13 ultimate authority over the collection of royalties  
14 from leases on Federal lands within the State, may  
15 issue such order to perform, which may not be dele-  
16 gated to any other person. An order to perform a re-  
17 structured accounting shall—

18                 “(I) be issued within a reasonable period  
19 of time from when the audit identifies the sys-  
20 temic, reporting errors;

21                 “(II) specify the reasons and factual bases  
22 for such order;

23                 “(III) be specifically identified as an ‘order  
24 to perform a restructured accounting’;

1                 “(IV) provide the lessee or its designee a  
2                 reasonable period of time (but not less than 60  
3                 days) within which to perform the restructured  
4                 accounting; and

5                 “(V) provide the lessee or its designee 60  
6                 days within which to file an administrative ap-  
7                 peal of the order to perform a restructured ac-  
8                 counting.

9                 “(C) An order to perform a restructured ac-  
10                 counting shall not mean or be construed to include  
11                 any other action by or on behalf of the Secretary or  
12                 a delegated State.

13                 “(D) If a lessee or its designee fails to substan-  
14                 tially comply with the requirement to perform a re-  
15                 structured accounting pursuant to this subsection, a  
16                 notice shall be issued to the lessee or its designee  
17                 that the lessee or its designee has not substantially  
18                 complied with the requirements to perform a re-  
19                 structured accounting. A lessee or its designee shall  
20                 be given a reasonable time within which to perform  
21                 the restructured accounting. Such notice may be is-  
22                 sued under this section only by an Assistant Sec-  
23                 retary of the Interior or an acting Assistant Sec-  
24                 retary of the Interior who is a schedule C employee  
25                 (as defined by section 213.3301 of title 5, Code of

1       Federal Regulations) and may not be delegated to  
2       any other person. If a State has been delegated au-  
3       thority pursuant to section 205, the State, acting  
4       through the highest State official having ultimate  
5       authority over the collection of royalties from leases  
6       on Federal lands within the State, may issue such  
7       notice, which may not be delegated to any other per-  
8       son.

9       “(e) TERMINATION OF LIMITATIONS PERIOD.—An  
10      action or an enforcement of an obligation by the Secretary  
11      or delegated State or a lessee or its designee shall be  
12      barred under this section prior to the running of the  
13      seven-year period provided in subsection (b) in the event—

14           “(1) the Secretary or a delegated State has no-  
15           tified the lessee or its designee in writing that a time  
16           period is closed to further audit; or

17           “(2) the Secretary or a delegated State and a  
18           lessee or its designee have so agreed in writing.

19      For purposes of this subsection, notice to, or an agreement  
20      by, the designee shall be binding on any lessee who is liable  
21      pursuant to section 102(a) for obligations that are the  
22      subject of the notice or agreement.

23       “(f) RECORDS REQUIRED FOR DETERMINING COL-  
24       LECTIONS.—Records required pursuant to section 103 of  
25       this Act by the Secretary or any delegated State for the

1 purpose of determining obligations due and compliance  
2 with any applicable mineral leasing law, lease provision,  
3 regulation or order with respect to oil and gas leases from  
4 Federal lands or the Outer Continental Shelf shall be  
5 maintained for the same period of time during which a  
6 judicial proceeding or demand may be commenced under  
7 subsection (b). If a judicial proceeding or demand is timely  
8 commenced, the record holder shall maintain such records  
9 until the final nonappealable decision in such judicial pro-  
10 ceeding is made, or with respect to that demand is ren-  
11 dered, unless the Secretary or the applicable delegated  
12 State authorizes in writing an earlier release of the re-  
13 quirement to maintain such records. Notwithstanding any-  
14 thing herein to the contrary, under no circumstance shall  
15 a record holder be required to maintain or produce any  
16 record relating to an obligation for any time period which  
17 is barred by the applicable limitation in this section. In  
18 connection with any hearing, administrative proceeding,  
19 inquiry, investigation, or audit by the Secretary or a dele-  
20 gated State under this Act, the Secretary or the delegated  
21 State shall minimize the submission of multiple or redun-  
22 dant information and make a good faith effort to locate  
23 records previously submitted by a lessee or a designee to  
24 the Secretary or the delegated State, prior to requiring  
25 the lessee or the designee to provide such records.

1       “(g) TIMELY COLLECTIONS.—In order to most effec-  
2 tively utilize resources available to the Secretary to maxi-  
3 mize the collection of oil and gas receipts from lease obli-  
4 gations to the Treasury within the seven-year period of  
5 limitations, and consequently to maximize the State share  
6 of such receipts, the Secretary should not perform or re-  
7 quire accounting, reporting, or audit activities if the Sec-  
8 retary and the State concerned determine that the cost  
9 of conducting or requiring the activity exceeds the ex-  
10 pected amount to be collected by the activity, based on  
11 the most current 12 months of activity. This subsection  
12 shall not provide a defense to a demand or an order to  
13 perform a restructured accounting. To the maximum ex-  
14 tent possible, the Secretary and delegated States shall re-  
15 duce costs to the United States Treasury and the States  
16 by discontinuing requirements for unnecessary or dupli-  
17 cative data and other information, such as separate allow-  
18 ances and payor information, relating to obligations due.  
19 If the Secretary and the State concerned determine that  
20 collection will result sooner, the Secretary or the applicable  
21 delegated State may waive or forego interest in whole or  
22 in part.

23       “(h) APPEALS AND FINAL AGENCY ACTION.—

24       “(1) 33-MONTH PERIOD.—Demands or orders  
25       issued by the Secretary or a delegated State are sub-

1 ject to administrative appeal in accordance with the  
2 regulations of the Secretary. No State shall impose  
3 any conditions which would hinder a lessee's or its  
4 designee's immediate appeal of an order to the Sec-  
5 retary or the Secretary's designee. The Secretary  
6 shall issue a final decision in any administrative pro-  
7 ceeding, including any administrative proceedings  
8 pending on the date of enactment of this section,  
9 within 33 months from the date such proceeding was  
10 commenced or 33 months from the date of such en-  
11 actment, whichever is later. The 33-month period  
12 may be extended by any period of time agreed upon  
13 in writing by the Secretary and the appellant.

14 “(2) EFFECT OF FAILURE TO ISSUE DECI-  
15 SION.—If no such decision has been issued by the  
16 Secretary within the 33-month period referred to in  
17 paragraph (1)—

18 “(A) the Secretary shall be deemed to have  
19 issued and granted a decision in favor of the  
20 appellant as to any nonmonetary obligation and  
21 any monetary obligation the principal amount  
22 of which is less than \$10,000; and

23 “(B) the Secretary shall be deemed to have  
24 issued a final decision in favor of the Secretary,  
25 which decision shall be deemed to affirm those

1           issues for which the agency rendered a decision  
2           prior to the end of such period, as to any mone-  
3           tary obligation the principal amount of which is  
4           \$10,000 or more, and the appellant shall have  
5           a right to judicial review of such deemed final  
6           decision in accordance with title 5 of the United  
7           States Code.

8           “(i) COLLECTIONS OF DISPUTED AMOUNTS DUE.—  
9           To expedite collections relating to disputed obligations due  
10          within the seven-year period beginning on the date the ob-  
11          ligation became due, the parties shall hold not less than  
12          one settlement consultation and the Secretary and the  
13          State concerned may take such action as is appropriate  
14          to compromise and settle a disputed obligation, including  
15          waiving or reducing interest and allowing offsetting of ob-  
16          ligations among leases.

17           “(j) ENFORCEMENT OF A CLAIM FOR JUDICIAL RE-  
18          VIEW.—In the event a demand subject to this section is  
19          properly and timely commenced, the obligation which is  
20          the subject of the demand may be enforced beyond the  
21          seven-year limitations period without being barred by this  
22          statute of limitations. In the event a demand subject to  
23          this section is properly and timely commenced, a judicial  
24          proceeding challenging the final agency action with respect  
25          to such demand shall be deemed timely so long as such

1 judicial proceeding is commenced within 180 days from  
2 receipt of notice by the lessee or its designee of the final  
3 agency action.

4       “(k) IMPLEMENTATION OF FINAL DECISION.—In the  
5 event a judicial proceeding or demand subject to this sec-  
6 tion is timely commenced and thereafter the limitation pe-  
7 riod in this section lapses during the pendency of such  
8 proceeding, any party to such proceeding shall not be  
9 barred from taking such action as is required or necessary  
10 to implement a final unappealable judicial or administra-  
11 tive decision, including any action required or necessary  
12 to implement such decision by the recovery or recoupment  
13 of an underpayment or overpayment by means of refund  
14 or credit.

15       “(1) STAY OF PAYMENT OBLIGATION PENDING RE-  
16 VIEW.—Any person ordered by the Secretary or a dele-  
17 gated State to pay any obligation (other than an assess-  
18 ment) shall be entitled to a stay of such payment without  
19 bond or other surety instrument pending an administra-  
20 tive or judicial proceeding if the person periodically dem-  
21 onstrates to the satisfaction of the Secretary that such  
22 person is financially solvent or otherwise able to pay the  
23 obligation. In the event the person is not able to dem-  
24 onstrate, the Secretary may require a bond or other surety  
25 instrument satisfactory to cover the obligation. Any person

1 ordered by the Secretary or a delegated State to pay an  
2 assessment shall be entitled to a stay without bond or  
3 other surety instrument".

4 (b) CLERICAL AMENDMENT.—The table of contents  
5 in section 1 of the Federal Oil and Gas Royalty Manage-  
6 ment Act of 1982 (30 U.S.C. 1701) is amended by insert-  
7 ing after the item relating to section 114 the following  
8 new item:

“Sec. 115. Secretarial and delegated States’ actions and limitation periods.”.

9 **SEC. 5 ADJUSTMENT AND REFUNDS.**

10 (a) IN GENERAL.—The Federal Oil and Gas Royalty  
11 Management Act of 1982 (30 U.S.C. 1701 et seq.) is  
12 amended by inserting after section 111 the following:

13 **“SEC. 111A. ADJUSTMENTS AND REFUNDS.**

14 “(a) ADJUSTMENTS TO ROYALTIES PAID TO THE  
15 SECRETARY OR A DELEGATED STATE.—

16 “(1) If, during the adjustment period, a lessee  
17 or its designee determines that an adjustment or re-  
18 fund request is necessary to correct an underpay-  
19 ment or overpayment of an obligation, the lessee or  
20 its designee shall make such adjustment or request  
21 a refund within a reasonable period of time and only  
22 during the adjustment period. The filing of a royalty  
23 report which reflects the underpayment or overpay-  
24 ment of an obligation shall constitute prior written

1 notice to the Secretary or the applicable delegated  
2 State of an adjustment.

3 “(2)(A) For any adjustment, the lessee or its  
4 designee shall calculate and report the interest due  
5 attributable to such adjustment at the same time the  
6 lessee or its designee adjusts the principle amount of  
7 the subject obligation, except as provided by sub-  
8 paragraph (B).

9 “(B) In the case of a lessee or its designee who  
10 determines that subparagraph (A) would impose a  
11 hardship, the Secretary or such delegated State shall  
12 calculate the interest due and notify the lessee or its  
13 designee within a reasonable time of the amount of  
14 interest due, unless such lessee or its designee elects  
15 to calculate and report interest in accordance with  
16 subparagraph (A).

17 “(3) An adjustment or a request for a refund  
18 for an obligation may be made after the adjustment  
19 period only upon written notice to and approval by  
20 the Secretary or the applicable delegated State, as  
21 appropriate, during an audit of the period which in-  
22 cludes the production month for which the adjust-  
23 ment is being made. If an overpayment is identified  
24 during an audit, then the Secretary or the applicable

1       delegated State, as appropriate, shall allow a credit  
2       or refund in the amount of the overpayment.

3           “(4) For purposes of this section, the adjust-  
4       ment period for any obligation shall be the six-year  
5       period following the date on which an obligation be-  
6       came due. The adjustment period shall be sus-  
7       pended, tolled, extended, enlarged, or terminated by  
8       the same actions as the limitation period in section  
9       115.

10       “(b) REFUNDS.—

11           “(1) IN GENERAL.—A request for refund is suf-  
12       ficient if it—

13            “(A) is made in writing to the Secretary  
14       and, for purposes of section 115, is specifically  
15       identified as a demand;

16            “(B) identifies the person entitled to such  
17       refund;

18            “(C) provides the Secretary information  
19       that reasonably enables the Secretary to iden-  
20       tify the overpayment for which such refund is  
21       sought; and

22            “(D) provides the reasons why the pay-  
23       ment was an overpayment.

24           “(2) PAYMENT BY SECRETARY OF THE TREAS-  
25       URY.—The Secretary shall certify the amount of the

1       refund to be paid under paragraph (1) to the Sec-  
2       retary of the Treasury who shall make such refund.  
3       Such refund shall be paid from amounts received as  
4       current receipts from sales, bonuses, royalties (in-  
5       cluding interest charges collected under this section)  
6       and rentals of the public lands and the Outer Con-  
7       tinental Shelf under the provisions of the Mineral  
8       Leasing Act and the Outer Continental Shelf Lands  
9       Act, which are not payable to a State or the Rec-  
10      lamation Fund. The portion of any such refund at-  
11      tributable to any amounts previously disbursed to a  
12      State, the Reclamation Fund, or any recipient pre-  
13      scribed by law shall be deducted from the next dis-  
14      bursements to that recipient made under the appli-  
15      cable law. Such amounts deducted from subsequent  
16      disbursements shall be credited to miscellaneous re-  
17      ceipts in the Treasury.

18       “(3) PAYMENT PERIOD.—A refund under this  
19      subsection shall be paid or denied (with an expla-  
20      nation of the reasons for the denial) within 120 days  
21      of the date on which the request for refund is re-  
22      ceived by the Secretary. Such refund shall be subject  
23      to later audit by the Secretary or the applicable dele-  
24      gated State and subject to the provisions of this Act.

1                   “(4) PROHIBITION AGAINST REDUCTION OF RE-  
2                   FUND OR CREDITS.—In no event shall the Sec-  
3                   retary or any delegated State directly or indirectly  
4                   claim or offset any amount or amounts against, or  
5                   reduce any refund or credit (or interest accrued  
6                   thereon) by the amount of any obligation the en-  
7                   forcement of which is barred by section 115 of this  
8                   Act.”.

9                   (b) CLERICAL AMENDMENT.—The table of contents  
10                  in section 1 of the Federal Oil and Gas Royalty Manage-  
11                  ment Act of 1982 (30 U.S.C. 1701) is amended by insert-  
12                  ing after the item relating to section 111 the following  
13                  new item:

“See. 111A. Adjustments and refunds.”.

14                  **SEC. 6. ROYALTY TERMS AND CONDITIONS, INTEREST, AND**  
15                  **PENALTIES.**

16                  (a) LESSEE OR DESIGNEE INTEREST.—Section 111  
17                  of the Federal Oil and Gas Royalty Management Act of  
18                  1982 (30 U.S.C. 1721) is amended by adding after sub-  
19                  section (g) the following:

20                  “(h) Interest shall be allowed and paid or credited  
21                  on any overpayment, with such interest to accrue from the  
22                  date such overpayment was made, at the rate obtained by  
23                  applying the provisions of subparagraphs (A) and (B) of  
24                  section 6621(a)(1) of the Internal Revenue Code of 1986,  
25                  but determined without regard to the sentence following

1 subparagraph (B) of section 6621(a)(1). Interest which  
2 has accrued on any overpayment may be applied to reduce  
3 an underpayment. This subsection applies to overpay-  
4 ments made later than six months after the date of enact-  
5 ment of this subsection or September 1, 1996, whichever  
6 is later. Such interest shall be paid from amounts received  
7 as current receipts from sales, bonuses, royalties (includ-  
8 ing interest charges collected under this section) and rent-  
9 als of the public lands and the Outer Continental Shelf  
10 under the provisions of the Mineral Leasing Act, and the  
11 Outer Continental Shelf Lands Act, which are not payable  
12 to a State or the Reclamation Fund. The portion of any  
13 such interest payment attributable to any amounts pre-  
14 viously disbursed to a State, the Reclamation Fund, or  
15 any other recipient designated by law shall be deducted  
16 from the next disbursements to that recipient made under  
17 the applicable law. Such amounts deducted from subse-  
18 quent disbursements shall be credited to miscellaneous re-  
19 ceipts in the Treasury.”.

20 (b) LIMITATION ON INTEREST.—Section 111 of the  
21 Federal Oil and Gas Royalty Management Act of 1982,  
22 as amended by subsection (a), is further amended by add-  
23 ing at the end the following:

24 “(i) Upon a determination by the Secretary that an  
25 excessive overpayment (based upon all obligations of a les-

1 see or its designee for a given reporting month) was made  
2 for the sole purpose of receiving interest, interest shall be  
3 paid on the excessive amount of such overpayment. For  
4 purposes of this Act, an ‘excessive overpayment’ shall be  
5 the amount that any overpayment a lessee or its designee  
6 pays for a given reporting month (excluding payments for  
7 demands for obligations determined to be due as a result  
8 of judicial or administrative proceedings or agreed to be  
9 paid pursuant to settlement agreements) for the aggregate  
10 of all of its Federal leases exceeds 10 percent of the total  
11 royalties paid that month for those leases.”.

12 (c) ESTIMATED PAYMENT.—Section 111 of the Fed-  
13 eral Oil and Gas Royalty Management Act of 1982 (30  
14 U.S.C. 1721), as amended by subsections (a) and (b), is  
15 further amended by adding at the end the following:

16 “(j) A lessee or its designee may make a payment  
17 for the approximate amount of royalties (hereinafter in  
18 this subsection ‘estimated payment’) that would otherwise  
19 be due for such lease by the rate royalties are due for  
20 that lease. When an estimated payment is made, actual  
21 royalties are payable at the end of the month following  
22 the month in which the estimated payment is made. If  
23 the estimated payment was less than the amount of actual  
24 royalties due, interest is owned on the underpaid amount.  
25 If the estimated payment exceeds the actual royalties due,

1 interest is owned on the overpayment. If the lessee or its  
2 designee makes a payment for such actual royalties, the  
3 lessee or its designee may apply the estimated payment  
4 to future royalties. Any estimated payment may be ad-  
5 justed, recouped, or reinstated at any time by the lessee  
6 or its designee.”.

7 (d) VOLUME ALLOCATION OF OIL AND GAS PRODUC-  
8 TION.—Section 111 of the Federal Oil and Gas Royalty  
9 Management Act of 1982 (30 U.S.C. 1721), as amended  
10 by subsections (a) through (c), is amended by adding at  
11 the end the following:

12 “(k)(1) Except as otherwise provided by this sub-  
13 section—

14 “(A) a lessee or its designee of a lease in a unit  
15 or communitization agreement which contains only  
16 Federal leases with the same royalty rate and funds  
17 distribution shall report and pay royalties on oil and  
18 gas production for each production month base on  
19 the actual volume of production sold by or on behalf  
20 of that lessee;

21 “(B) a lessee or its designee of a lease in any  
22 other unit or communitization agreement shall re-  
23 port and pay royalties on oil and gas production for  
24 each production month based on the volume of oil  
25 and gas produced from such agreement and allo-

1 cated to the lease in accordance with the terms of  
2 the agreement; and

3 "(C) a lessee or its designee of a lease that is  
4 not contained in a unit or communitization agree-  
5 ment shall report and pay royalties on oil and gas  
6 production for each production month based on the  
7 actual volume of production sold by or on behalf of  
8 that lessee.

9 "(2) This subsection applies only to requirements for  
10 reporting and paying royalties. Nothing in this subsection  
11 is intended to alter a lessee's liability for royalties on oil  
12 or gas production based on the share of production allo-  
13 cated to the lease in accordance with the terms of the  
14 lease, a unit or communitization agreement, or any other  
15 agreement.

16 "(3) For any unit or communitization agreement if  
17 all lessees contractually agree to an alternative method of  
18 royalty reporting and payment, the lessees may submit  
19 such alternative method to the Secretary or the delegated  
20 State for approval and make payments in accordance with  
21 such approved alternative method so long as such alter-  
22 native method does not reduce the amount of the royalty  
23 obligation.

24 "(4) The Secretary or the delegated State shall grant  
25 an exception from the reporting and payment require-

1 ments for marginal properties by allowing for any calendar  
2 year or portion thereof royalties to be paid each month  
3 based on the volume of production sold. Interest shall not  
4 accrue on the difference for the entire calendar year or  
5 portion thereof between the amount of oil and gas actually  
6 sold and the share of production allocated to the lease  
7 until the beginning of the month following such calendar  
8 year or portion thereof. Any additional royalties dues or  
9 overpaid royalties and associated interest shall be paid, re-  
10 funded, or credited within six months after the end of each  
11 calendar year in which royalties are paid based on volumes  
12 of production sold. For the purpose of this subsection, the  
13 term 'marginal property' means a lease that produces on  
14 average the combined equivalent of less than 15 barrels  
15 of oil per well per day or 90 thousand cubic feet of gas  
16 per well per day, or a combination thereof, determined by  
17 dividing the average daily production of crude oil and nat-  
18 ural gas from producing wells on such lease by the number  
19 of such wells, unless the Secretary, together with the State  
20 concerned, determines that a different production is more  
21 appropriate.

22 "(5) Not later than two years after the date of the  
23 enactment of this subsection, the Secretary shall issue any  
24 appropriate demand for all outstanding royalty payment  
25 disputes regarding who is required to report and pay roy-

1 alties on production from units and communitization  
2 agreements outstanding on the date of the enactment of  
3 this subsection, and collect royalty amounts owed on such  
4 production.”.

5 (e) PRODUCTION ALLOCATION.—Section 111 of the  
6 Federal Oil and Gas Royalty Management Act of 1982  
7 (30 U.S.C. 1721), as amended by subsections (a) through  
8 (d), is amended by adding at the end the following:

9 “(l) The Secretary shall issue all determinations of  
10 allocations of production for units and communitization  
11 agreements within 120 days of a request for determina-  
12 tion. If the Secretary fails to issue a determination within  
13 such 120-day period, the Secretary shall waive interest  
14 due on obligations subject to the determination until the  
15 end of the month following the month in which the deter-  
16 mination is made.”.

17 (f) NEW ASSESSMENT TO ENCOURAGE PROPER ROY-  
18 ALTY PAYMENTS.—

19 (1) IN GENERAL.—The Federal Oil and Gas  
20 Royalty Management Act of 1982 (30 U.S.C. 1721),  
21 as amended by section 4(a), is further amended by  
22 adding at the end the following:

23 **“SEC. 116. ASSESSMENTS.**

24 “Beginning eighteen months after the date of enact-  
25 ment of this section, to encourage proper royalty payment

1 the Secretary or the delegated State shall impose assess-  
2 ments on a person who chronically submits erroneous re-  
3 ports under this Act. Assessments under this Act may only  
4 be issued as provided for in this section.”.

5 (2) CLERICAL AMENDMENT.—The table of con-  
6 tents in section 1 of such Act (30 U.S.C. 1701) is  
7 amended by adding after the item relating to section  
8 115 the following new item:

“Sec. 116. Assessments.”.

9 (g) LIABILITY FOR ROYALTY PAYMENTS.—Section  
10 102(a) of the Federal Oil and Gas Royalty Management  
11 Act of 1982 (30 U.S.C. 1712(a)) is amended to read as  
12 follows:

13 “(a) In order to increase receipts and achieve effec-  
14 tive collections of royalty and other payments, a lessee who  
15 is required to make any royalty or other payment under  
16 a lease or under the mineral leasing laws, shall make such  
17 payments in the time and manner as may be specified by  
18 the Secretary or the applicable delegated State. A lessee  
19 may designate a person to make all or part of the pay-  
20 ments due under a lease on the lessee’s behalf and shall  
21 notify the Secretary or the applicable delegated State in  
22 writing of such designation, in which event said designated  
23 person may, in its own name, pay, offset or credit monies,  
24 make adjustments, request and receive refunds and sub-  
25 mit reports with respect to payments required by the les-

1 see. Notwithstanding any other provision of this Act to  
2 the contrary, a designee shall not be liable for any pay-  
3 ment obligation under the lease. The person owning oper-  
4 ating rights in a lease shall be primarily liable for its pro  
5 rata share of payment obligations under the lease. If the  
6 person owning the legal record title in a lease is other than  
7 the operating rights owner, the person owning the legal  
8 record title shall be secondarily liable for its pro rata share  
9 of such payment obligations under the lease.”.

10 (h) CLERICAL AMENDMENTS.—(1) The heading of  
11 section 111 of the Federal Oil and Gas Royalty manage-  
12 ment Act of 1982 (30 U.S.C. 1721) is amended to read  
13 as follows:

14 “ROYALTY TERMS AND CONDITIONS, INTEREST, AND  
15 PENALTIES”.

16 (2) The item relating to section 111 in the table of  
17 contents in section 1 of such Act (30 U.S.C. 1701) is  
18 amended to read as follows:

“Sec. 111. Royalty terms and conditions, interest, and penalties.”.

19 **SEC. 7. ALTERNATIVES FOR MARGINAL PROPERTIES.**

20 (a) IN GENERAL.—The Federal Oil and Gas Royalty  
21 Management Act of 1982 (30 U.S.C. 1701 et seq.), as  
22 amended by section 6 of this Act, is further amended by  
23 adding at the end the following:

1   **“SEC. 117. ALTERNATIVES FOR MARGINAL PROPERTIES.**

2       “(a) DETERMINATION OF BEST INTERESTS OF  
3 STATE CONCERNED AND THE UNITED STATES.—The  
4 Secretary and the State concerned, acting in the best in-  
5 terests of the United States and the State concerned to  
6 promote production, reduce administrative costs, and in-  
7 crease net receipts to the United States and the States,  
8 shall jointly determine, on a case by case basis, the  
9 amount of what marginal production from a lease or leases  
10 or well or wells, or parts thereof, shall be subject to a pre-  
11 payment under subsection (b) or regulatory relief under  
12 subsection (c). If the State concerned does not consent,  
13 such prepayments or regulatory relief shall not be made  
14 available under this section for such marginal production:  
15 *Provided*, That if royalty payments from a lease or leases,  
16 or well or wells are not shared with any State, such deter-  
17 mination shall be made solely by the Secretary.

18       “(b) PREPAYMENT OF ROYALTY.—

19           “(1) IN GENERAL.—Notwithstanding the provi-  
20       sions of any lease to the contrary, for any lease or  
21       leases or well or wells identified by the Secretary  
22       and the State concerned pursuant to subsection (a),  
23       the Secretary is authorized to accept a prepayment  
24       for royalties in lieu of monthly royalty payments  
25       under the lease for the remainder of the lease term  
26       if the affected lessee so agrees. Any prepayment

1 agreed to by the Secretary, State concerned and les-  
2 see which is less than an average \$500 per month  
3 in total royalties shall be effectuated under this sec-  
4 tion not earlier than two years after the date of en-  
5 actment of this section and, any prepayment which  
6 is greater than an average \$500 per month in total  
7 royalties shall be effectuated under this section not  
8 earlier than three years after the date of enactment  
9 of this section. The Secretary and the State con-  
10 cerned may condition their acceptance of the prepay-  
11 ment authorized under this section on the lessee's  
12 agreeing to such terms and conditions as the Sec-  
13 retary and the State concerned deem appropriate  
14 and consistent with the purposes of this Act. Such  
15 terms may—

16                 “(A) provide for prepayment that does not  
17                 result in a loss of revenue to the United States  
18                 in present value terms;

19                 “(B) include provisions for receiving addi-  
20                 tional prepayments or royalties for develop-  
21                 ments in the lease or leases or well or wells that  
22                 deviate significantly from the assumptions and  
23                 facts on which the valuation is determined; and

24                 “(C) require the lessee or its designee to  
25                 provide such periodic production reports as may

1           be necessary to allow the Secretary and the  
2           State concerned to monitor production for the  
3           purposes of subparagraph (B).

4           “(2) STATE SHARE.—A prepayment under this  
5           section shall be shared by the Secretary with any  
6           State or other recipient to the same extent as any  
7           royalty payment for such lease.

8           “(3) SATISFACTION OF OBLIGATION.—Except  
9           as may be provided in the terms and conditions es-  
10           tablished by the Secretary under subsection (b), a  
11           lessee or its designee who makes a prepayment  
12           under this section shall have satisfied in full the les-  
13           see’s obligation to pay royalty on the production  
14           stream sold from the lease or leases or well or wells.

15           “(c) ALTERNATIVE ACCOUNTING AND AUDITING RE-  
16           QUIREMENTS.—Within one year after the date of the en-  
17           actment of this section, the Secretary or the delegated  
18           State shall provide accounting, reporting, and auditing re-  
19           lief that will encourage lessees to continue to produce and  
20           develop properties subject to subsection (a): *Provided*,  
21           That such relief will only be available to lessees in a State  
22           that concurs, which concurrence is not required if royalty  
23           payments from the lease or leases or well or wells are not  
24           shared with any State. Prior to granting such relief, the  
25           Secretary and, if appropriate, the State concerned shall

1 agree that the type of marginal wells and relief provided  
2 under this paragraph is in the best interest of the United  
3 States and, if appropriate, the State concerned.”.

4 (b) CLERICAL AMENDMENT.—The table of contents  
5 in section 1 of such Act (30 U.S.C. 1701) is amended by  
6 adding after the item relating to section 116 the following  
7 new item:

“Sec. 117. Alternatives for marginal properties.”.

8 **SEC. 8. APPLICABILITY.**

9 (a) FOGRMA.—With respect to Federal lands, sec-  
10 tions 202 and 307 of the Federal Oil and Gas Royalty  
11 Management Act of 1982 (30 U.S.C. 1732 and 1755), are  
12 no longer applicable. The applicability of those sections to  
13 Indian leases is not affected.

14 (b) OCSLA.—Effective on the date of the enactment  
15 of this Act, section 10 of the Outer Continental Shelf  
16 Lands Act (43 U.S.C. 1339) is repealed.

17 **SEC. 9. INDIAN LANDS.**

18 The amendments made by this Act shall not apply  
19 with respect to Indian lands, and the provisions of the  
20 Federal Oil and Gas Royalty Management Act of 1982  
21 as in effect on the day before the date of enactment of  
22 this Act shall continue to apply after such date with re-  
23 spect to Indian lands.

**1 SEC. 10. PRIVATE LANDS.**

2 This Act shall not apply to any privately owned min-  
3 erals.

**4 SEC. 11. EFFECTIVE DATE.**

5 Except as provided by section 115(h), section 111(h),  
6 section 111(k)(5), and section 117 of the Federal Oil and  
7 Gas Royalty Management Act of 1982 (as added by this  
8 Act), this Act, and the amendments made by this Act,  
9 shall apply with respect to the production of oil and gas  
10 after the first day of the month following the date of the  
11 enactment of this Act.

**12 SEC. 12. SAVINGS CLAUSE.**

13 Nothing in this Act shall be construed to give a State  
14 a property right or interest in any Federal lease or land.

Passed the House of Representatives July 16, 1996.

Attest:

ROBIN H. CARLE,

*Clerk.*