

(Pub. L. 97-451, title I, §104(b), Jan. 12, 1983, 96 Stat. 2452.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 97-451, title I, §104(c), Jan. 12, 1983, 96 Stat. 2452, provided that: "The provisions of this section [enacting this section and amending section 191 of this title] shall apply with respect to payments received by the Secretary after October 1, 1983, unless the Secretary, by rule, prescribes an earlier effective date."

§ 1715. Explanation of payments

(a) Description, period, source, etc., of payments to States or Indians

When any payment (including amounts due from receipt of any royalty, bonus, interest charge, fine, or rental) is made by the United States to a State with respect to any oil or gas lease on Federal lands or is deposited in the appropriate Indian account on behalf of an Indian tribe or Indian allottee with respect to any oil and gas lease on Indian lands, there shall be provided, together with such payment, a description of the type of payment being made, the period covered by such payment, the source of such payment, production amounts, the royalty rate, unit value and such other information as may be agreed upon by the Secretary and the recipient State, Indian tribe, or Indian allottee.

(b) Effective date

This section shall take effect with respect to payments made after October 1, 1983, unless the Secretary, by rule, prescribes an earlier effective date.

(Pub. L. 97-451, title I, §105, Jan. 12, 1983, 96 Stat. 2452.)

§ 1716. Liabilities and bonding

A person (including any agent or employee of the United States and any independent contractor) authorized to collect, receive, account for, or otherwise handle any moneys payable to, or received by, the Department of the Interior which are derived from the sale, lease, or other disposal of any oil or gas shall be—

(1) liable to the United States for any losses caused by any intentional or reckless action or inaction of such individual with respect to such moneys; and

(2) in the case of an independent contractor, required as the Secretary deems necessary to maintain a bond commensurate with the amount of money for which such individual could be liable to the United States.

(Pub. L. 97-451, title I, §106, Jan. 12, 1983, 96 Stat. 2452.)

§ 1717. Hearings and investigations

(a) Authorization; affidavits, oaths, subpoenas, testimony, and payment of witnesses

In carrying out his duties under this chapter the Secretary may conduct any investigation or other inquiry necessary and appropriate and may conduct, after notice, any hearing or audit, necessary and appropriate to carrying out his duties under this chapter. In connection with

any such hearings, inquiry, investigation, or audit, the Secretary is also authorized where reasonably necessary—

(1) to require by special or general order, any person to submit in writing such affidavits and answers to questions as the Secretary may reasonably prescribe, which submission shall be made within such reasonable period and under oath or otherwise, as may be necessary;

(2) to administer oaths;

(3) to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, production and financial records, documents, matter, and materials, as the Secretary may request;

(4) to order testimony to be taken by deposition before any person who is designated by the Secretary and who has the power to administer oaths, and to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection; and

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) Refusal to obey subpoena

In case of refusal to obey a subpoena served upon any person under this section, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Attorney General at the request of the Secretary and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary. Any failure to obey such order of the court may be punished by such court as contempt thereof and subject to a penalty of up to \$10,000 a day.

(Pub. L. 97-451, title I, §107, Jan. 12, 1983, 96 Stat. 2452.)

§ 1718. Inspections

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

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

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

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

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

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

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

(Pub. L. 97-451, title I, § 108, Jan. 12, 1983, 96 Stat. 2453.)

§ 1719. Civil penalties

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

Any person who—

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

(2) fails to permit inspection authorized in section 1718 of this title or fails to notify the Secretary of any assignment under section 1712(a)(2)¹ of this title

shall be liable for a penalty of up to \$500 per violation for each day such violation continues, dating from the date of such notice or report. A penalty under this subsection may not be applied to any person who is otherwise liable for a violation of paragraph (1) if:

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

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

(b) Failure to take corrective action

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

¹ See References in Text note below.

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

Any person who—

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

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

(3) knowingly or willfully fails or refuses to comply with section 1712(b)(3) of this title,

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

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

Any person who—

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

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

(3) purchases, accepts, sells, transports, or conveys to another, any oil or gas knowing or having reason to know that such oil or gas was stolen or unlawfully removed or diverted,

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

(e) Hearing

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

(f) Deduction of penalty from sums owed by United States

The amount of any penalty under this section, as finally determined² may be deducted from any sums owing by the United States to the person charged.

(g) Compromise or reduction of penalties

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

(h) Notice

Notice under this³ 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) Reasons on record for amount of penalty

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

(j) Review

Any person who has requested a hearing in accordance with subsection (e) within the time the

² So in original. Probably should be followed by a comma.

³ So in original.