

105TH CONGRESS  
2D SESSION

# H. R. 3932

To assure that the public receives the full amount of royalties owed on oil production from Federal public lands and the Outer Continental Shelf.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 21, 1998

Mrs. MALONEY of New York (for herself, Mr. MILLER of California, Mr. MENENDEZ, Mr. VENTO, Mr. HINCHEY, Mr. GUTIERREZ, Mr. LUTHER, Mr. KLECZKA, Mr. SANDERS, and Mr. SCHUMER) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To assure that the public receives the full amount of royalties owed on oil production from Federal public lands and the Outer Continental Shelf.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Federal Oil Royalty  
5       Protection Act of 1998”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

8               (1) **INDEPENDENT PRODUCER.**—The term  
9       “independent producer” means a producer that to-

1        together with any of its affiliates produces 80 percent  
2        or more of its oil production domestically and that  
3        is not affiliated with a refinery.

4            (2) INTEGRATED PRODUCER.—The term “inte-  
5        grated producer” means a producer other than an  
6        independent producer.

7            (3) COMMODITY-BASED PRICE.—The term  
8        “commodity-based price” means the price obtained  
9        under contracts to buy or sell oil in a domestic fu-  
10       tures market.

11           (4) MARKER CRUDE PRICE.—The term “marker  
12        crude price” means the price obtained in a market  
13        for a specific crude oil, if that crude oil can be used  
14        as a standard for assessing the true value of other  
15        oil.

16           (5) AFFILIATE.—The term “affiliate” means a  
17        person that owns, is owned by, or is under common  
18        ownership with another person, and includes cor-  
19        porate subsidiaries, partnerships, joint ventures, and  
20        other forms of ownership.

21           (6) GROSS PROCEEDS.—The term “gross pro-  
22        ceeds”—

23                (A) means the total moneys, reimburse-  
24                ments, and other consideration accruing under  
25                a contract for the disposition of oil produced,

1 including all consideration received or paid by a  
 2 lessee for services that the lessee must perform  
 3 at no cost to the Federal Government or that  
 4 is otherwise normally performed by a producer;  
 5 and

6 (B) includes any payments made to reduce,  
 7 buy down, or buy out of a contract for the dis-  
 8 position of oil produced.

9 (7) TRANSPORTATION.—The term “transpor-  
 10 tation” means the movement of oil or gas from a  
 11 central accumulation or treatment point to a point  
 12 of sale or delivery.

13 (8) CONCERNED STATE.—The term “concerned  
 14 State” means any State that shares in the revenues  
 15 received under Federal onshore or Outer Continental  
 16 Shelf leases.

### 17 **SEC. 3. OIL VALUATION RULES.**

18 (a) SEPARATE RULES.—

19 (1) IN GENERAL.—Subject to the requirements  
 20 in this section, the Secretary may establish separate  
 21 rules to govern the calculation of the value for Fed-  
 22 eral royalty purposes of crude oil produced by inde-  
 23 pendent producers and integrated producers from  
 24 any Federal onshore or Outer Continental Shelf  
 25 lease.

1           (2) INTEGRATED PRODUCERS.—Any rule estab-  
2       lished under this subsection for integrated producers  
3       shall comply with the provisions of subsection (b).

4           (3) INDEPENDENT PRODUCERS: GROSS PRO-  
5       CEEDS.—(A) Any rule under this subsection for  
6       independent producers may allow payment of royalti-  
7       ties based on the total gross proceeds accruing to an  
8       independent producer or its affiliate under an arm's-  
9       length contract for a true sale of the crude oil.

10       (B) Rules under this subsection may allow any  
11       lessee, in valuing crude oil on the basis of its gross  
12       proceeds, to deduct its reasonable, necessary, and  
13       actual costs of transportation. No other deductions,  
14       allowances, or adjustments to a royalty payment  
15       may be made.

16       (C)(i) Rules under this subsection shall require  
17       that a lessee, in valuing crude oil on the basis of  
18       gross proceeds, shall certify annually to the Sec-  
19       retary that it will comply with its duty to market the  
20       production.

21       (ii) If the Secretary finds that any lessee has  
22       breached its duty to market the production, the les-  
23       see shall be liable for additional royalties as deter-  
24       mined under subsection (b) and for the total admin-

1        istrative and legal costs incurred by the Federal gov-  
2        ernment in investigating and prosecuting the breach.

3            (iii) Violations of the certification required  
4        under this subparagraph shall be subject to a pen-  
5        alty that shall be not less than an amount equal to  
6        the underpayment amount determined by the Sec-  
7        retary under paragraph (3)(C)(i).

8            (4) INDEPENDENT PRODUCERS: MARKET-BASED  
9        METHOD.—(A) Any rule established by the Secretary  
10      for independent producers that is not based on gross  
11      proceeds as provided in paragraph (3) or that will  
12      apply to crude oil sold or transferred under non-  
13      arm’s-length circumstances shall be based on an  
14      independent, market-based method. In promulgating  
15      such a rule, the Secretary shall consider application  
16      of a commodity-based price or marker crude price.

17            (B) Rules under this paragraph shall establish  
18      a single method for valuing crude oil, except that  
19      such rules—

20            (i) may apply a different method in dif-  
21      ferent geographic regions, if the Secretary finds  
22      that the use of a different method in a region  
23      is necessary to reflect the unique market char-  
24      acteristics of that region; and

1 (ii) may provide for any reasonable and  
2 necessary adjustments or deductions, subject to  
3 the limitations set forth in subsections  
4 (a)(3)(B) and (b)(3).

5 (b) SINGLE SET OF RULES.—

6 (1) IN GENERAL.—If the Secretary determines  
7 not to establish separate rules as authorized under  
8 subsection (a), the Secretary shall establish a single  
9 set of rules to govern the calculations referred to in  
10 subsection (a) that apply to both independent pro-  
11 ducers and integrated producers. Such rules shall  
12 use a method for determining the value of all crude  
13 oil that is based on a commodity-based price or a  
14 marker crude price.

15 (2) GEOGRAPHIC VARIATION.—Rules under this  
16 subsection may apply different commodity-based  
17 prices or marker crude prices in different geographic  
18 regions, if the Secretary finds that the application of  
19 a different price in a particular region is necessary  
20 to reflect the unique market characteristics of the  
21 region.

22 (3) OTHER VARIATION.—Rules under this sec-  
23 tion may provide for reasonable and necessary  
24 location- and quality-based adjustments to any com-  
25 modity-based price or marker crude price. No other

1       deductions, allowances, or adjustments to a royalty  
2       payment may be made.

3   **SEC. 4. ROYALTY RATE REDUCTIONS FOR STRIPPER AND**  
4       **HEAVY OIL.**

5       (a) IN GENERAL.—Except as otherwise provided in  
6 this section, all royalty rate reductions for stripper and  
7 heavy oil granted by the Secretary on or before the date  
8 of enactment of this Act for oil produced from any Federal  
9 onshore lease are canceled beginning on the first day of  
10 the first production month following the date of enactment  
11 of this Act. For all such oil produced in the first full  
12 month after the date of enactment of this Act, a lessee  
13 shall remit royalties at the rate established under its lease.

14       (b) INDEPENDENT PRODUCER LEASES.—

15               (1) EXISTING ROYALTY RATE REDUCTIONS.—

16       All royalty rate reductions for stripper and heavy oil  
17       granted by the Secretary on or before the date of en-  
18       actment of this Act and applicable to leases held or  
19       operated by independent producers shall remain in  
20       effect until the earlier of—

21                       (A) September 10, 1999, or

22                       (B) cancellation by the Secretary.

23               (2) NEW ROYALTY RATE REDUCTIONS.—After  
24       cancellation of a royalty rate reduction for a lease  
25       under paragraph (1), the Secretary may grant roy-

1 alty rate reductions for oil production under a lease,  
 2 except that such a rate reduction may be granted for  
 3 the lease only if—

4 (A) the Secretary makes the findings re-  
 5 quired under section 39 of the Mineral Leasing  
 6 Act of 1920 (30 U.S.C. 209) on a lease-by-lease  
 7 basis;

8 (B) the reduction is approved by the con-  
 9 cerned State; and

10 (C) the rate reduction is effective for a pe-  
 11 riod not greater than 3 years.

12 **SEC. 5. TRANSPORTATION CHARGE FOR OUTER CONTINEN-**  
 13 **TAL SHELF PRODUCTION.**

14 The rate to be charged to any lessee or operator of  
 15 a lease on the Outer Continental Shelf for transportation  
 16 of oil or gas produced under the lease on any pipeline from  
 17 the lease to an onshore sales or delivery point shall not  
 18 exceed the actual costs of transporting the oil on such  
 19 pipeline, as determined by the Secretary, plus a reasonable  
 20 rate of return not to exceed the prime rate.

21 **SEC. 6. REVIEW OF COMPLIANCE REGARDING PIPELINE**  
 22 **RIGHT-OF-WAY PERMITTEES.**

23 (a) REVIEW.—The Secretary shall promptly review  
 24 and determine the extent to which each holder of a right-  
 25 of-way or permit under section 28 of the Mineral Leasing



1 Act (30 U.S.C. 185), and each pipeline operator there-  
2 under, has complied with the requirements of the right-  
3 of-way or permit and that section in the construction, op-  
4 eration, and maintenance of pipelines under the right-of-  
5 way or permit.

6 (b) MATTERS TO BE REVIEWED.—In carrying out  
7 subsection (a), the Secretary shall determine, among other  
8 matters, whether the holder of a right-of-way or permit  
9 and each pipeline operator thereunder has complied with  
10 requirements regarding publication of tariffs, provision of  
11 access to unaffiliated shippers, maintenance of convenient  
12 facilities for unaffiliated shippers to deliver and take off  
13 oil or gas (as applicable), and charging of just and reason-  
14 able tariffs for unaffiliated shippers.

15 (c) REVOCATION OF RIGHT-OF-WAY OR PERMIT.—  
16 If the Secretary determines that a holder of a right-of-  
17 way or permit, or any pipeline operator thereunder, has  
18 failed to comply with any requirement referred to in sub-  
19 section (a), the Secretary shall revoke the right-of-way or  
20 permit.

21 **SEC. 7. REPEAL OF LIMITATION ON ISSUANCE OF RULES**  
22 **REGARDING VALUATION OF CRUDE OIL FOR**  
23 **ROYALTY PURPOSES.**

24 Section 3009 of the 1998 Supplemental Appropria-  
25 tions and Rescissions Act, relating to a limitation on use

- 1 of appropriations to issue a notice of final rulemaking with
- 2 respect to the valuation of crude oil for royalty purposes,
- 3 is repealed.

