¶ 250.1480

determined, may be deducted from any sum owing to you by the United States.

(76 FR 38558, July 1, 2011)

CRIMINAL PENALTIES

¶ 250.1480 May the United States criminally prosecute me for violations under Federal oil and gas leases?

If you commit an act for which a civil penalty is provided at 30 U.S.C. 1719(d) and §250.1460(b), the United States may pursue criminal penalties as provided at 30 U.S.C. 1720, in addition to any authority for prosecution under other statutes.

(76 FR 38558, July 1, 2011)

BONDING REQUIREMENTS

¶ 250.1490 What standards must my BOEMRE-specified surety instrument meet?

(a) A BOEMRE-specified surety instrument must be in a form specified in BOEMRE instructions. BOEMRE will give you written information and standard forms for BOEMRE-specified surety instrument requirements.

(b) BOEMRE will use a bank-rating service to determine whether a financial institution has an acceptable rating to provide a surety instrument adequate to indemnify the lessor from loss or damage.

(1) Administrative appeal bonds must be issued by a qualified surety company which the Department of the Treasury has approved.

(2) Irrevocable letters of credit or certificates of deposit must be from a financial institution acceptable to BOEMRE with a minimum 1-year period of coverage subject to automatic renewal up to 5 years.

(76 FR 38558, July 1, 2011)

¶ 250.1491 How will BOEMRE determine the amount of my bond or other surety instrument?

(a) The BOEMRE bond-approving officer may approve your surety if he or she determines that the amount is adequate to guarantee payment. The amount of your surety may vary depending on the form of the surety and how long the surety is effective.

(1) The amount of the BOEMRE-specified surety instrument must include the principal amount owed under the Notice of Noncompliance or Notice of Civil Penalty plus any accrued interest we determine is owed plus projected interest for a 1-year period.

(2) Treasury book-entry bond or note amounts must be equal to at least 120 percent of the required surety amount.

(b) If your appeal is not decided within 1 year from the filing date, you must increase the surety amount to cover additional estimated interest for another 1-year period. You must continue to do this annually on the date your appeal was filed. We will determine the additional estimated interest and notify you of the amount so you can amend your surety instrument.

(c) You may submit a single surety instrument that covers multiple appeals. You may change the instrument to add new amounts under appeal or remove amounts that have been adjudicated in your favor or that you have paid if you:

(1) Amend the single surety instrument annually on the date you filed your first appeal; and

(2) Submit a separate surety instrument for new amounts under appeal until you amend the instrument to cover the new appeals.

(76 FR 38558, July 1, 2011)

FINANCIAL SOLVENCY REQUIREMENTS

¶ 250.1495 How do I demonstrate financial solvency?

(a) To demonstrate financial solvency under this part, you must submit an audited consolidated balance sheet, and, if requested by the BOEMRE bond-approving officer, up to 3 years of tax returns to BOEMRE using the U.S. Postal Service, private delivery, courier, or overnight delivery at:

(1) For Alaska OCS: Jeffrey Walker, RS/FO, BOEMRE Alaska OCS Region, 3801 Centerpoint Drive, Suite 500, Anchorage, AK 99503-5823, jeffrey.walker@boemre.gov, (907) 334-5300.

(2) For Gulf of Mexico and Atlantic OCS: Joshua Joyce, Regional FARM Program Coordinator, BOEMRE Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard New Orleans, LA 70123-
§ 250.1496 How will BOEMRE determine if I am financially solvent?

(a) The BOEMRE bond-approving officer will determine your financial solvency by examining your total net worth, including, as appropriate, the net worth of your affiliated entities.

(b) If your net worth, minus the amount we would require as surety under 30 CFR 250.1490 and 250.1491 for all orders you have appealed is greater than $300 million, you are presumptively deemed financially solvent, and we will not require you to post a bond or other surety instrument.

(c) If your net worth, minus the amount we would require as surety under 30 CFR 250.1490 and 250.1491 for all orders you have appealed is less than $300 million, you must submit the following to BOEMRE by one of the methods in §250.1495(a):

(1) A written request asking us to consult a business-information, or credit-reporting service or program to determine your financial solvency; and

(2) A nonrefundable $50 processing fee:

(i) You must pay the processing fee to us following the requirements for making payments found in 30 CFR 250.126. You are required to use Electronic Funds Transfer (EFT) for these payments;

(ii) You must submit the fee with your request under paragraph (c)(1) of this section, and then annually on the date we first determined that you demonstrated financial solvency, as long as you are not able to demonstrate financial solvency under paragraph (a) of this section and you have active appeals.

(d) If you request that we consult a business-information or credit-reporting service or program under paragraph (c) of this section:

(1) We will use criteria similar to that which a potential creditor would use to lend an amount equal to the bond or other surety instrument we would require under 30 CFR 250.1490 and 250.1491;

(2) For us to consider you financially solvent, the business-information or credit-reporting service or program must demonstrate your degree of risk as low to moderate:

(i) If our bond-approving officer determines that the business-information or credit-reporting service or program information demonstrates your financial solvency to our satisfaction, our bond-approving officer will not require you to post a bond or other surety instrument under 30 CFR 250.1490 and 250.1491;

(ii) If our bond-approving officer determines that the business-information or credit-reporting service or program information does not demonstrate your financial solvency to our satisfaction, our bond-approving officer will require you to post a bond or other surety instrument under 30 CFR 250.1490 and 250.1491 or pay the obligation.

§ 250.1497 When will BOEMRE monitor my financial solvency?

(a) If you are presumptively financially solvent under §250.1496(b), BOEMRE will determine your net worth as described under §§250.1496(b) and (c) to evaluate your financial solvency at least annually on the date we first determined that you demonstrated financial solvency as long as you have active appeals and each time you appeal a new order.