

Calendar No. 394

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 1014**

[Report No. 104-260]

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## **A BILL**

To improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

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MAY 9, 1996

Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

JUNE 30 (legislative day, JUNE 19), 1995

Mr. NICKLES (for himself, Mr. MURKOWSKI, and Mr. DOMENICI) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

MAY 9, 1996

Reported by Mr. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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**A BILL**

To improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Federal Oil and Gas Royalty Simplification and Fairness  
4 Act of 1995”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for  
6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Limitation periods.
- Sec. 4. Overpayments; offsets and refunds.
- Sec. 5. Required recordkeeping.
- Sec. 6. Royalty interest, penalties, and payments.
- Sec. 7. Limitation on assessments.
- Sec. 8. Cost-effective audit and collection requirements.
- Sec. 9. Elimination of notice requirement.
- Sec. 10. Royalty in kind.
- Sec. 11. Time and manner of royalty payment.
- Sec. 12. Repeals.
- Sec. 13. Indian lands.
- Sec. 14. Effective date.

7 **SEC. 2. DEFINITIONS.**

8 Section 3 of the Federal Oil and Gas Royalty Man-  
9 agement Act of 1982 (30 U.S.C. 1701 et seq.) is amended  
10 as follows:

11 (1) In paragraph (5), by inserting “(including  
12 any unit agreement and communitization agree-  
13 ment)” after “agreement”.

14 (2) By amending paragraph (7) to read as fol-  
15 lows:

16 “(7) ‘lessee’ means any person to whom the  
17 United States issues a lease.”.

18 (3) By striking “and” at the end of paragraph  
19 (15), by striking the period at the end of paragraph

1 (16) and inserting a semicolon, and by adding at the  
2 end the following:

3 “(17) ‘administrative proceeding’ means any  
4 agency process for rulemaking, adjudication or li-  
5 censing, as defined in and governed by chapter 5 of  
6 title 5, United States Code (relating to administra-  
7 tive procedures);

8 “(18) ‘assessment’ means any fee or charge lev-  
9 ied or imposed by the Secretary or the United States  
10 other than—

11 “(A) the principal amount of any royalty,  
12 minimum royalty, rental, bonus, net profit  
13 share or proceed of sale;

14 “(B) any interest; and

15 “(C) any civil or criminal penalty;

16 “(19) ‘commence’ means—

17 “(A) with respect to a judicial proceeding,  
18 the service of a complaint, petition, counter-  
19 claim, cross-claim, or other pleading seeking af-  
20 firmative relief or seeking offset or recoupment;

21 “(B) with respect to an administrative pro-  
22 ceeding—

23 “(i) the receipt by a lessee of an order  
24 to pay issued by the Secretary; or

1           “(ii) the receipt by the Secretary of a  
 2           written request or demand by a lessee, or  
 3           any person acting on behalf of a lessee  
 4           which asserts an obligation due the lessee;

5           “(20) ‘credit’ means the method by which an  
 6           overpayment is utilized to discharge, cancel, reduce  
 7           or offset an obligation in whole or in part;

8           “(21) ‘obligation’ means a duty of the Sec-  
 9           retary, the United States, or a lessee—

10           “(A) to deliver or take oil or gas in kind;  
 11           or

12           “(B) to pay, refund, credit or offset mon-  
 13           ies, including (but not limited to) a duty to cal-  
 14           culate, determine, report, pay, refund, credit or  
 15           offset—

16           “(i) the principal amount of any roy-  
 17           alty, minimum royalty, rental, bonus, net  
 18           profit share or proceed of sale;

19           “(ii) any interest;

20           “(iii) any penalty; or

21           “(iv) any assessment,

22           which arises from or relates to any lease admin-  
 23           istered by the Secretary for, or any mineral  
 24           leasing law related to, the exploration, produc-

1           tion and development of oil or gas on Federal  
2           lands or the Outer Continental Shelf;

3           “(22) ‘offset’ means the act of applying an  
4           overpayment (in whole or in part) against an obliga-  
5           tion which has become due to discharge, cancel or  
6           reduce the obligation;

7           “(23) ‘order to pay’ means a written order is-  
8           sued by the Secretary or the United States which—

9                   “(A) asserts a definite and quantified obli-  
10                  gation due the Secretary or the United States;  
11                  and

12                   “(B) specifically identifies the obligation by  
13                  lease, production month and amount of such  
14                  obligation ordered to be paid, as well as the rea-  
15                  son or reasons such obligation is claimed to be  
16                  due;

17           but such term does not include any other commu-  
18           nication by or on behalf of the Secretary or the  
19           United States;

20           “(24) ‘overpayment’ means any payment (in-  
21           cluding any estimated royalty payment) by a lessee  
22           or by any person acting on behalf of a lessee in ex-  
23           cess of an amount legally required to be paid on an  
24           obligation;

1           “(25) ‘payment’ means satisfaction, in whole or  
2           in part, of an obligation due the Secretary or the  
3           United States;

4           “(26) ‘penalty’ means a statutorily authorized  
5           civil fine levied or imposed by the Secretary or the  
6           United States for a violation of this Act, a mineral  
7           leasing law, or a term or provision of a lease admin-  
8           istered by the Secretary;

9           “(27) ‘refund’ means the return of an overpay-  
10          ment by the Secretary or the United States by the  
11          drawing of funds from the United States Treasury;

12          “(28) ‘underpayment’ means any payment by a  
13          lessee or person acting on behalf of a lessee that is  
14          less than the amount legally required to be paid on  
15          an obligation; and

16          “(29) ‘United States’ means—

17                 “(A) the United States Government and  
18                 any department, agency, or instrumentality  
19                 thereof; and

20                 “(B) when such term is used in a geo-  
21                 graphic sense, includes the several States, the  
22                 District of Columbia, Puerto Rico, and the ter-  
23                 ritories and possessions of the United States.”.

1 **SEC. 3. LIMITATION PERIODS.**

2 (a) IN GENERAL.—The Federal Oil and Gas Royalty  
3 Management Act of 1982 (30 U.S.C. 1701 et seq.) is  
4 amended by adding after section 114 the following new  
5 section:

6 **“SEC. 115. LIMITATION PERIODS.**

7 “(a) IN GENERAL.—

8 “(1) SIX-YEAR PERIOD.—A judicial or adminis-  
9 trative proceeding which arises from, or relates to,  
10 an obligation may not be commenced unless such  
11 proceeding is commenced within 6 years from the  
12 date on which such obligation becomes due.

13 “(2) LIMIT ON TOLLING OF LIMITATION PE-  
14 RIOD.—The running of the limitation period under  
15 paragraph (1) shall not be suspended or tolled by  
16 any action of the United States or an officer or  
17 agency thereof other than the commencement of a  
18 judicial or administrative proceeding under para-  
19 graph (1) or an agreement under paragraph (3).

20 “(3) FRAUD OR CONCEALMENT.—For the pur-  
21 pose of computing the limitation period under para-  
22 graph (1), there shall be excluded therefrom any pe-  
23 riod during which there has been fraud or conceal-  
24 ment by a lessee in an attempt to defeat or evade  
25 payment of any such obligation.

1           “(4) REASONABLE PERIOD FOR PROVIDING IN-  
 2           FORMATION.—In seeking information on which to  
 3           base an order to pay, the Secretary shall afford the  
 4           lessee or person acting on behalf of the lessee a rea-  
 5           sonable period in which to provide such information  
 6           before the end of the period under paragraph (1).

7           “(b) FINAL AGENCY ACTION.—The Director of the  
 8           Minerals Management Service shall issue a final Director’s  
 9           decision in any administrative proceeding before the Direc-  
 10          tor within one year from the date such proceeding was  
 11          commenced. The Secretary shall issue a final agency deci-  
 12          sion in any administrative proceeding within 3 years from  
 13          the date such proceeding was commenced. If no such deci-  
 14          sion has been issued by the Director or Secretary within  
 15          the prescribed time periods referred to above:

16           “(1) the Director’s or Secretary’s decision, as  
 17           the case may be, shall be deemed issued and granted  
 18           in favor of the lessee or lessees as to any nonmone-  
 19           tary obligation and any obligation the principal  
 20           amount of which is less than \$2,500; and

21           “(2) in the case of a monetary obligation the  
 22           principal amount of which is \$2,500 or more, the  
 23           Director’s or Secretary’s decision, as the case may  
 24           be, shall be deemed issued and final, and the lessee

1 shall have a right of de novo judicial review and ap-  
2 peal of such final agency action.

3 “(e) TOLLING BY AGREEMENT.—Prior to the expira-  
4 tion of any period of limitation under subsections (a) or  
5 (e), the Secretary and a lessee may consent in writing to  
6 extend such period as it relates to any obligation under  
7 the mineral leasing laws. The period so agreed upon may  
8 be extended by subsequent agreement or agreements in  
9 writing made before the expiration of the period previously  
10 agreed upon.

11 “(d) LIMITATION ON CERTAIN ACTIONS BY THE  
12 UNITED STATES.—When an action on or enforcement of  
13 an obligation under the mineral leasing laws is barred  
14 under subsection (a) or (b), the United States or an officer  
15 or agency thereof may not take any other or further action  
16 regarding that obligation including (but not limited to) the  
17 issuance of any order, request, demand or other commu-  
18 nication seeking any document, accounting, determination,  
19 calculation, recalculation, principal, interest, assessment,  
20 penalty or the initiation, pursuit or completion of an audit.

21 “(e) OBLIGATION BECOMES DUE.—

22 “(1) IN GENERAL.—For purposes of subsection  
23 (a), an obligation becomes due when the right to en-  
24 force the obligation is fixed.

1           ~~“(2) SPECIAL RULE REGARDING ROYALTY OBLI-~~  
2           ~~GATION.—The right to enforce any royalty obligation~~  
3           ~~is fixed for the purposes of this Act on the last day~~  
4           ~~of the calendar month following the month in which~~  
5           ~~oil or gas is produced, except that with respect to~~  
6           ~~any such royalty obligation which is altered by a ret-~~  
7           ~~roactive redetermination of working interest owner-~~  
8           ~~ship pursuant to a unit or communitization agree-~~  
9           ~~ment, the right to enforce such royalty obligation in~~  
10          ~~such amended unit or communitization agreement is~~  
11          ~~fixed for the purposes of this Act on the last day of~~  
12          ~~the calendar month in which such redetermination is~~  
13          ~~made. The Secretary shall issue any such redeter-~~  
14          ~~mination within 180 days of receipt of a request for~~  
15          ~~redetermination.~~

16          ~~“(f) JUDICIAL REVIEW OF ADMINISTRATIVE PRO-~~  
17          ~~CEEDINGS.—In the event an administrative proceeding~~  
18          ~~subject to subsection (a) is timely commenced and there-~~  
19          ~~after the limitation period in subsection (a) lapses during~~  
20          ~~the pendency of the administrative proceeding, no party~~  
21          ~~to such administrative proceeding shall be barred by this~~  
22          ~~section from commencing a judicial proceeding challenging~~  
23          ~~the final agency action in such administrative proceeding~~  
24          ~~so long as such judicial proceeding is commenced within~~  
25          ~~90 days from receipt of notice of the final agency action.~~

1       “(g) IMPLEMENTATION OF FINAL DECISION.—In the  
2 event a judicial or administrative proceeding subject to  
3 subsection (a) is timely commenced and thereafter the lim-  
4 itation period in subsection (a) lapses during the pendency  
5 of such proceeding, any party to such proceeding shall not  
6 be barred from taking such action as is required or nec-  
7 essary to implement the final unappealable judicial or ad-  
8 ministrative decision, including any action required or nec-  
9 essary to implement such decision by the recovery or  
10 recoupment of an underpayment or overpayment by means  
11 of refund, credit or offset.

12       “(h) STAY OF PAYMENT OBLIGATION PENDING RE-  
13 VIEW.—Any party ordered by the Secretary or the United  
14 States to pay any obligation (including any interest, as-  
15 sessment or penalty) shall be entitled to a stay of such  
16 payment without bond or other surety pending administra-  
17 tive or judicial review unless the Secretary demonstrates  
18 that such party is or may become financially insolvent or  
19 otherwise unable to pay the obligation, in which case the  
20 Secretary may require a bond or other surety satisfactory  
21 to cover the obligation.

22       “(i) INAPPLICABILITY OF THE OTHER STATUTES OF  
23 LIMITATION.—The limitations set forth in sections 2401,  
24 2415, 2416, and 2462 of title 28, United States Code,  
25 section 42 of the Mineral Leasing Act (30 U.S.C. 226-

1 2); and section 3716 of title 31, United States Code, shall  
 2 not apply to any obligation to which this Act applies.”.

3 (b) ~~CLERICAL AMENDMENT.~~—The table of contents  
 4 in section 1 of such Act (30 U.S.C. 1701) is amended by  
 5 adding after the item relating to section 114 the following  
 6 new item:

“Sec. 115. Limitation period.”.

7 **SEC. 4. OVERPAYMENTS: OFFSETS AND REFUNDS.**

8 (a) ~~IN GENERAL.~~—The Federal Oil and Gas Royalty  
 9 Management Act of 1982 (30 U.S.C. 1701 et seq.) is  
 10 amended by adding after section 111 the following new  
 11 section:

12 **“SEC. 111A. OVERPAYMENTS: OFFSETS AND REFUNDS.**

13 “(a) ~~OFFSETS.~~—

14 “(1) ~~MANNER.~~—For each reporting month, a  
 15 lessee or person acting on behalf of a lessee shall  
 16 offset all underpayments and overpayments made for  
 17 that reporting month for all leases within the same  
 18 royalty distribution category established under per-  
 19 manent indefinite appropriations.

20 “(2) ~~OFFSET AGAINST OBLIGATIONS.~~—The net  
 21 overpayment resulting within each category from the  
 22 offsetting described in paragraph (1) may be offset  
 23 and credited against any obligation for current or  
 24 subsequent reporting months which have become due

1 on leases within the same royalty distribution cat-  
2 egory.

3 “(3) ~~PRIOR APPROVAL NOT REQUIRED.~~—The  
4 offsetting or crediting of any overpayment, in whole  
5 or part, shall not require the prior request to or ap-  
6 proval by the Secretary.

7 “(4) ~~EXCLUSION OF CERTAIN UNDER- AND~~  
8 ~~OVERPAYMENTS.~~—Any underpayment or overpay-  
9 ment upon which an order has been issued which is  
10 subject to appeal shall be excluded from the offset-  
11 ting provisions of this section.

12 “(b) ~~REFUNDS.~~—

13 “(1) ~~IN GENERAL.~~—A refund request may be  
14 made to the Secretary not before one-year after the  
15 subject reporting month. After such one-year period  
16 and when a lessee or a person acting on behalf of  
17 a lessee has made a net overpayment to the Sec-  
18 retary or the United States and has offset or cred-  
19 ited in accordance with subsection (a), the Secretary  
20 shall, upon request, refund to such lessee or person  
21 the net overpayment, with accumulated interest  
22 thereon determined in accordance with section 111.  
23 If for any reason, a lessee or person acting on behalf  
24 of a lessee is no longer accruing obligations on any  
25 lease within a category, then such lessee or person

1 may immediately file a request for a refund of any  
2 net overpayment and accumulated interest.

3 ~~“(2) REQUEST.—~~The request for refund is suf-  
4 ficient if it—

5 ~~“(A) is made in writing to the Secretary;~~

6 ~~“(B) identifies the person entitled to such~~  
7 ~~refund; and~~

8 ~~“(C) provides the Secretary information~~  
9 ~~that reasonably enables the Secretary to iden-~~  
10 ~~tify the overpayment for which such refund is~~  
11 ~~sought.~~

12 ~~“(3) TREATMENT AS WRITTEN REQUEST OR~~  
13 ~~DEMAND.—~~Service of a request for refund shall be  
14 a ‘written request or demand’ sufficient to com-  
15 mence an administrative proceeding.

16 ~~“(4) PAYMENT BY SECRETARY OF THE TREAS-~~  
17 ~~URY.—~~The Secretary shall certify the amount of the  
18 refund to be paid under paragraph (1) to the Sec-  
19 retary of the Treasury who is authorized and di-  
20 rected to make such refund.

21 ~~“(5) PAYMENT PERIOD.—~~A refund under this  
22 subsection shall be paid within 90 days of the date  
23 on which the request for refund was received by the  
24 Secretary.

25 ~~“(e) LIMITATION ON OFFSETS AND REFUNDS.—~~

1           “(1) LIMITATION PERIOD FOR OFFSETS AND  
2 REFUNDS.—Except as provided by paragraph (2), a  
3 lessee or person acting on behalf of a lessee may not  
4 offset or receive a refund of any overpayment which  
5 arises from or relates to an obligation unless such  
6 offset or refund request is initiated within six years  
7 from the date on which the obligation which is the  
8 subject of the overpayment became due.

9           “(2) EXCEPTION.—(A) For any overpayment  
10 the recoupment of which (in whole or in part) by off-  
11 set or refund, or both, may occur beyond the six-  
12 year limitation period provided in paragraph (1),  
13 where the issue of whether an overpayment occurred  
14 has not been finally determined, or where  
15 recoupment of the overpayment has not been accom-  
16 plished within said six-year period, the lessee or per-  
17 son acting on behalf of a lessee may preserve its  
18 right to recover or recoup the overpayment beyond  
19 the limitation period by filing a written notice of the  
20 overpayment with the Secretary within the six-year  
21 period.

22           “(B) Notice under subparagraph (A) shall be  
23 sufficient if it—

24                   “(i) identifies the person who made such  
25 overpayment;

1           “(ii) asserts the obligation due the lessee  
2           or person; and

3           “(iii) identifies the obligation by lease, pro-  
4           duction month and amount, as well as the rea-  
5           son or reasons such overpayment is due.

6           “(d) PROHIBITION AGAINST REDUCTION OF RE-  
7 FUNDS OR OFFSETS.—In no event shall the Secretary di-  
8 rectly or indirectly claim any amount or amounts against,  
9 or reduce any offset or refund (or interest accrued there-  
10 on) by, the amount of any obligation the enforcement of  
11 which is barred by section 115.”.

12           (b) CLERICAL AMENDMENT.—The table of contents  
13 in section 1 of such Act (30 U.S.C. 1701) is amended by  
14 adding after the item relating to section 111 the following  
15 new item:

“Sec. 111A. Overpayments: offsets and refunds.”.

16 **SEC. 5. REQUIRED RECORDKEEPING.**

17           Section 103 of the Federal Oil and Gas Royalty Man-  
18 agement Act of 1982 (30 U.S.C. 1713(b)) is amended by  
19 adding at the end the following:

20           “(e) Records required by the Secretary for the pur-  
21 pose of determining compliance with an applicable mineral  
22 leasing law, lease provision, regulation or order with re-  
23 spect to oil and gas leases from Federal lands or the Outer  
24 Continental Shelf shall be maintained for six years after  
25 an obligation becomes due unless the Secretary com-

1 mences a judicial or administrative proceeding with re-  
2 spect to an obligation within the time period prescribed  
3 by section 115 in which such records may be relevant. In  
4 that event, the Secretary may direct the record holder to  
5 maintain such records until the final nonappealable deci-  
6 sion in such judicial or administrative proceeding is ren-  
7 dered. Under no circumstance shall a record holder be re-  
8 quired to maintain or produce any record covering a time  
9 period for which a substantive claim with respect to an  
10 obligation to which the record relates would be barred by  
11 the applicable statute of limitation in section 115.”.

12 **SEC. 6. ROYALTY INTEREST, PENALTIES, AND PAYMENTS.**

13 (a) INTEREST CHARGED ON LATE PAYMENTS AND  
14 UNDERPAYMENTS.—Section 111(a) of the Federal Oil  
15 and Gas Royalty Management Act of 1982 (30 U.S.C.  
16 1721(a)) is amended to read as follows:

17 “(a) In the case of oil and gas leases where royalty  
18 payments are not received by the Secretary on the date  
19 that such payments are due, or are less than the amount  
20 due, the Secretary shall charge interest on a net late pay-  
21 ment or underpayment at the rate published by the De-  
22 partment of the Treasury as the Treasury Current Value  
23 Of Funds Rate. The Secretary may waive or forego such  
24 interest in whole or in part. In the case of a net underpay-  
25 ment for a given reporting month, interest shall be com-

1 puted and charged only on the amount of the net under-  
2 payment and not on the total amount due from the date  
3 of the net underpayment. The net underpayment is deter-  
4 mined by offsetting in the same manner as required under  
5 paragraphs (1) and (2) of section 111A(a). Interest may  
6 only be billed by the Secretary for any net underpayment  
7 not less than one year following the subject reporting  
8 month.”.

9 (b) CHARGE ON LATE PAYMENT MADE BY THE SEC-  
10 RETARY.—Section 111(b) of the Federal Oil and Gas Roy-  
11 alty Management Act of 1982 (30 U.S.C. 1721(b)) is  
12 amended to read as follows:

13 “(b) Any payment made by the Secretary to a State  
14 under section 35 of the Mineral Leasing Act, and any  
15 other payment made by the Secretary which is not paid  
16 on the date required under such section 35, shall include  
17 an interest charge computed at the rate published by the  
18 Department of the Treasury as the Treasury Current  
19 Value of Funds Rate. The Secretary shall not be required  
20 to pay interest under this paragraph until collected or  
21 when such interest has been waived or is otherwise not  
22 collected. With respect to any obligation, the Secretary  
23 may waive or forgo interest otherwise required under sec-  
24 tion 3717 of title 31, United States Code.”.

1           (e) PERIOD.—Section 111(f) of the Federal Oil and  
2 Gas Royalty Management Act of 1982 (30 U.S.C.  
3 1721(f)) is amended to read as follows:

4           “(f) Unless waived or not collected pursuant to sub-  
5 sections (a)(2) and (b)(2), interest shall be charged under  
6 this section only for the number of days a payment is  
7 late.”.

8           (d) LESSEE INTEREST.—Section 111 of the Federal  
9 Oil and Gas Royalty Management Act of 1982 (30 U.S.C.  
10 1721) is amended by adding the following after subsection  
11 (g):

12           “(h) If a net overpayment, as determined by offset-  
13 ting as required under section 111A (1) and (2) for a re-  
14 porting month, interest shall be allowed and paid or cred-  
15 ited on such net overpayment, with such interest to accrue  
16 from the date such net overpayment was made, at the rate  
17 published by the Department of the Treasury as the  
18 Treasury Current Value of Funds Rate.”.

19           (e) PAYMENT EXCEPTION FOR MINIMAL PRODUC-  
20 TION.—Section 111 of the Federal Oil and Gas Royalty  
21 Management Act of 1982 (30 U.S.C. 1721) is amended  
22 by adding the following after subsection (h):

23           “(i) For any well on a lease which produces on aver-  
24 age less than 250 thousand cubic feet of gas per day or

1 25 barrels of oil per day, the royalty on the actual or allo-  
2 cated lease production may be paid—

3           “(1) for a 12-month period, only based on ac-  
4 tual production removed or sold from the lease; and

5           “(2) 6 months following such period, for addi-  
6 tional production allocated to the lease during the  
7 period.

8 No interest shall be allowed or accrued on any underpay-  
9 ment resulting from this payment methodology until the  
10 month following the applicable 12-month period.”.

11 **SEC. 7. LIMITATION ON ASSESSMENTS.**

12       Section 111 of the Federal Oil and Gas Royalty Man-  
13 agement Act of 1982 (30 U.S.C. 1721) is amended by  
14 adding the following after subsection (i):

15       “(j) The Secretary may levy or impose an assessment  
16 upon any person not to exceed \$250 for any reporting  
17 month for the inaccurate reporting of information required  
18 under subsection (k). No assessment may be levied or im-  
19 posed upon any person for any underpayment, late pay-  
20 ment, or estimated payment or for any erroneous or in-  
21 complete royalty or production related report for informa-  
22 tion not required by subsection (k) absent a showing of  
23 gross negligence or willful misconduct.”.

1 **SEC. 8. COST-EFFECTIVE AUDIT AND COLLECTION RE-**  
2 **QUIREMENTS.**

3 Section 101 of the Federal Oil and Gas Royalty Man-  
4 agement Act of 1982 (30 U.S.C. 1701 et seq.) is amended  
5 by adding the following after subsection (e):

6 “(d)(1) If the Secretary determines that the cost of  
7 accounting for and collecting of any obligation due for any  
8 oil or gas production exceeds or is likely to exceed the  
9 amount of the obligation to be collected, the Secretary  
10 shall waive such obligation.

11 “(2) The Secretary shall develop a lease level report-  
12 ing and audit strategy which eliminates multiple or redun-  
13 dant reporting of information.

14 “(3) In carrying out this section, for onshore produc-  
15 tion from any well which is less than 250 thousand cubic  
16 feet of gas per day or 25 barrels of oil per day, or for  
17 offshore production for any well less than 1,500,000 cubic  
18 feet of gas per day or 150 barrels of oil per day, the Sec-  
19 retary shall only require the lessee to submit the informa-  
20 tion described in section 111(k). For such onshore and  
21 offshore production, the Secretary shall not conduct roy-  
22 alty reporting compliance and enforcement activities, levy  
23 or impose assessments described in such section 111(k)  
24 and shall not bill for comparisons between royalty report-  
25 ing and production information. The Secretary may only  
26 conduct audits on such leases if the Secretary has reason

1 to believe that the lessee has not complied with payment  
2 obligations for at least three months during a twelve  
3 month period. The Secretary shall not perform such audit  
4 if the Secretary determines that the cost of conducting the  
5 audit exceeds or is likely to exceed the additional royalties  
6 expected to be received as a result of such audit.”.

7 **SEC. 9. ELIMINATION OF NOTICE REQUIREMENT.**

8 Section 23(a)(2) of the Outer Continental Shelf  
9 Lands Act (43 U.S.C. 1349(a)(2)) is amended to read as  
10 follows:

11 “(2) Except as provided in paragraph (3) of this sub-  
12 section, no action may be commenced under subsection  
13 (a)(1) of this section if the Attorney General has com-  
14 menced and is diligently prosecuting a civil action in a  
15 court of the United States or a State with respect to such  
16 matter, but in any such action in a court of the United  
17 States any person having a legal interest which is or may  
18 be adversely affected may intervene as a matter of right.”.

19 **SEC. 10. ROYALTY IN KIND.**

20 (a) IN GENERAL.—Section 27(a)(1) of the Outer  
21 Continental Shelf Lands Act (43 U.S.C. 1353(a)(1)) and  
22 the first undesignated paragraph of section 36 of the Min-  
23 eral Leasing Act (30 U.S.C. 192) are each amended by  
24 adding at the end the following: “Any royalty or net profit  
25 share of oil or gas accruing to the United States under

1 any lease issued or maintained by the Secretary for the  
2 exploration, production and development of oil and gas on  
3 Federal lands or the Outer Continental Shelf, at the Sec-  
4 retary's option, may be taken in kind at or near the lease  
5 upon 90 days prior written notice to the lessee. Once the  
6 United States has commenced taking royalty in kind, it  
7 shall continue to do so until 90 days after the Secretary  
8 has provided written notice to the lessee that it will resume  
9 taking royalty in value. Delivery of royalty in kind by the  
10 lessee shall satisfy in full the lessee's royalty obligation.  
11 Once the oil or gas is delivered in kind, the lessee shall  
12 not be subject to the reporting and recordkeeping require-  
13 ments, including requirements under section 103, except  
14 for those reports and records necessary to verify the vol-  
15 ume of oil or gas produced and delivered prior to or at  
16 the point of delivery."

17 (b) SALE.—Section 27(e)(1) of the Outer Continental  
18 Shelf Lands Act (43 U.S.C. 1353(e)(1)) is amended by  
19 striking "competitive bidding for not more than its regu-  
20 lated price, or if no regulated price applies, not less than  
21 its fair market value" and inserting "competitive bidding  
22 or private sale".

1 **SEC. 11. TIME, MANNER, AND INFORMATION REQUIRE-**  
2 **MENTS FOR ROYALTY PAYMENT AND RE-**  
3 **PORTING.**

4 Section 111 of the Federal Oil and Gas Royalty Man-  
5 agement Act of 1982 (30 U.S.C. 1721) is amended by  
6 adding the following after subsection (j):

7 “(k)(1) Any royalty payment on an obligation due the  
8 United States for oil or gas produced pursuant to an oil  
9 and gas lease administered by the Secretary shall be pay-  
10 able at the end of the month following the month in which  
11 oil or gas is removed or sold from such lease.

12 “(2) Royalty reporting with respect to any obligation  
13 shall be by lease and shall include only the following infor-  
14 mation:

15 “(A) identification of the lease;

16 “(B) product type;

17 “(C) volume (quantity) of such oil or gas pro-  
18 duced;

19 “(D) quality of such oil or gas produced;

20 “(E) method of valuation and value, including  
21 deductions; and

22 “(F) royalty due the United States.

23 “(3) Other than the reporting required under para-  
24 graph (2), the Secretary shall not require additional re-  
25 ports or information for production or royalty accounting;  
26 including (but not limited to) information or reports on

1 allowances, payor information, selling arrangements, and  
2 revenue source.

3       “(4) No assessment may be imposed on a retroactive  
4 adjustment with respect to royalty information made on  
5 a net basis for reports described in paragraph (2).

6       “(5) The Secretary shall establish reporting thresh-  
7 olds for de minimis production, which is defined as less  
8 than 100 thousand cubic feet of gas per day or 10 barrels  
9 of oil per day per lease. For such de minimis production,  
10 the lessee shall report retroactive adjustments with the  
11 current month royalty payment, and the Secretary shall  
12 not bill for, or collect, comparisons to production, assess-  
13 ments, or interest.

14       “(6) If the deadline for tendering a royalty payment  
15 imposed by paragraph (1) cannot be met for one or more  
16 leases, an estimated royalty payment in the approximate  
17 amount of royalties that would otherwise be due may be  
18 made by a lessee or person acting on behalf of a lessee  
19 for such leases to avoid late payment interest charges.  
20 When such estimated royalty payment is established, ac-  
21 tual royalties become due at the end of the second month  
22 following the month the production was removed or sold  
23 for as long as the estimated balance exists. Such estimated  
24 royalty payment may be carried forward and not reduced  
25 by actual royalties paid. Any estimated balance may be

1 adjusted, recouped, or reinstated, at any time. The re-  
2 quirements of paragraph (2) shall not apply to any esti-  
3 mated royalty payment.”.

4 **SEC. 12. REPEALS.**

5 (a) FOGRMA.—Section 307 of the Federal Oil and  
6 Gas Royalty Management Act of 1982 (30 U.S.C. 1755),  
7 is repealed. Section 1 of such Act (relating to the table  
8 of contents) is amended by striking out the item relating  
9 to section 307.

10 (b) OCSLA.—Effective on the date of the enactment  
11 of this Act, section 10 of the Outer Continental Shelf  
12 Lands Act (43 U.S.C. 1339) is repealed.

13 **SEC. 13. INDIAN LANDS.**

14 The amendments made by this Act shall not apply  
15 with respect to Indian lands, and the provisions of the  
16 Federal Oil and Gas Royalty Management Act of 1982  
17 as in effect on the day before the date of enactment of  
18 this Act shall apply after such date only with respect to  
19 Indian lands.

20 **SEC. 14. EFFECTIVE DATE.**

21 This Act, and the amendments made by this Act,  
22 shall take effect on the date of the enactment of this Act  
23 with respect to any obligation which becomes due on or  
24 after such date of enactment.

1 **SECTION 1. SHORT TITLE.**

2       *This Act may be cited as the “Federal Oil and Gas*  
3 *Royalty Simplification and Fairness Act of 1996”.*

4 **SEC. 2. DEFINITIONS.**

5       *Section 3 of the Federal Oil and Gas Royalty Manage-*  
6 *ment Act of 1982 (30 U.S.C. 1701 et seq.) is amended—*

7           *(1) by amending paragraph (7) to read as fol-*  
8 *lows:*

9           *“(7) ‘lessee’ means any person to whom the Unit-*  
10 *ed States issues an oil and gas lease or any person*  
11 *to whom operating rights in a lease have been as-*  
12 *signed;”;* and

13           *(2) by striking “and” at the end of paragraph*  
14 *(15), by striking the period at the end of paragraph*  
15 *(16) and inserting a semicolon, and by adding at the*  
16 *end the following:*

17           *“(17) ‘adjustment’ means an amendment to a*  
18 *previously filed report on an obligation, and any ad-*  
19 *ditional payment or credit, if any, applicable thereto,*  
20 *to rectify an underpayment or overpayment on an ob-*  
21 *ligation;*

22           *“(18) ‘administrative proceeding’ means any De-*  
23 *partment of the Interior agency process in which a*  
24 *demand, decision or order issued by the Secretary or*  
25 *a delegated State is subject to appeal or has been ap-*  
26 *pealed;*

1           “(19) ‘assessment’ means any fee or charge levied  
2           or imposed by the Secretary or a delegated State other  
3           than—

4                   “(A) the principal amount of any royalty,  
5                   minimum royalty, rental bonus, net profit share  
6                   or proceed of sale;

7                   “(B) any interest; or

8                   “(C) any civil or criminal penalty;

9           “(20) ‘commence’ means—

10                   “(A) with respect to a judicial proceeding,  
11                   the service of a complaint, petition, counter-  
12                   claim, cross claim, or other pleading seeking af-  
13                   firmative relief or seeking credit or recoupment:  
14                   Provided, That if the Secretary commences a ju-  
15                   dicial proceeding against a designee, the Sec-  
16                   retary shall give notice of that commencement to  
17                   the lessee who designated the designee, but the  
18                   Secretary is not required to give notice to other  
19                   lessees who may be liable pursuant to section  
20                   102(a) of this Act, for the obligation that is the  
21                   subject of the judicial proceeding; or

22                   “(B) with respect to a demand, the receipt  
23                   by the Secretary or a delegated State or a lessee  
24                   or its designee (with written notice to the lessee  
25                   who designated the designee) of the demand;

1           “(21) ‘credit’ means the application of an over-  
2           payment (in whole or in part) against an obligation  
3           which has become due to discharge, cancel or reduce  
4           the obligation;

5           “(22) ‘delegated State’ means a State which,  
6           pursuant to an agreement or agreements under sec-  
7           tion 205 of this Act, performs authorities, duties, re-  
8           sponsibilities, or activities of the Secretary;

9           “(23) ‘demand’ means—

10           “(A) an order to pay issued by the Sec-  
11           retary or the applicable delegated State to a les-  
12           see or its designee (with written notice to the les-  
13           see who designated the designee) that has a rea-  
14           sonable basis to conclude that the obligation in  
15           the amount of the demand is due and owing; or

16           “(B) a separate written request by a lessee  
17           or its designee which asserts an obligation due  
18           the lessee or its designee that provides a reason-  
19           able basis to conclude that the obligation in the  
20           amount of the demand is due and owing, but  
21           does not mean any royalty or production report,  
22           or any information contained therein, required  
23           by the Secretary or a delegated State;

24           “(24) ‘designee’ means the person designated by  
25           a lessee pursuant to section 102(a) of this Act, with

1 *such written designation effective on the date such*  
 2 *designation is received by the Secretary and remain-*  
 3 *ing in effect until the Secretary receives notice in*  
 4 *writing that the designation is modified or termi-*  
 5 *nated;*

6 “(25) ‘obligation’ means—

7 “(A) any duty of the Secretary or, if appli-  
 8 cable, a delegated State—

9 “(i) to take oil or gas royalty in kind;

10 *or*

11 “(ii) to pay, refund, offset, or credit  
 12 monies including (but not limited to)—

13 “(I) the principal amount of any  
 14 royalty, minimum royalty, rental,  
 15 bonus, net profit share or proceed of  
 16 sale; or

17 “(II) any interest; and

18 “(B) any duty of a lessee or its designee  
 19 (subject to the provision of section 102(a) of this  
 20 Act)—

21 “(i) to deliver oil or gas royalty in  
 22 kind; or

23 “(ii) to pay, offset or credit monies in-  
 24 cluding (but not limited to)—

1                   “(I) the principal amount of any  
2                   royalty, minimum royalty, rental,  
3                   bonus, net profit share or proceed of  
4                   sale;

5                   “(II) any interest;

6                   “(III) any penalty; or

7                   “(IV) any assessment,  
8                   which arises from or relates to any lease ad-  
9                   ministered by the Secretary for, or any  
10                  mineral leasing law related to, the explo-  
11                  ration, production and development of oil  
12                  or gas on Federal lands or the Outer Con-  
13                  tinental Shelf;

14                  “(26) ‘order to pay’ means a written order is-  
15                  sued by the Secretary or the applicable delegated  
16                  State to a lessee or its designee (with notice to the les-  
17                  see who designated the designee) which—

18                         “(A) asserts a specific, definite, and quan-  
19                         tified obligation claimed to be due, and

20                         “(B) specifically identifies the obligation by  
21                         lease, production month and monetary amount  
22                         of such obligation claimed to be due and ordered  
23                         to be paid, as well as the reason or reasons such  
24                         obligation is claimed to be due, but such term  
25                         does not include any other communication or ac-

1            *tion by or on behalf of the Secretary or a dele-*  
2            *gated State;*

3            “(27) ‘overpayment’ means any payment by a  
4            *lessee or its designee in excess of an amount legally*  
5            *required to be paid on an obligation and includes the*  
6            *portion of any estimated payment for a production*  
7            *month that is in excess of the royalties due for that*  
8            *month;*

9            “(28) ‘payment’ means satisfaction, in whole or  
10           *in part, of an obligation;*

11           “(29) ‘penalty’ means a statutorily authorized  
12           *civil fine levied or imposed for a violation of this Act,*  
13           *any mineral leasing law, or a term or provision of*  
14           *a lease administered by the Secretary;*

15           “(30) ‘refund’ means the return of an overpay-  
16           *ment;*

17           “(31) ‘State concerned’ means, with respect to a  
18           *lease, a State which receives a portion of royalties or*  
19           *other payments under the mineral leasing laws from*  
20           *such lease;*

21           “(32) ‘underpayment’ means any payment or  
22           *nonpayment by a lessee or its designee that is less*  
23           *than the amount legally required to be paid on an ob-*  
24           *ligation; and*

1           “(33) ‘United States’ means the United States  
2           Government and any department, agency, or instru-  
3           mentality thereof, the several States, the District of  
4           Columbia, and the territories of the United States.”.

5   **SEC. 3. DELEGATION OF ROYALTY COLLECTIONS AND RE-**  
6                           **LATED ACTIVITIES.**

7           (a) *GENERAL AUTHORITY.*—Section 205 of the Federal  
8   *Oil and Gas Royalty Management Act of 1982 (30 U.S.C.*  
9   *1735) is amended to read as follows:*

10   **“SEC. 205. DELEGATION OF ROYALTY COLLECTIONS AND**  
11                           **RELATED ACTIVITIES.**

12           “(a) Upon written request of any State, the Sec-  
13           retary is authorized to delegate, in accordance with  
14           the provisions of this section, all or part of the au-  
15           thorities and responsibilities of the Secretary under  
16           this Act to:

17           “(1) conduct inspections, audits, and investiga-  
18           tions;

19           “(2) receive and process production and finan-  
20           cial reports;

21           “(3) correct erroneous report data;

22           “(4) perform automated verification; and

23           “(5) issue demands, subpoenas, and orders to  
24           perform restructured accounting, for royalty manage-  
25           ment enforcement purposes,

1 *to any State with respect to all Federal land within the*  
2 *State.*

3       “(b) *After notice and opportunity for a hearing, the*  
4 *Secretary is authorized to delegate such authorities and re-*  
5 *sponsibilities granted under this section as the State has*  
6 *requested, if the Secretary finds that—*

7               “(1) *it is likely that the State will provide ade-*  
8 *quate resources to achieve the purposes of this Act;*

9               “(2) *the State has demonstrated that it will effec-*  
10 *tively and faithfully administer the rules and regula-*  
11 *tions of the Secretary under this Act in accordance*  
12 *with the requirements of subsections (c) and (d) of*  
13 *this section;*

14               “(3) *such delegation will not create an unreason-*  
15 *able burden on any lessee;*

16               “(4) *the State agrees to adopt standardized re-*  
17 *porting procedures prescribed by the Secretary for*  
18 *royalty and production accounting purposes, unless*  
19 *the State and all affected parties (including the Sec-*  
20 *retary) otherwise agree;*

21               “(5) *the State agrees to follow and adhere to reg-*  
22 *ulations and guidelines issued by the Secretary pur-*  
23 *suant to the mineral leasing laws regarding valuation*  
24 *of production; and*

1           “(6) where necessary for a State to have author-  
2           ity to carry out and enforce a delegated activity, the  
3           State agrees to enact such laws and promulgate such  
4           regulations as are consistent with relevant Federal  
5           laws and regulations  
6 with respect to the Federal lands within the State.

7           “(c) After notice and opportunity for hearing, the Sec-  
8           retary shall issue a ruling as to the consistency of a State’s  
9           proposal with the provisions of this section and regulations  
10          under subsection (d) within 90 days after submission of  
11          such proposal. In any unfavorable ruling, the Secretary  
12          shall set forth the reasons therefor and state whether the Sec-  
13          retary will agree to delegate to the State if the State meets  
14          the conditions set forth in such ruling.

15          “(d) After consultation with State authorities, the Sec-  
16          retary shall by rule promulgate, within 12 months after the  
17          date of enactment of this section, standards and regulations  
18          pertaining to the authorities and responsibilities to be dele-  
19          gated under subsection (a), including standards and regula-  
20          tions pertaining to—

21                 “(1) audits to be performed;

22                 “(2) records and accounts to be maintained;

23                 “(3) reporting procedures to be required by  
24          States under this section;

1           “(4) receipt and processing of production and fi-  
2           nancial reports;

3           “(5) correction of erroneous report data;

4           “(6) performance of automated verification;

5           “(7) issuance of standards and guidelines in  
6           order to avoid duplication of effort;

7           “(8) transmission of report data to the Sec-  
8           retary; and

9           “(9) issuance of demands, subpoenas, and orders  
10          to perform restructured accounting, for royalty man-  
11          agement enforcement purposes.

12       *Such standards and regulations shall be designed to provide*  
13       *reasonable assurance that a uniform and effective royalty*  
14       *management system will prevail among the States. The*  
15       *records and accounts under paragraph (2) shall be suffi-*  
16       *cient to allow the Secretary to monitor the performance of*  
17       *any State under this section.*

18       “(e) *If, after notice and opportunity for a hearing, the*  
19       *Secretary finds that any State to which any authority or*  
20       *responsibility of the Secretary has been delegated under this*  
21       *section is in violation of any requirement of this section*  
22       *or any rule thereunder, or that an affirmative finding by*  
23       *the Secretary under subsection (b) can no longer be made,*  
24       *the Secretary may revoke such delegation. If, after provid-*  
25       *ing written notice to a delegated State and a reasonable*

1 *opportunity to take corrective action requested by the Sec-*  
2 *retary, the Secretary determines that the State has failed*  
3 *to issue a demand or order to a Federal lessee within the*  
4 *State, that such failure may result in an underpayment*  
5 *of an obligation due the United States by such lessee, and*  
6 *that such underpayment may be uncollected without Sec-*  
7 *retarial intervention, the Secretary may issue such demand*  
8 *or order in accordance with the provisions of this Act prior*  
9 *to or absent the withdrawal of delegated authority.*

10       “(f) *Subject to appropriations, the Secretary shall*  
11 *compensate any State for those costs which may be nec-*  
12 *essary to carry out the delegated activities under this Sec-*  
13 *tion. Payment shall be made no less than every quarter dur-*  
14 *ing the fiscal year. Compensation to a State may not exceed*  
15 *the Secretary’s reasonably anticipated expenditure for per-*  
16 *formance of such delegated activities by the Secretary. Such*  
17 *costs shall be allocable for the purposes of section 35(b) of*  
18 *the Act entitled ‘An act to promote the mining of coal, phos-*  
19 *phate, oil, oil shale, gas and sodium on the public domain’,*  
20 *approved February 25, 1920 (commonly known as the Min-*  
21 *eral Leasing Act) (30 U.S.C. 191 (b)) to the administration*  
22 *and enforcement of laws providing for the leasing of any*  
23 *onshore lands or interests in land owned by the United*  
24 *States. Any further allocation of costs under section 35(b)*  
25 *made by the Secretary for oil and gas activities, other than*

1 *those costs to compensate States for delegated activities*  
2 *under this Act, shall be only those costs associated with on-*  
3 *shore oil and gas activities and may not include any dupli-*  
4 *cation of costs allocated pursuant to the previous sentence.*  
5 *Nothing in this section affects the Secretary's authority to*  
6 *make allocations under section 35(b) for non-oil and gas*  
7 *mineral activities. All moneys received from sales, bonuses,*  
8 *rentals, royalties, assessments and interest, including*  
9 *money claimed to be due and owing pursuant to a delega-*  
10 *tion under this section, shall be payable and paid to the*  
11 *Treasury of the United States.*

12       “(g) *Any action of the Secretary to approve or dis-*  
13 *approve a proposal submitted by a State under this section*  
14 *shall be subject to judicial review in the United States dis-*  
15 *trict court which includes the capital of the State submit-*  
16 *ting the proposal.*

17       “(h) *Any State operating pursuant to a delegation ex-*  
18 *isting on the date of enactment of this Act may continue*  
19 *to operate under the terms and conditions of the delegation,*  
20 *except to the extent that a revision of the existing agreement*  
21 *is adopted pursuant to this section.”.*

22       (b) *CLERICAL AMENDMENT.—The item relating to sec-*  
23 *tion 205 in the table of contents in section 1 of the Federal*  
24 *Oil and Gas Royalty Management Act of 1982 (30 U.S.C.*  
25 *1701) is amended to read as follows:*

“Sec. 205. *Delegation of royalty collections and related activities.*”.

1 **SEC. 4. SECRETARIAL AND DELEGATED STATES' ACTIONS**  
 2 **AND LIMITATION PERIODS.**

3 (a) *IN GENERAL.*—*The Federal Oil and Gas Royalty*  
 4 *Management Act of 1982 (30 U.S.C. 1701 et seq.) is amend-*  
 5 *ed by adding after section 114 the following new section:*

6 **“SEC. 115. SECRETARIAL AND DELEGATED STATES’ AC-**  
 7 **TIONS AND LIMITATION PERIODS.**

8 “(a) *IN GENERAL.*—*The respective duties, responsibil-*  
 9 *ities, and activities with respect to a lease shall be per-*  
 10 *formed by the Secretary, delegated States, and lessees or*  
 11 *their designees in a timely manner.*

12 “(b) *LIMITATION PERIOD.*—

13 “(1) *IN GENERAL.*—*A judicial proceeding or de-*  
 14 *mand which arises from, or relates to an obligation,*  
 15 *shall be commenced within seven years from the date*  
 16 *on which the obligation becomes due and if not so*  
 17 *commenced shall be barred. If commencement of a ju-*  
 18 *dicial proceeding or demand for an obligation is*  
 19 *barred by this section, the Secretary, a delegated*  
 20 *State, or a lessee or its designee (A) shall not take*  
 21 *any other or further action regarding that obligation,*  
 22 *including (but not limited to) the issuance of any*  
 23 *order, request, demand or other communication seek-*  
 24 *ing any document, accounting, determination, cal-*  
 25 *culatation, recalculation, payment, principal, interest,*  
 26 *assessment, or penalty or the initiation, pursuit or*

1 *completion of an audit with respect to that obligation;*  
2 *and (B) shall not pursue any other equitable or legal*  
3 *remedy, whether under statute or common law, with*  
4 *respect to an action on or an enforcement of said obli-*  
5 *gation*

6 “(2) *RULE OF CONSTRUCTION.*—*A judicial pro-*  
7 *ceeding or demand that is timely commenced under*  
8 *paragraph (1) against a designee shall be considered*  
9 *timely commenced as to any lessee who is liable pur-*  
10 *suant to section 102(a) of this Act for the obligation*  
11 *that is the subject of the judicial proceeding or de-*  
12 *mand.*

13 “(3) *APPLICATION OF CERTAIN LIMITATIONS.*—  
14 *The limitations set forth in sections 2401, 2415, 2416,*  
15 *and 2462 of title 28, United States Code, and section*  
16 *42 of the Mineral Leasing Act (30 U.S.C. 226–2)*  
17 *shall not apply to any obligation to which this Act*  
18 *applies. Section 3716 of title 31, United States Code,*  
19 *may be applied to an obligation the enforcement of*  
20 *which is not barred by this Act, but may not be ap-*  
21 *plied to any obligation the enforcement of which is*  
22 *barred by this Act.*

23 “(c) *OBLIGATION BECOMES DUE.*—

1           “(1) *IN GENERAL.*—*For purposes of this Act, an*  
2           *obligation becomes due when the right to enforce the*  
3           *obligation is fixed.*

4           “(2) *ROYALTY OBLIGATIONS.*—*The right to en-*  
5           *force any royalty obligation for any given production*  
6           *month for a lease is fixed for purposes of this Act on*  
7           *the last day of the calendar month following the*  
8           *month in which oil or gas is produced.*

9           “(d) *TOLLING OF LIMITATION PERIOD.*—*The running*  
10          *of the limitation period under subsection (b) shall not be*  
11          *suspended, tolled, extended, or enlarged for any obligation*  
12          *for any reason by any action, including an action by the*  
13          *Secretary or a delegated State, other than the following:*

14                 “(1) *TOLLING AGREEMENT.*—*A written agree-*  
15                 *ment executed during the limitation period between*  
16                 *the Secretary or a delegated State and a lessee or its*  
17                 *designee (with notice to the lessee who designated the*  
18                 *designee) shall toll the limitation period for the*  
19                 *amount of time during which the agreement is in ef-*  
20                 *fect.*

21                 “(2) *SUBPOENA.*—

22                         “(A) *The issuance of a subpoena to a lessee*  
23                         *or its designee (with notice to the lessee who des-*  
24                         *ignated the designee, which notice shall not con-*  
25                         *stitute a subpoena to the lessee) in accordance*

1           with the provisions of subparagraph (B)(i) shall  
2           toll the limitation period with respect to the obli-  
3           gation which is the subject of a subpoena only  
4           for the period beginning on the date the lessee or  
5           its designee receives the subpoena and ending on  
6           the date on which (i) the lessee or its designee  
7           has produced such subpoenaed records for the  
8           subject obligation, (ii) the Secretary or a dele-  
9           gated State receives written notice that the sub-  
10          poenaed records for the subject obligation are not  
11          in existence or are not in the lessee's or its des-  
12          ignee's possession or control, or (iii) a court has  
13          determined in a final decision that such records  
14          are not required to be produced, whichever occurs  
15          first.

16                 “(B)(i) A subpoena for the purposes of this  
17                 section which requires a lessee or its designee to  
18                 produce records necessary to determine the prop-  
19                 er reporting and payment of an obligation due  
20                 the Secretary may be issued only by an Assistant  
21                 Secretary of the Interior or an Acting Assistant  
22                 Secretary of the Interior who is a schedule C em-  
23                 ployee (as defined by section 213.3301 of title 5,  
24                 Code of Federal Regulations), or the Director or  
25                 Acting Director of the respective bureau or agen-

1            *cy, and may not be delegated to any other per-*  
2            *son. If a State has been delegated authority pur-*  
3            *suant to section 205, the State, acting through*  
4            *the highest State official having ultimate author-*  
5            *ity over the collection of royalties from leases on*  
6            *Federal lands within the State, may issue such*  
7            *subpoena, but may not delegate such authority*  
8            *to any other person.*

9            *“(i) A subpoena described in clause (i)*  
10           *may only be issued against a lessee or its des-*  
11           *ignee during the limitation period provided in*  
12           *this section and only after the Secretary or a del-*  
13           *egated State has in writing requested the records*  
14           *from the lessee or its designee related to the obli-*  
15           *gation which is the subject of the subpoena and*  
16           *has determined that—*

17           *“(I) the lessee or its designee has failed*  
18           *to respond within a reasonable period of*  
19           *time to the Secretary’s or the applicable del-*  
20           *egated State’s written request for such*  
21           *records necessary for an audit, investigation*  
22           *or other inquiry made in accordance with*  
23           *the Secretary’s or such delegated State’s re-*  
24           *sponsibilities under this Act; or*

1           “(II) the lessee or its designee has in  
2           writing denied the Secretary’s or the appli-  
3           cable delegated State’s written request to  
4           produce such records in the lessee’s or its  
5           designee’s possession or control necessary for  
6           an audit, investigation or other inquiry  
7           made in accordance with the Secretary’s or  
8           such delegated State’s responsibilities under  
9           this Act; or

10           “(III) the lessee or its designee has un-  
11           reasonably delayed in producing records  
12           necessary for an audit, investigation or  
13           other inquiry made in accordance with the  
14           Secretary’s or the applicable delegated  
15           State’s responsibilities under this Act after  
16           the Secretary’s or delegated State’s written  
17           request.

18           “(C) In seeking records, the Secretary or the  
19           applicable delegated State shall afford the lessee  
20           or its designee a reasonable period of time after  
21           a written request by the Secretary or such dele-  
22           gated State in which to provide such records  
23           prior to the issuance of any subpoena.

24           “(3) MISREPRESENTATION OR CONCEALMENT.—

25           *The intentional misrepresentation or concealment of a*

1        *material fact for the purpose of evading the payment*  
2        *of an obligation in which case the limitation period*  
3        *shall be tolled for the period of such misrepresentation*  
4        *or such concealment.*

5                *“(4) ORDER TO PERFORM RESTRUCTURED AC-*  
6        *COUNTING.—A)(i) The issuance of a notice under sub-*  
7        *paragraph (D) that the lessee or its designee has not*  
8        *substantially complied with the requirement to per-*  
9        *form a restructured accounting shall toll the limita-*  
10        *tion period with respect to the obligation which is the*  
11        *subject of the notice only for the period beginning on*  
12        *the date the lessee or its designee receives the notice*  
13        *and ending 120 days after the date on which (I) the*  
14        *Secretary or the applicable delegated State receives*  
15        *written notice that the accounting or other require-*  
16        *ment has been performed, or (II) a court has deter-*  
17        *mined in a final decision that the lessee is not re-*  
18        *quired to perform the accounting, whichever occurs*  
19        *first.*

20                *“(ii) If the lessee or its designee initiates an ad-*  
21        *ministrative appeal or judicial proceeding to contest*  
22        *an order to perform a restructured accounting issued*  
23        *under subparagraph (B)(i), the limitation period in*  
24        *subsection (b) shall be tolled from the date the lessee*

1       or its designee received the order until a final, non-  
2       appealable decision is issued in any such proceeding.

3               “(B)(i) The Secretary or the applicable delegated  
4       State may issue an order to perform a restructured  
5       accounting to a lessee or its designee when the Sec-  
6       retary or such delegated State determines during an  
7       audit of a lessee or its designee that the lessee or its  
8       designee should recalculate royalty due on an obliga-  
9       tion based upon the Secretary’s or the delegated  
10      State’s finding that the lessee or its designee has made  
11      identified underpayments or overpayments which are  
12      demonstrated by the Secretary or the delegated State  
13      to be based upon repeated, systemic reporting errors  
14      for a significant number of leases or a single lease for  
15      a significant number of reporting months with the  
16      same type of error which constitutes a pattern of vio-  
17      lations and which are likely to result in either signifi-  
18      cant underpayments or overpayments.

19              “(ii) The power of the Secretary to issue an  
20      order to perform a restructured accounting may not  
21      be delegated below the most senior career professional  
22      position having responsibility for the royalty manage-  
23      ment program, which position is currently designated  
24      as the ‘Associate Director for Royalty Management’,  
25      and may not be delegated to any other person. If a

1        *State has been delegated authority pursuant to section*  
2        *205 of this Act, the State, acting through the highest*  
3        *ranking State official having ultimate authority over*  
4        *the collection of royalties from leases on Federal lands*  
5        *within the State, may issue such order to perform,*  
6        *which may not be delegated to any other person. An*  
7        *order to perform a restructured accounting shall—*

8                *“(I) be issued within a reasonable period of*  
9                *time from when the audit identifies the systemic,*  
10               *reporting errors;*

11               *“(II) specify the reasons and factual bases*  
12               *for such order;*

13               *“(III) be specifically identified as an ‘order*  
14               *to perform a restructured accounting’;*

15               *“(IV) provide the lessee or its designee a*  
16               *reasonable period of time (but not less than 60*  
17               *days) within which to perform the restructured*  
18               *accounting; and*

19               *“(V) provide the lessee or its designee 60*  
20               *days within which to file an administrative ap-*  
21               *peal of the order to perform a restructured ac-*  
22               *counting.*

23               *“(C) An order to perform a restructured account-*  
24               *ing shall not mean or be construed to include any*

1     *other action by or on behalf of the Secretary or a dele-*  
2     *gated State.*

3             “(D) *If a lessee or its designee fails to substan-*  
4     *tially comply with the requirement to perform a re-*  
5     *structured accounting pursuant to this subsection, a*  
6     *notice shall be issued to the lessee or its designee that*  
7     *the lessee or its designee has not substantially com-*  
8     *plied with the requirements to perform a restructured*  
9     *accounting. A lessee or its designee shall be given a*  
10    *reasonable time within which to perform the restruc-*  
11    *tured accounting. Such notice may be issued under*  
12    *this section only by an Assistant Secretary of the In-*  
13    *terior or an acting Assistant Secretary of the Interior*  
14    *who is a schedule C employee (as defined by section*  
15    *213.3301 of title 5, Code of Federal Regulations) and*  
16    *may not be delegated to any other person. If a State*  
17    *has been delegated authority pursuant to section 205,*  
18    *the State, acting through the highest State official*  
19    *having ultimate authority over the collection of royalti-*  
20    *ties from leases on Federal lands within the State,*  
21    *may issue such notice, which may not be delegated to*  
22    *any other person.*

23             “(e) *TERMINATION OF LIMITATIONS PERIOD.—An ac-*  
24    *tion or an enforcement of an obligation by the Secretary*  
25    *or delegated State or a lessee or its designee shall be barred*

1 *under this section prior to the running of the seven-year*  
2 *period provided in subsection (b) in the event—*

3           “(1) *the Secretary or a delegated State has noti-*  
4 *fied the lessee or its designee in writing that a time*  
5 *period is closed to further audit; or*

6           “(2) *the Secretary or a delegated State and a les-*  
7 *see or its designee have so agreed in writing.*

8 *For purposes of this subsection, notice to, or an agreement*  
9 *by, the designee shall be binding on any lessee who is liable*  
10 *pursuant to section 102(a) for obligations that are the sub-*  
11 *ject of the notice or agreement.*

12           “(f) *RECORDS REQUIRED FOR DETERMINING COLLEC-*  
13 *TIONS.—Records required pursuant to section 103 of this*  
14 *Act by the Secretary or any delegated State for the purpose*  
15 *of determining obligations due and compliance with any*  
16 *applicable mineral leasing law, lease provision, regulation*  
17 *or order with respect to oil and gas leases from Federal*  
18 *lands or the Outer Continental Shelf shall be maintained*  
19 *for the same period of time during which a judicial proceed-*  
20 *ing or demand may be commenced under subsection (b).*  
21 *If a judicial proceeding or demand is timely commenced,*  
22 *the record holder shall maintain such records until the final*  
23 *nonappealable decision in such judicial proceeding is made,*  
24 *or with respect to that demand is rendered, unless the Sec-*  
25 *retary or the applicable delegated State authorizes in writ-*

1 *ing an earlier release of the requirement to maintain such*  
2 *records. Notwithstanding anything herein to the contrary,*  
3 *under no circumstance shall a record holder be required to*  
4 *maintain or produce any record relating to an obligation*  
5 *for any time period which is barred by the applicable limi-*  
6 *tation in this section. In connection with any hearing, ad-*  
7 *ministrative proceeding, inquiry, investigation, or audit by*  
8 *the Secretary or a delegated State under this Act, the Sec-*  
9 *retary or the delegated State shall minimize the submission*  
10 *of multiple or redundant information and make a good*  
11 *faith effort to locate records previously submitted by a lessee*  
12 *or a designee to the Secretary or the delegated State, prior*  
13 *to requiring the lessee or the designee to provide such*  
14 *records.*

15       “(g) *TIMELY COLLECTIONS.*—*In order to most effec-*  
16 *tively utilize resources available to the Secretary to maxi-*  
17 *mize the collection of oil and gas receipts from lease obliga-*  
18 *tions to the Treasury within the seven-year period of limita-*  
19 *tions, and consequently to maximize the State share of such*  
20 *receipts, the Secretary should not perform or require ac-*  
21 *counting, reporting, or audit activities if the Secretary and*  
22 *the State concerned determine that the cost of conducting*  
23 *or requiring the activity exceeds the expected amount to be*  
24 *collected by the activity, based on the most current 12*  
25 *months of activity. This subsection shall not provide a de-*

1 *fense to a demand or an order to perform a restructured*  
2 *accounting. To the maximum extent possible, the Secretary*  
3 *and delegated States shall reduce costs to the United States*  
4 *Treasury and the States by discontinuing requirements for*  
5 *unnecessary or duplicative data and other information,*  
6 *such as separate allowances and payor information, relat-*  
7 *ing to obligations due. If the Secretary and the State con-*  
8 *cerned determine that collection will result sooner, the Sec-*  
9 *retary or the applicable delegated State may waive or forego*  
10 *interest in whole or in part.*

11       “(h) *APPEALS AND FINAL AGENCY ACTION.*—

12               “(1) *33-MONTH PERIOD.*—*Demands or orders is-*  
13 *ssued by the Secretary or a delegated State are subject*  
14 *to administrative appeal in accordance with the regu-*  
15 *lations of the Secretary. No State shall impose any*  
16 *conditions which would hinder a lessee’s or its des-*  
17 *ignee’s immediate appeal of an order to the Secretary*  
18 *or the Secretary’s designee. The Secretary shall issue*  
19 *a final decision in any administrative proceeding, in-*  
20 *cluding any administrative proceedings pending on*  
21 *the date of enactment of this section, within 33*  
22 *months from the date such proceeding was commenced*  
23 *or 33 months from the date of such enactment, which-*  
24 *ever is later. The 33-month period may be extended*

1       *by any period of time agreed upon in writing by the*  
2       *Secretary and the appellant.*

3               “(2) *EFFECT OF FAILURE TO ISSUE DECISION.—*  
4       *If no such decision has been issued by the Secretary*  
5       *within the 33-month period referred to in paragraph*  
6       *(1)—*

7               “(A) *the Secretary shall be deemed to have*  
8       *issued and granted a decision in favor of the ap-*  
9       *pellant as to any nonmonetary obligation and*  
10       *any monetary obligation the principal amount*  
11       *of which is less than \$10,000; and*

12              “(B) *the Secretary shall be deemed to have*  
13       *issued a final decision in favor of the Secretary,*  
14       *which decision shall be deemed to affirm those is-*  
15       *ssues for which the agency rendered a decision*  
16       *prior to the end of such period, as to any mone-*  
17       *tary obligation the principal amount of which is*  
18       *\$10,000 or more, and the appellant shall have a*  
19       *right to judicial review of such deemed final de-*  
20       *cision in accordance with title 5 of the United*  
21       *States Code.*

22              “(i) *COLLECTIONS OF DISPUTED AMOUNTS DUE.—To*  
23       *expedite collections relating to disputed obligations due*  
24       *within the seven-year period beginning on the date the obli-*  
25       *gation became due, the parties shall hold not less than one*

1 *settlement consultation and the Secretary and the State*  
2 *concerned may take such action as is appropriate to com-*  
3 *promise and settle a disputed obligation, including waiving*  
4 *or reducing interest and allowing offsetting of obligations*  
5 *among leases.*

6       “(j) *ENFORCEMENT OF A CLAIM FOR JUDICIAL RE-*  
7 *VIEW.—In the event a demand subject to this section is*  
8 *properly and timely commenced, the obligation which is the*  
9 *subject of the demand may be enforced beyond the seven-*  
10 *year limitations period without being barred by this statute*  
11 *of limitations. In the event a demand subject to this section*  
12 *is properly and timely commenced, a judicial proceeding*  
13 *challenging the final agency action with respect to such de-*  
14 *mand shall be deemed timely so long as such judicial pro-*  
15 *ceeding is commenced within 180 days from receipt of no-*  
16 *tice by the lessee or its designee of the final agency action.*

17       “(k) *IMPLEMENTATION OF FINAL DECISION.—In the*  
18 *event a judicial proceeding or demand subject to this section*  
19 *is timely commenced and thereafter the limitation period*  
20 *in this section lapses during the pendency of such proceed-*  
21 *ing, any party to such proceeding shall not be barred from*  
22 *taking such action as is required or necessary to implement*  
23 *a final unappealable judicial or administrative decision,*  
24 *including any action required or necessary to implement*

1 *such decision by the recovery or recoupment of an under-*  
 2 *payment or overpayment by means of refund or credit.*

3       “(1) *STAY OF PAYMENT OBLIGATION PENDING RE-*  
 4 *VIEW.—Any person ordered by the Secretary or a delegated*  
 5 *State to pay any obligation (other than an assessment)*  
 6 *shall be entitled to a stay of such payment without bond*  
 7 *or other surety instrument pending an administrative or*  
 8 *judicial proceeding if the person periodically demonstrates*  
 9 *to the satisfaction of the Secretary that such person is fi-*  
 10 *nancially solvent or otherwise able to pay the obligation.*  
 11 *In the event the person is not able to demonstrate, the Sec-*  
 12 *retary may require a bond or other surety instrument satis-*  
 13 *factory to cover the obligation. Any person ordered by the*  
 14 *Secretary or a delegated State to pay an assessment shall*  
 15 *be entitled to a stay without bond or other surety instru-*  
 16 *ment”.*

17       (b) *CLERICAL AMENDMENT.—The table of contents in*  
 18 *section 1 of the Federal Oil and Gas Royalty Management*  
 19 *Act of 1982 (30 U.S.C. 1701) is amended by inserting after*  
 20 *the item relating to section 114 the following new item:*

      “Sec. 115. *Secretarial and delegated States’ actions and limitation periods.*”.

21 **SEC. 5 ADJUSTMENT AND REFUNDS.**

22       (a) *IN GENERAL.—The Federal Oil and Gas Royalty*  
 23 *Management Act of 1982 (30 U.S.C. 1701 et seq.) is amend-*  
 24 *ed by inserting after section 111 the following:*

1 **“SEC. 111A. ADJUSTMENTS AND REFUNDS.**

2       “(a) *ADJUSTMENTS TO ROYALTIES PAID TO THE SEC-*  
3 *RETARY OR A DELEGATED STATE.—*

4               “(1) *If, during the adjustment period, a lessee or*  
5 *its designee determines that an adjustment or refund*  
6 *request is necessary to correct an underpayment or*  
7 *overpayment of an obligation, the lessee or its des-*  
8 *ignee shall make such adjustment or request a refund*  
9 *within a reasonable period of time and only during*  
10 *the adjustment period. The filing of a royalty report*  
11 *which reflects the underpayment or overpayment of*  
12 *an obligation shall constitute prior written notice to*  
13 *the Secretary or the applicable delegated State of an*  
14 *adjustment.*

15               “(2)(A) *For any adjustment, the lessee or its des-*  
16 *ignee shall calculate and report the interest due at-*  
17 *tributable to such adjustment at the same time the les-*  
18 *see or its designee adjusts the principle amount of the*  
19 *subject obligation, except as provided by subpara-*  
20 *graph (B).*

21               “(B) *In the case of a lessee or its designee who*  
22 *determines that subparagraph (A) would impose a*  
23 *hardship, the Secretary or such delegated State shall*  
24 *calculate the interest due and notify the lessee or its*  
25 *designee within a reasonable time of the amount of*  
26 *interest due, unless such lessee or its designee elects to*

1       *calculate and report interest in accordance with sub-*  
2       *paragraph (A).*

3               “(3) *An adjustment or a request for a refund for*  
4       *an obligation may be made after the adjustment pe-*  
5       *riod only upon written notice to and approval by the*  
6       *Secretary or the applicable delegated State, as appro-*  
7       *priate, during an audit of the period which includes*  
8       *the production month for which the adjustment is*  
9       *being made. If an overpayment is identified during*  
10       *an audit, then the Secretary or the applicable dele-*  
11       *gated State, as appropriate, shall allow a credit or*  
12       *refund in the amount of the overpayment.*

13               “(4) *For purposes of this section, the adjustment*  
14       *period for any obligation shall be the six-year period*  
15       *following the date on which an obligation became due.*  
16       *The adjustment period shall be suspended, tolled, ex-*  
17       *tended, enlarged, or terminated by the same actions*  
18       *as the limitation period in section 115.*

19       “(b) *REFUNDS.—*

20               “(1) *IN GENERAL.—A request for refund is suffi-*  
21       *cient if it—*

22                       “(A) *is made in writing to the Secretary*  
23                       *and, for purposes of section 115, is specifically*  
24                       *identified as a demand;*

1           “(B) identifies the person entitled to such  
2           refund;

3           “(C) provides the Secretary information  
4           that reasonably enables the Secretary to identify  
5           the overpayment for which such refund is sought;  
6           and

7           “(D) provides the reasons why the payment  
8           was an overpayment.

9           “(2) *PAYMENT BY SECRETARY OF THE TREAS-*  
10          *URY.—The Secretary shall certify the amount of the*  
11          *refund to be paid under paragraph (1) to the Sec-*  
12          *retary of the Treasury who shall make such refund.*  
13          *Such refund shall be paid from amounts received as*  
14          *current receipts from sales, bonuses, royalties (includ-*  
15          *ing interest charges collected under this section) and*  
16          *rentals of the public lands and the Outer Continental*  
17          *Shelf under the provisions of the Mineral Leasing Act*  
18          *and the Outer Continental Shelf Lands Act, which are*  
19          *not payable to a State or the Reclamation Fund. The*  
20          *portion of any such refund attributable to any*  
21          *amounts previously disbursed to a State, the Rec-*  
22          *lamation Fund, or any recipient prescribed by law*  
23          *shall be deducted from the next disbursements to that*  
24          *recipient made under the applicable law. Such*  
25          *amounts deducted from subsequent disbursements*

1       *shall be credited to miscellaneous receipts in the*  
 2       *Treasury.*

3               “(3) *PAYMENT PERIOD.*—*A refund under this*  
 4       *subsection shall be paid or denied (with an expla-*  
 5       *nation of the reasons for the denial) within 120 days*  
 6       *of the date on which the request for refund is received*  
 7       *by the Secretary. Such refund shall be subject to later*  
 8       *audit by the Secretary or the applicable delegated*  
 9       *State and subject to the provisions of this Act.*

10              “(4) *PROHIBITION AGAINST REDUCTION OF RE-*  
 11       *FUNDS OR CREDITS.*—*In no event shall the Secretary*  
 12       *or any delegated State directly or indirectly claim or*  
 13       *offset any amount or amounts against, or reduce any*  
 14       *refund or credit (or interest accrued thereon) by the*  
 15       *amount of any obligation the enforcement of which is*  
 16       *barred by section 115 of this Act.”.*

17       (b) *CLERICAL AMENDMENT.*—*The table of contents in*  
 18       *section 1 of the Federal Oil and Gas Royalty Management*  
 19       *Act of 1982 (30 U.S.C. 1701) is amended by inserting after*  
 20       *the item relating to section 111 the following new item:*

      “*Sec. 111A. Adjustments and refunds.*”.

21       **SEC. 6. ROYALTY TERMS AND CONDITIONS, INTEREST, AND**  
 22                                       **PENALTIES.**

23       (a) *LESSEE OR DESIGNEE INTEREST.*—*Section 111 of*  
 24       *the Federal Oil and Gas Royalty Management Act of 1982*

1 *(30 U.S.C. 1721) is amended by adding after subsection (g)*  
2 *the following:*

3       *“(h) Interest shall be allowed and paid or credited on*  
4 *any overpayment, with such interest to accrue from the date*  
5 *such overpayment was made, at the rate obtained by apply-*  
6 *ing the provisions of subparagraphs (A) and (B) of section*  
7 *6621(a)(1) of the Internal Revenue Code of 1986, but deter-*  
8 *mined without regard to the sentence following subpara-*  
9 *graph (B) of section 6621(a)(1). Interest which has accrued*  
10 *on any overpayment may be applied to reduce an under-*  
11 *payment. This subsection applies to overpayments made*  
12 *later than six months after the date of enactment of this*  
13 *subsection or September 1, 1996, whichever is later. Such*  
14 *interest shall be paid from amounts received as current re-*  
15 *ceipts from sales, bonuses, royalties (including interest*  
16 *charges collected under this section) and rentals of the pub-*  
17 *lic lands and the Outer Continental Shelf under the provi-*  
18 *sions of the Mineral Leasing Act, and the Outer Continental*  
19 *Shelf Lands Act, which are not payable to a State or the*  
20 *Reclamation Fund. The portion of any such interest pay-*  
21 *ment attributable to any amounts previously disbursed to*  
22 *a State, the Reclamation Fund, or any other recipient des-*  
23 *ignated by law shall be deducted from the next disburse-*  
24 *ments to that recipient made under the applicable law.*

1 *Such amounts deducted from subsequent disbursements*  
2 *shall be credited to miscellaneous receipts in the Treasury.”.*

3 (b) *LIMITATION ON INTEREST.*—Section 111 of the  
4 *Federal Oil and Gas Royalty Management Act of 1982, as*  
5 *amended by subsection (a), is further amended by adding*  
6 *at the end the following:*

7 “(i) *Upon a determination by the Secretary that an*  
8 *excessive overpayment (based upon all obligations of a lessee*  
9 *or its designee for a given reporting month) was made for*  
10 *the sole purpose of receiving interest, interest shall be paid*  
11 *on the excessive amount of such overpayment. For purposes*  
12 *of this Act, an ‘excessive overpayment’ shall be the amount*  
13 *that any overpayment a lessee or its designee pays for a*  
14 *given reporting month (excluding payments for demands for*  
15 *obligations determined to be due as a result of judicial or*  
16 *administrative proceedings or agreed to be paid pursuant*  
17 *to settlement agreements) for the aggregate of all of its Fed-*  
18 *eral leases exceeds 10 percent of the total royalties paid that*  
19 *month for those leases.”.*

20 (c) *ESTIMATED PAYMENT.*—Section 111 of the *Federal*  
21 *Oil and Gas Royalty Management Act of 1982 (30 U.S.C.*  
22 *1721), as amended by subsections (a) and (b), is further*  
23 *amended by adding at the end the following:*

24 “(j) *A lessee or its designee may make a payment for*  
25 *the approximate amount of royalties (hereinafter in this*

1 subsection ‘estimated payment’) that would otherwise be due  
2 for such lease by the rate royalties are due for that lease.  
3 When an estimated payment is made, actual royalties are  
4 payable at the end of the month following the month in  
5 which the estimated payment is made. If the estimated pay-  
6 ment was less than the amount of actual royalties due, in-  
7 terest is owned on the underpaid amount. If the estimated  
8 payment exceeds the actual royalties due, interest is owned  
9 on the overpayment. If the lessee or its designee makes a  
10 payment for such actual royalties, the lessee or its designee  
11 may apply the estimated payment to future royalties. Any  
12 estimated payment may be adjusted, recouped, or reinstated  
13 at any time by the lessee or its designee.”.

14 (d) VOLUME ALLOCATION OF OIL AND GAS PRODUC-  
15 TION.—Section 111 of the Federal Oil and Gas Royalty  
16 Management Act of 1982 (30 U.S.C. 1721), as amended by  
17 subsections (a) through (c), is amended by adding at the  
18 end the following:

19 “(k)(1) Except as otherwise provided by this sub-  
20 section—

21 “(A) a lessee or its designee of a lease in a unit  
22 or communitization agreement which contains only  
23 Federal leases with the same royalty rate and funds  
24 distribution shall report and pay royalties on oil and  
25 gas production for each production month base on the

1       *actual volume of production sold by or on behalf of*  
2       *that lessee;*

3               “(B) a lessee or its designee of a lease in any  
4       *other unit or communitization agreement shall report*  
5       *and pay royalties on oil and gas production for each*  
6       *production month based on the volume of oil and gas*  
7       *produced from such agreement and allocated to the*  
8       *lease in accordance with the terms of the agreement;*  
9       *and*

10              “(C) a lessee or its designee of a lease that is not  
11       *contained in a unit or communitization agreement*  
12       *shall report and pay royalties on oil and gas produc-*  
13       *tion for each production month based on the actual*  
14       *volume of production sold by or on behalf of that les-*  
15       *see.*

16              “(2) *This subsection applies only to requirements for*  
17       *reporting and paying royalties. Nothing in this subsection*  
18       *is intended to alter a lessee’s liability for royalties on oil*  
19       *or gas production based on the share of production allocated*  
20       *to the lease in accordance with the terms of the lease, a*  
21       *unit or communitization agreement, or any other agree-*  
22       *ment.*

23              “(3) *For any unit or communitization agreement if*  
24       *all lessees contractually agree to an alternative method of*  
25       *royalty reporting and payment, the lessees may submit such*

1 *alternative method to the Secretary or the delegated State*  
2 *for approval and make payments in accordance with such*  
3 *approved alternative method so long as such alternative*  
4 *method does not reduce the amount of the royalty obliga-*  
5 *tion.*

6       “(4) *The Secretary or the delegated State shall grant*  
7 *an exception from the reporting and payment requirements*  
8 *for marginal properties by allowing for any calendar year*  
9 *or portion thereof royalties to be paid each month based*  
10 *on the volume of production sold. Interest shall not accrue*  
11 *on the difference for the entire calendar year or portion*  
12 *thereof between the amount of oil and gas actually sold and*  
13 *the share of production allocated to the lease until the begin-*  
14 *ning of the month following such calendar year or portion*  
15 *thereof. Any additional royalties dues or overpaid royalties*  
16 *and associated interest shall be paid, refunded, or credited*  
17 *within six months after the end of each calendar year in*  
18 *which royalties are paid based on volumes of production*  
19 *sold. For the purpose of this subsection, the term ‘marginal*  
20 *property’ means a lease that produces on average the com-*  
21 *bined equivalent of less than 15 barrels of oil per well per*  
22 *day or 90 thousand cubic feet of gas per well per day, or*  
23 *a combination thereof, determined by dividing the average*  
24 *daily production of crude oil and natural gas from produc-*  
25 *ing wells on such lease by the number of such wells, unless*

1 *the Secretary, together with the State concerned, determines*  
2 *that a different production is more appropriate.*

3       “(5) *Not later than two years after the date of the en-*  
4 *actment of this subsection, the Secretary shall issue any ap-*  
5 *propriate demand for all outstanding royalty payment dis-*  
6 *putes regarding who is required to report and pay royalties*  
7 *on production from units and communitization agreements*  
8 *outstanding on the date of the enactment of this subsection,*  
9 *and collect royalty amounts owed on such production.”.*

10       *(e) PRODUCTION ALLOCATION.—Section 111 of the*  
11 *Federal Oil and Gas Royalty Management Act of 1982 (30*  
12 *U.S.C. 1721), as amended by subsections (a) through (d),*  
13 *is amended by adding at the end the following:*

14       “(l) *The Secretary shall issue all determinations of al-*  
15 *locations of production for units and communitization*  
16 *agreements within 120 days of a request for determination.*  
17 *If the Secretary fails to issue a determination within such*  
18 *120-day period, the Secretary shall waive interest due on*  
19 *obligations subject to the determination until the end of the*  
20 *month following the month in which the determination is*  
21 *made.”.*

22       *(f) NEW ASSESSMENT TO ENCOURAGE PROPER ROY-*  
23 *ALTY PAYMENTS.—*

24               (1) *IN GENERAL.—The Federal Oil and Gas*  
25 *Royalty Management Act of 1982 (30 U.S.C. 1721),*

1       *as amended by section 4(a), is further amended by*  
 2       *adding at the end the following:*

3       **“SEC. 116. ASSESSMENTS.**

4       *“Beginning eighteen months after the date of enact-*  
 5       *ment of this section, to encourage proper royalty payment*  
 6       *the Secretary or the delegated State shall impose assess-*  
 7       *ments on a person who chronically submits erroneous re-*  
 8       *ports under this Act. Assessments under this Act may only*  
 9       *be issued as provided for in this section.”.*

10               (2) *CLERICAL AMENDMENT.—The table of con-*  
 11       *tents in section 1 of such Act (30 U.S.C. 1701) is*  
 12       *amended by adding after the item relating to section*  
 13       *115 the following new item:*

*“Sec. 116. Assessments.”.*

14       (g) *LIABILITY FOR ROYALTY PAYMENTS.—Section*  
 15       *102(a) of the Federal Oil and Gas Royalty Management*  
 16       *Act of 1982 (30 U.S.C. 1712(a)) is amended to read as fol-*  
 17       *lows:*

18       *“(a) In order to increase receipts and achieve effective*  
 19       *collections of royalty and other payments, a lessee who is*  
 20       *required to make any royalty or other payment under a*  
 21       *lease or under the mineral leasing laws, shall make such*  
 22       *payments in the time and manner as may be specified by*  
 23       *the Secretary or the applicable delegated State. A lessee may*  
 24       *designate a person to make all or part of the payments due*  
 25       *under a lease on the lessee’s behalf and shall notify the Sec-*

1 *retary or the applicable delegated State in writing of such*  
 2 *designation, in which event said designated person may,*  
 3 *in its own name, pay, offset or credit monies, make adjust-*  
 4 *ments, request and receive refunds and submit reports with*  
 5 *respect to payments required by the lessee. Notwithstanding*  
 6 *any other provision of this Act to the contrary, a designee*  
 7 *shall not be liable for any payment obligation under the*  
 8 *lease. The person owning operating rights in a lease shall*  
 9 *be primarily liable for its pro rata share of payment obliga-*  
 10 *tions under the lease. If the person owning the legal record*  
 11 *title in a lease is other than the operating rights owner,*  
 12 *the person owning the legal record title shall be secondarily*  
 13 *liable for its pro rata share of such payment obligations*  
 14 *under the lease.”.*

15 *(h) CLERICAL AMENDMENTS.—(1) The heading of sec-*  
 16 *tion 111 of the Federal Oil and Gas Royalty management*  
 17 *Act of 1982 (30 U.S.C. 1721) is amended to read as follows:*

18 *“ROYALTY TERMS AND CONDITIONS, INTEREST, AND*  
 19 *PENALTIES”.*

20 *(2) The item relating to section 111 in the table of*  
 21 *contents in section 1 of such Act (30 U.S.C. 1701) is amend-*  
 22 *ed to read as follows:*

*“Sec. 111. Royalty terms and conditions, interest, and penalties.”.*

23 **SEC. 7. ALTERNATIVES FOR MARGINAL PROPERTIES.**

24 *(a) IN GENERAL.—The Federal Oil and Gas Royalty*  
 25 *Management Act of 1982 (30 U.S.C. 1701 et seq.), as*

1 *amended by section 6 of this Act, is further amended by*  
2 *adding at the end the following:*

3 **“SEC. 117. ALTERNATIVES FOR MARGINAL PROPERTIES.**

4       “(a) *DETERMINATION OF BEST INTERESTS OF STATE*  
5 *CONCERNED AND THE UNITED STATES.—The Secretary*  
6 *and the State concerned, acting in the best interests of the*  
7 *United States and the State concerned to promote produc-*  
8 *tion, reduce administrative costs, and increase net receipts*  
9 *to the United States and the States, shall jointly determine,*  
10 *on a case by case basis, the amount of what marginal pro-*  
11 *duction from a lease or leases or well or wells, or parts*  
12 *thereof, shall be subject to a prepayment under subsection*  
13 *(b) or regulatory relief under subsection (c). If the State*  
14 *concerned does not consent, such prepayments or regulatory*  
15 *relief shall not be made available under this section for such*  
16 *marginal production: Provided, That if royalty payments*  
17 *from a lease or leases, or well or wells are not shared with*  
18 *any State, such determination shall be made solely by the*  
19 *Secretary.*

20       “(b) *PREPAYMENT OF ROYALTY.—*

21               “(1) *IN GENERAL.—Notwithstanding the provi-*  
22 *sions of any lease to the contrary, for any lease or*  
23 *leases or well or wells identified by the Secretary and*  
24 *the State concerned pursuant to subsection (a), the*  
25 *Secretary is authorized to accept a prepayment for*

1        *royalties in lieu of monthly royalty payments under*  
2        *the lease for the remainder of the lease term if the af-*  
3        *ected lessee so agrees. Any prepayment agreed to by*  
4        *the Secretary, State concerned and lessee which is less*  
5        *than an average \$500 per month in total royalties*  
6        *shall be effectuated under this section not earlier than*  
7        *two years after the date of enactment of this section*  
8        *and, any prepayment which is greater than an aver-*  
9        *age \$500 per month in total royalties shall be effec-*  
10       *tuated under this section not earlier than three years*  
11       *after the date of enactment of this section. The Sec-*  
12       *retary and the State concerned may condition their*  
13       *acceptance of the prepayment authorized under this*  
14       *section on the lessee's agreeing to such terms and con-*  
15       *ditions as the Secretary and the State concerned deem*  
16       *appropriate and consistent with the purposes of this*  
17       *Act. Such terms may—*

18                *“(A) provide for prepayment that does not*  
19                *result in a loss of revenue to the United States*  
20                *in present value terms;*

21                *“(B) include provisions for receiving addi-*  
22                *tional prepayments or royalties for developments*  
23                *in the lease or leases or well or wells that deviate*  
24                *significantly from the assumptions and facts on*  
25                *which the valuation is determined; and*

1           “(C) require the lessee or its designee to pro-  
2           vide such periodic production reports as may be  
3           necessary to allow the Secretary and the State  
4           concerned to monitor production for the purposes  
5           of subparagraph (B).

6           “(2) STATE SHARE.—A prepayment under this  
7           section shall be shared by the Secretary with any  
8           State or other recipient to the same extent as any  
9           royalty payment for such lease.

10           “(3) SATISFACTION OF OBLIGATION.—Except as  
11           may be provided in the terms and conditions estab-  
12           lished by the Secretary under subsection (b), a lessee  
13           or its designee who makes a prepayment under this  
14           section shall have satisfied in full the lessee’s obliga-  
15           tion to pay royalty on the production stream sold  
16           from the lease or leases or well or wells.

17           “(c) ALTERNATIVE ACCOUNTING AND AUDITING RE-  
18           QUIREMENTS.—Within one year after the date of the enact-  
19           ment of this section, the Secretary or the delegated State  
20           shall provide accounting, reporting, and auditing relief that  
21           will encourage lessees to continue to produce and develop  
22           properties subject to subsection (a): Provided, That such re-  
23           lief will only be available to lessees in a State that concurs,  
24           which concurrence is not required if royalty payments from  
25           the lease or leases or well or wells are not shared with any

1 *State. Prior to granting such relief, the Secretary and, if*  
2 *appropriate, the State concerned shall agree that the type*  
3 *of marginal wells and relief provided under this paragraph*  
4 *is in the best interest of the United States and, if appro-*  
5 *priate, the State concerned.”.*

6 (b) *CLERICAL AMENDMENT.—The table of contents in*  
7 *section 1 of such Act (30 U.S.C. 1701) is amended by add-*  
8 *ing after the item relating to section 116 the following new*  
9 *item:*

*“Sec. 117. Alternatives for marginal properties.”.*

10 **SEC. 8. APPLICABILITY.**

11 (a) *FOGRMA.—With respect to Federal lands, sec-*  
12 *tions 202 and 307 of the Federal Oil and Gas Royalty Man-*  
13 *agement Act of 1982 (30 U.S.C. 1732 and 1755), are no*  
14 *longer applicable. The applicability of those sections to In-*  
15 *dian leases is not affected.*

16 (b) *OCSLA.—Effective on the date of the enactment*  
17 *of this Act, section 10 of the Outer Continental Shelf Lands*  
18 *Act (43 U.S.C. 1339) is repealed.*

19 **SEC. 9. INDIAN LANDS.**

20 *The amendments made by this Act shall not apply*  
21 *with respect to Indian lands, and the provisions of the Fed-*  
22 *eral Oil and Gas Royalty Management Act of 1982 as in*  
23 *effect on the day before the date of enactment of this Act*  
24 *shall continue to apply after such date with respect to In-*  
25 *dian lands.*

1 **SEC. 10. PRIVATE LANDS.**

2 *This Act shall not apply to any privately owned min-*  
3 *erals.*

4 **SEC. 11. EFFECTIVE DATE.**

5 *Except as provided by section 115(f), section 111(h),*  
6 *section 111(k)(5), and section 117 of the Federal Oil and*  
7 *Gas Royalty Management Act of 1982 (as added by this*  
8 *Act), this Act, and the amendments made by this Act, shall*  
9 *apply with respect to the production of oil and gas after*  
10 *the first day of the month following the date of the enact-*  
11 *ment of this Act.*

12 **SEC. 12. SAVINGS CLAUSE.**

13 *Nothing in this Act shall be construed to give a State*  
14 *a property right or interest in any Federal lease or land.*