

tence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

**(e) Agreement with State to waive defenses and hold United States harmless from failure to maintain confidentiality of information**

Prior to transmitting any privileged information to any State, or granting such State access to such information, the Secretary shall enter into a written agreement with the Governor of such State in which such State agrees, as a condition precedent to receiving or being granted access to such information, to waive the defenses set forth in subsection (f)(2) of this section, and to hold the United States harmless from any violations of the regulations prescribed pursuant to subsection (c) that the State or its employees may commit.

**(f) Civil action against United States or State for failure to maintain confidentiality of information; certain defenses unavailable**

(1) Whenever any employee of the Federal Government or of any State reveals information in violation of the regulations prescribed pursuant to subsection (c) of this section, the lessee or permittee who supplied such information to the Secretary or to any other Federal official, and any person to whom such lessee or permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be.

(2) In any action commenced against the Federal Government or a State pursuant to paragraph (1) of this subsection, the Federal Government or such State, as the case may be, may not raise as a defense (A) any claim of sovereign immunity, or (B) any claim that the employee who revealed the privileged information which is the basis of such suit was acting outside the scope of his employment in revealing such information.

**(g) Preemption of State law by Federal law**

Any provision of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this subchapter is expressly preempted by the provisions of this section, to the extent that it applies to such information.

**(h) Failure by State to comply with regulations; withholding of information**

If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

(Aug. 7, 1953, ch. 345, §26, as added Pub. L. 95-372, title II, §208, Sept. 18, 1978, 92 Stat. 664.)

**Statutory Notes and Related Subsidiaries**

**PAYMENT OF PROCESSING COSTS FOR DATA AND INFORMATION ACQUIRED; PERMITTEES ELIGIBLE**

Pub. L. 99-349, title I, July 2, 1986, 100 Stat. 732, provided that: "Notwithstanding any other provision of law, for data and information acquired in fiscal year 1986 or thereafter, by the Secretary, pursuant to section 1352(a)(1)(C)(iii) of title 43, United States Code, payment shall be made for processing costs to permittees with permits issued on or before September 30, 1985."

**PAYMENT OF COSTS OF REPRODUCING DATA AND INFORMATION PROVIDED TO SECRETARY**

Pub. L. 99-190, §101(d) [title I, §100], Dec. 19, 1985, 99 Stat. 1224, 1232, provided: "That notwithstanding any other provision of law, when in fiscal year 1986 and thereafter any permittee provides data and information to the Secretary pursuant to section 1352(a)(1)(C)(iii) of title 43, United States Code, the Secretary shall pay only the reasonable cost of reproducing such data and information."

**§ 1353. Federal purchase and disposition of oil and gas**

**(a) Payment of royalties or net profit shares in oil and gas; purchase of oil and gas by United States; transfer of title to Federal agencies**

(1) Except as may be necessary to comply with the provisions of sections 1335 and 1336 of this title, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease issued or maintained in accordance with this subchapter, shall, on demand of the Secretary, be paid in oil or gas.

(2) The United States shall have the right to purchase not to exceed 16% per centum by volume of the oil and gas produced pursuant to a lease issued or maintained in accordance with this subchapter, at the regulated price, or, if no regulated price applies, at the fair market value at the well head of the oil and gas saved, removed, or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Secretary of Energy, for disposal within the Federal Government.

**(b) Sale of oil by United States to public; disposition of oil to small refiners; application of other laws**

(1) The Secretary, except as provided in this subsection, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value, any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

(2) Whenever, after consultation with the Secretary of Energy, the Secretary determines that

small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this subchapter, or purchased by the United States pursuant to subsection (a)(2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any allocation or lottery sale to assure such access and shall publish notice of such allocation or sale, and the terms thereof, at least thirty days in advance. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.

(3) The Secretary may only sell or otherwise dispose of oil described in paragraph (1) of this subsection in accordance with any provision of law, or regulations issued in accordance with such provisions, which provide for the Secretary of Energy to allocate, transfer, exchange, or sell oil in amounts or at prices determined by such provision of law or regulations.

**(c) Sale of gas by United States to public**

(1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may<sup>1</sup> offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

(2) Whenever, after consultation with and advice from the Secretary of Energy, the Federal Energy Regulatory Commission determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this section, the Secretary of the Interior may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocation or lottery sale of such gas to any person servicing such region, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to selling or allocating any gas pursuant to this subsection, the Secretary shall consult with the Federal Energy Regulatory Commission.

**(d) Purchase by lessee of Federal oil or gas for which no bids received**

The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a)(3) of this section, and shall pay to the United States a cash amount equal to the regulated price, or, if no

regulated price applies, the fair market value of the oil or gas so obtained.

**(e) Definitions**

As used in this section—

(1) the term “regulated price” means the highest price—

(A) at which oil may<sup>1</sup> be sold pursuant to the Emergency Petroleum Allocation Act of 1973<sup>2</sup> [15 U.S.C. 751 et seq.] and any rule or order issued under such Act;

(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act [15 U.S.C. 717 et seq.], any other Act, regulations governing natural gas pricing, or any rule or order issued under any such Act or any such regulations; or

(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas; and

(2) the term “small refiner” has the meaning given such term by Small Business Administration Standards 128.3-8(d) and (g), as in effect on September 18, 1978, or as there-after revised or amended.

**(f) Purchase of oil and gas in time of war**

Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf as provided by section 1341(b) of this title.

(Aug. 7, 1953, ch. 345, §27, as added Pub. L. 95-372, title II, §208, Sept. 18, 1978, 92 Stat. 666.)

**Editorial Notes**

REFERENCES IN TEXT

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (e)(1)(A), is Pub. L. 93-159, Nov. 27, 1973, 87 Stat. 628, which was classified generally to chapter 16A (§751 et seq.) of Title 15, Commerce and Trade, and was omitted from the Code pursuant to section 760g of Title 15, which provided for the expiration of the President's authority under that chapter on Sept. 30, 1981.

The Natural Gas Act, referred to in subsec. (e)(1)(B), is act June 21, 1938, ch. 556, 52 Stat. 821, which is classified generally to chapter 15B (§717 et seq.) of Title 15. For complete classification of that Act to the Code, see section 717w of Title 15 and Tables.

**Statutory Notes and Related Subsidiaries**

TRANSFER OF FUNCTIONS

Functions vested in Secretary of Energy and Department of Energy under or with respect to subsec. (b)(2), (3) of this section, transferred to, and vested in, Secretary of the Interior, by section 100 of Pub. L. 97-257, 96 Stat. 841, set out as a note under section 7152 of Title 42, The Public Health and Welfare.

**§ 1354. Limitations on export of oil or gas**

**(a) Application of Export Administration provisions**

Except as provided in subsection (d) of this section, any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969.

<sup>1</sup> So in original. Probably should be “may”.

<sup>2</sup> See References in Text note below.