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105TH CONGRESS
2D SESSION

H. R. 3932

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

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 1998

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

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Oil Royalty Protection Act of 1998''.

SEC. 2. DEFINITIONS.

In this Act:

(1) INDEPENDENT PRODUCER.—The term ''independent producer'' means a producer that to-

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

(2) INTEGRATED PRODUCER.—The term ''integrated producer'' means a producer other than an independent producer.

(3) COMMODITY-BASED PRICE.—The term ''commodity-based price'' means the price obtained under contracts to buy or sell oil in a domestic futures market.

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

(5) AFFILIATE.—The term ''affiliate'' means a person that owns, is owned by, or is under common ownership with another person, and includes corporate subsidiaries, partnerships, joint ventures, and other forms of ownership.

(6) GROSS PROCEEDS.—The term ''gross proceeds''—

(A) means the total moneys, reimbursements, and other consideration accruing under a contract for the disposition of oil produced, including all consideration received or paid by a lessee for services that the lessee must perform at no cost to the Federal Government or that is otherwise normally performed by a producer; and

(B) includes any payments made to reduce, buy down, or buy out of a contract for the disposition of oil produced.

(7) TRANSPORTATION.—The term "transportation" means the movement of oil or gas from a central accumulation or treatment point to a point of sale or delivery.

(8) CONCERNED STATE.—The term "concerned State" means any State that shares in the revenues received under Federal onshore or Outer Continental Shelf leases.

SEC. 3. OIL VALUATION RULES.

(a) SEPARATE RULES.—

(1) IN GENERAL.—Subject to the requirements in this section, the Secretary may establish separate rules to govern the calculation of the value for Federal royalty purposes of crude oil produced by independent producers and integrated producers from any Federal onshore or Outer Continental Shelf lease.

(2) INTEGRATED PRODUCERS.—Any rule established under this subsection for integrated producers shall comply with the provisions of subsection (b).

(3) INDEPENDENT PRODUCERS: GROSS PROCEEDS.—(A) Any rule under this subsection for independent producers may allow payment of royalties based on the total gross proceeds accruing to an independent producer or its affiliate under an arm's-length contract for a true sale of the crude oil.

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

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

(ii) If the Secretary finds that any lessee has breached its duty to market the production, the lessee shall be liable for additional royalties as determined under subsection (b) and for the total administrative and legal costs incurred by the Federal government in investigating and prosecuting the breach.

(iii) Violations of the certification required under this subparagraph shall be subject to a penalty that shall be not less than an amount equal to the underpayment amount determined by the Secretary under paragraph (3)(C)(i).

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

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

(i) may apply a different method in different geographic regions, if the Secretary finds that the use of a different method in a region is necessary to reflect the unique market characteristics of that region; and

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

(b) SINGLE SET OF RULES.—

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

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

(3) OTHER VARIATION.—Rules under this section may provide for reasonable and necessary location- and quality-based adjustments to any commodity-based price or marker crude price. No other

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

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

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

(b) INDEPENDENT PRODUCER LEASES.—

(1) EXISTING ROYALTY RATE REDUCTIONS.—All royalty rate reductions for stripper and heavy oil granted by the Secretary on or before the date of enactment of this Act and applicable to leases held or operated by independent producers shall remain in effect until the earlier of—

(A) September 10, 1999, or

(B) cancellation by the Secretary.

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

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

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

(B) the reduction is approved by the concerned State; and

(C) the rate reduction is effective for a period not greater than 3 years.

SEC. 5. TRANSPORTATION CHARGE FOR OUTER CONTINENTAL SHELF PRODUCTION.

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

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

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

Act (30 U.S.C. 185), and each pipeline operator thereunder, has complied with the requirements of the right-of-way or permit and that section in the construction, operation, and maintenance of pipelines under the right-of-way or permit.

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

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

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

Section 3009 of the 1998 Supplemental Appropriations and Rescissions Act, relating to a limitation on use of appropriations to issue a notice of final rulemaking with respect to the valuation of crude oil for royalty purposes, is repealed.

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