

(4) in the case of an Indian tribe, such tribe demonstrates that such information is essential to the conduct of an audit or investigation and waives sovereign immunity by express consent for wrongful disclosure by such tribe.

(b) Nonliability of United States for wrongful disclosure

The United States shall not be liable for the wrongful disclosure by any individual, State, or Indian tribe of any information provided to such individual, State, or Indian tribe pursuant to any cooperative agreement or a delegation, authorized by this chapter.

(c) Law governing disclosure

Whenever any individual, State, or Indian tribe has obtained possession of information pursuant to a cooperative agreement authorized by this section, or any individual or State has obtained possession of information pursuant to a delegation under section 1735 of this title, the individual shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to an officer or employee of the United States or of any department or agency thereof and the State or Indian tribe shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to the United States or any department or agency thereof. No State or State officer or employee who receives trade secrets, proprietary information, or other confidential information under this chapter may be required to disclose such information under State law.

(Pub. L. 97-451, title II, §203, Jan. 12, 1983, 96 Stat. 2458.)

§ 1734. State suits under Federal law

(a) Action for royalty, interest, or civil penalty; limitations; notice of suit; award of costs and fees

(1) A State may commence a civil action under this section against any person to recover any royalty, interest, or civil penalty which the State believes is due, based upon credible evidence, with respect to any oil and gas lease on Federal lands located within the State.

(2)(A) No action may be commenced under paragraph (1) prior to 90 days after the State has given notice in writing to the Secretary of the payment required. Such 90-day limitation may be waived by the Secretary on a case-by-case basis.

(B) If, within the 90-day period specified in subparagraph (A), the Secretary issues a demand for the payment concerned, no action may be commenced under paragraph (1) with respect to such payment during a 45-day period after issuance of such demand. If, during such 45-day period, the Secretary receives payment in full, no action may be commenced under paragraph (1).

(C) If the Secretary refers the case to the Attorney General of the United States within the 45-day period referred to in subparagraph (B) or within 10 business days after the expiration of such 45-day period, no action may be commenced under paragraph (1) if the Attorney General, within 45 days after the date of such refer-

ral, commences, and thereafter diligently prosecutes, a civil action in a court of the United States with respect to the payment concerned.

(3) The State shall notify the Secretary and the Attorney General of the United States of any suit filed by the State under this section.

(4) A court in issuing any final order in any action brought under paragraph (1) may award costs of litigation including reasonable attorney and expert witness fees, to any party in such action if the court determines such an award is appropriate.

(b) Venue; jurisdiction of district court

An action brought under subsection (a) of this section may be brought only in a United States district court for the judicial district in which the lease site or the leasing activity complained of is located. Such district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to require compliance or order payment in any such action.

(c) Recovery of civil penalty by State; deposit of rent, royalty, or interest recovery in Treasury of the United States

(1) Notwithstanding any other provision of law, any civil penalty recovered by a State under subsection (a) shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate.

(2) Any rent, royalty, or interest recovered by a State under subsection (a) shall be deposited in the Treasury of the United States in the same manner, and subject to the same requirements, as are applicable in the case of any rent, royalty, or interest collected by an officer or employee of the United States, except that such amounts shall be deposited in the Treasury not later than 10 days after receipt by the State.

(Pub. L. 97-451, title II, §204, Jan. 12, 1983, 96 Stat. 2458.)

§ 1735. Delegation of royalty collections and related activities

(a) Authorization of Secretary

Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this chapter to:

- (1) conduct inspections, audits, and investigations;
- (2) receive and process production and financial reports;
- (3) correct erroneous report data;
- (4) perform automated verification; and
- (5) issue demands, subpoenas, and orders to perform restructured accounting, for royalty management enforcement purposes,

to any State with respect to all Federal land within the State.

(b) Prerequisites

After notice and opportunity for a hearing, the Secretary is authorized to delegate such authorities and responsibilities granted under this section as the State has requested, if the Secretary finds that—

(1) it is likely that the State will provide adequate resources to achieve the purposes of this chapter;

(2) the State has demonstrated that it will effectively and faithfully administer the rules and regulations of the Secretary under this chapter in accordance with the requirements of subsections (c) and (d) of this section;

(3) such delegation will not create an unreasonable burden on any lessee;

(4) the State agrees to adopt standardized reporting procedures prescribed by the Secretary for royalty and production accounting purposes, unless the State and all affected parties (including the Secretary) otherwise agree;

(5) the State agrees to follow and adhere to regulations and guidelines issued by the Secretary pursuant to the mineral leasing laws regarding valuation of production; and

(6) where necessary for a State to have authority to carry out and enforce a delegated activity, the State agrees to enact such laws and promulgate such regulations as are consistent with relevant Federal laws and regulations

with respect to the Federal lands within the State.

(c) Ruling as to consistency of State's proposal

After notice and opportunity for hearing, the Secretary shall issue a ruling as to the consistency of a State's proposal with the provisions of this section and regulations under subsection (d) within 90 days after submission of such proposal. In any unfavorable ruling, the Secretary shall set forth the reasons therefor and state whether the Secretary will agree to delegate to the State if the State meets the conditions set forth in such ruling.

(d) Promulgation of standards and regulations with respect to delegation

After consultation with State authorities, the Secretary shall by rule promulgate, within 12 months after August 13, 1996, standards and regulations pertaining to the authorities and responsibilities to be delegated under subsection (a), including standards and regulations pertaining to—

- (1) audits to be performed;
- (2) records and accounts to be maintained;
- (3) reporting procedures to be required by States under this section;
- (4) receipt and processing of production and financial reports;
- (5) correction of erroneous report data;
- (6) performance of automated verification;
- (7) issuance of standards and guidelines in order to avoid duplication of effort;
- (8) transmission of report data to the Secretary; and
- (9) issuance of demands, subpoenas, and orders to perform restructured accounting, for royalty management enforcement purposes.

Such standards and regulations shall be designed to provide reasonable assurance that a uniform and effective royalty management system will prevail among the States. The records and accounts under paragraph (2) shall be sufficient to allow the Secretary to monitor the performance of any State under this section.

(e) Revocation; issuance of demand or order by Secretary

If, after notice and opportunity for a hearing, the Secretary finds that any State to which any authority or responsibility of the Secretary has been delegated under this section is in violation of any requirement of this section or any rule thereunder, or that an affirmative finding by the Secretary under subsection (b) can no longer be made, the Secretary may revoke such delegation. If, after providing written notice to a delegated State and a reasonable opportunity to take corrective action requested by the Secretary, the Secretary determines that the State has failed to issue a demand or order to a Federal lessee within the State, that such failure may result in an underpayment of an obligation due the United States by such lessee, and that such underpayment may be uncollected without Secretarial intervention, the Secretary may issue such demand or order in accordance with the provisions of this chapter prior to or absent the withdrawal of delegated authority.

(f) Compensation to State for costs of delegation; allocation of costs

Subject to appropriations, the Secretary shall compensate any State for those costs which may be necessary to carry out the delegated activities under this Section.¹ Payment shall be made no less than every quarter during the fiscal year. Compensation to a State may not exceed the Secretary's reasonably anticipated expenditure for performance of such delegated activities by the Secretary. Such costs shall be allocable for the purposes of section 191(b) of this title to the administration and enforcement of laws providing for the leasing of any onshore lands or interests in land owned by the United States. Any further allocation of costs under section 191(b) of this title made by the Secretary for oil and gas activities, other than those costs to compensate States for delegated activities under this chapter, shall be only those costs associated with onshore oil and gas activities and may not include any duplication of costs allocated pursuant to the previous sentence. Nothing in this section affects the Secretary's authority to make allocations under section 191(b) of this title for non-oil and gas mineral activities. All moneys received from sales, bonuses, rentals, royalties, assessments and interest, including money claimed to be due and owing pursuant to a delegation under this section, shall be payable and paid to the Treasury of the United States.

(g) Judicial review

Any action of the Secretary to approve or disapprove a proposal submitted by a State under this section shall be subject to judicial review in the United States district court which includes the capital of the State submitting the proposal.

(h) Existing delegation

Any State operating pursuant to a delegation existing on August 13, 1996, may continue to operate under the terms and conditions of the delegation, except to the extent that a revision of the existing agreement is adopted pursuant to this section.

¹ So in original. Probably should not be capitalized.

(Pub. L. 97-451, title II, §205, Jan. 12, 1983, 96 Stat. 2459; Pub. L. 104-185, §3(a), Aug. 13, 1996, 110 Stat. 1702.)

Editorial Notes

CODIFICATION

August 13, 1996, referred to in subsec. (d), was in the original “the date of enactment of this section”, which was translated as meaning the date of enactment of Pub. L. 104-185, which amended this section generally, to reflect the probable intent of Congress.

August 13, 1996, referred to in subsec. (h), was in the original “the date of enactment of this Act”, which was translated as meaning the date of enactment of Pub. L. 104-185, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

1996—Pub. L. 104-185 amended section generally, substituting present provisions for provisions which stated in subsec. (a), authorization of Secretary to delegate to States except permission of Indian tribe required with respect to Indian lands; subsec. (b), prerequisites; subsec. (c), promulgation of regulations defining joint functions; subsec. (d), promulgation of standards and regulations with respect to delegation; subsec. (e), revocation; and subsec. (f), compensation to State for costs of delegation.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-185 applicable with respect to production of oil and gas after the first day of the month following Aug. 13, 1996, see section 11 of Pub. L. 104-185, set out as a note under section 1701 of this title.

APPLICABILITY OF 1996 AMENDMENT

Amendment by Pub. L. 104-185 not applicable to any privately owned minerals or with respect to Indian lands, see sections 9 and 10 of Pub. L. 104-185, set out as a note under section 1701 of this title.

§ 1736. Shared civil penalties

An amount equal to 50 per centum of any civil penalty collected by the Federal Government under this chapter resulting from activities conducted by a State or Indian tribe pursuant to a cooperative agreement under section 1732 of this title or a State under a delegation under section 1735 of this title, shall be payable to such State or tribe. Any payments under this section shall be reduced by an amount equal to any payments provided or due to such State or Indian tribe under the cooperative agreement or delegation, as applicable, during the fiscal year in which the civil penalty is received, up to the total amount provided or due for that fiscal year.

(Pub. L. 97-451, title II, §206, Jan. 12, 1983, 96 Stat. 2460; Pub. L. 113-76, div. G, title I, §121, Jan. 17, 2014, 128 Stat. 314.)

Editorial Notes

AMENDMENTS

2014—Pub. L. 113-76 substituted “Any payments under this section shall be reduced by an amount equal to any payments provided or due to such State or Indian tribe under the cooperative agreement or delegation, as applicable, during the fiscal year in which the civil penalty is received, up to the total amount provided or due for that fiscal year.” for “Such amount shall be de-

ducted from any compensation due such State or Indian tribe under section 1732 of this title or such State under section 1735 of this title.”

SUBCHAPTER III—GENERAL PROVISIONS

§ 1751. Secretarial authority

(a) Prescription of rules and regulations

The Secretary shall prescribe such rules and regulations as he deems reasonably necessary to carry out this chapter.

(b) Conformity with rulemaking provisions

Rules and regulations issued to implement this chapter shall be issued in conformity with section 553 of title 5, notwithstanding section 553(a)(2) of that title.

(c) Contracts with non-Federal Government inspectors, auditors, etc.; coordination of auditing and enforcement functions

In addition to entering into cooperative agreements or delegation of authority authorized under this chapter, the Secretary may contract with such non-Federal Government inspectors, auditors, and other persons as he deems necessary to aid in carrying out his functions under this chapter and its implementation. With respect to his auditing and enforcement functions under this chapter, the Secretary shall coordinate such functions so as to avoid to the maximum extent practicable, subjecting lessees, operators, or other persons to audits or investigations of the same subject matter by more than one auditing or investigating entity at the same time.

(Pub. L. 97-451, title III, §301, Jan. 12, 1983, 96 Stat. 2460.)

§ 1752. Reports

The Secretary shall submit to the Congress an annual report on the implementation of this chapter. The information to be included in the report and the format of the report shall be developed by the Secretary after consulting with the Committees on Natural Resources of the House of Representatives and on Energy and Natural Resources of the Senate. The Secretary shall also report on the progress of the Department in reconciling account balances.

(Pub. L. 97-451, title III, §302, Jan. 12, 1983, 96 Stat. 2461; Pub. L. 103-437, §11(a)(2), Nov. 2, 1994, 108 Stat. 4589; Pub. L. 105-362, title IX, §901(j)(1), Nov. 10, 1998, 112 Stat. 3290.)

Editorial Notes

AMENDMENTS

1998—Pub. L. 105-362 struck out subsec. (a) designation and struck out subsec. (b) which read as follows: “Commencing with fiscal year 1984, the Inspector General of the Department of the Interior shall conduct a biennial audit of the Federal royalty management system. The Inspector General shall submit the results of such audit to the Secretary and to the Congress.”

1994—Subsec. (a). Pub. L. 103-437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committees on”.

Statutory Notes and Related Subsidiaries

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual,