

ATTACHMENT 1

GAO

United States General Accounting Office
Accounting and Financial
Management Division

September 1991

**The Chief Financial
Officers Act**
A Mandate for Federal
Financial Management
Reform

GAO/AFMD-12.19.4

Preface

The Chief Financial Officers (CFO) Act of 1990 (Public Law 101-576) marks the beginning of what promises to be a new era not only in federal management and accountability, but also in efforts to gain financial control of government operations.

The government has a responsibility to use timely, reliable, and comprehensive financial information when making decisions which have an impact on citizens' lives and livelihood. Despite good intentions and past efforts to improve financial management systems, this is still not done.

The Congress mandated financial management reform by enacting the CFO Act, which was signed into law by President Bush on November 15, 1990. This is the most comprehensive and far-reaching financial management improvement legislation since the Budget and Accounting Procedures Act of 1950 was passed over 40 years ago. The CFO Act will lay a foundation for comprehensive reform of federal financial management. The act establishes a leadership structure, provides for long-range planning, requires audited financial statements, and strengthens accountability reporting.

Federal financial managers, auditors, and program managers at all levels of government will be affected as agencies take actions required under the CFO Act to improve financial management systems and information. Therefore, it is essential that the CFO Act's provisions are fully understood.

Preface

This booklet will help agency managers and other interested parties (1) become familiar with the CFO Act's principal features, (2) better understand the actions needed to successfully implement the act, and (3) identify the sources for additional information to assist in carrying out the act's provisions.

A handwritten signature in black ink that reads "Charles A. Bowsher". The signature is written in a cursive, flowing style.

Charles A. Bowsher
Comptroller General
of the United States

Financial Statements and Audits

Since 1984, GAO has audited the financial statements for various federal agencies, including the General Services Administration and the Departments of Agriculture, the Air Force, Housing and Urban Development, and Veterans Affairs. These audits improved the quality of agency financial information and identified significant problems in agency financial operations and reporting.

The CFO Act requires that financial statements be prepared for trust and revolving fund operations and for agency programs that are substantially commercial functions. For example, this would include programs for providing (1) insurance, (2) loans and loan guarantees, and (3) a service or thing of value for which a fee, royalty, or rent is charged. The act also establishes a pilot project whereby certain agencies, listed in table 1, are to prepare agencywide financial statements for specific years.

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[CITE: 30USC1701]

TITLE 30--MINERAL LANDS AND MINING

CHAPTER 29--OIL AND GAS ROYALTY MANAGEMENT

Sec. 1701. Congressional statement of findings and purposes

(a) Congress finds that--

(1) the Secretary of the Interior should enforce effectively and uniformly existing regulations under the mineral leasing laws providing for the inspection of production activities on lease sites on Federal and Indian lands;

(2) the system of accounting with respect to royalties and other payments due and owing on oil and gas produced from such lease sites is archaic and inadequate;

(3) it is essential that the Secretary initiate procedures to improve methods of accounting for such royalties and payments and to provide for routine inspection of activities related to the production of oil and gas on such lease sites; and

(4) the Secretary should aggressively carry out his trust responsibility in the administration of Indian oil and gas.

(b) It is the purpose of this chapter--

(1) to clarify, reaffirm, expand, and define the responsibilities and obligations of lessees, operators, and other persons involved in transportation or sale of oil and gas from the Federal and Indian lands and the Outer Continental Shelf;

(2) to clarify, reaffirm, expand and define the authorities and responsibilities of the Secretary of the Interior to implement and maintain a royalty management system for oil and gas leases on Federal lands, Indian lands, and the Outer Continental Shelf;

(3) to require the development of enforcement practices that ensure the prompt and proper collection and disbursement of oil and gas revenues owed to the United States and Indian lessors and those inuring to the benefit of States;

(4) to fulfill the trust responsibility of the United States for the administration of Indian oil and gas resources; and

(5) to effectively utilize the capabilities of the States and Indian tribes in developing and maintaining an efficient and effective Federal royalty management system.

(Pub. L. 97-451, Sec. 2, Jan. 12, 1983, 96 Stat. 2448.)

Effective Date of 1996 Amendment

Pub. L. 104-185, Sec. 11, Aug. 13, 1996, 110 Stat. 1717, provided that: ``Except as provided by section 115(h) [30 U.S.C. 1724(h)], section 111(h) [30 U.S.C. 1721(h)], section 111(k)(5) [30 U.S.C. 1721(k)(5)], and section 117 [30 U.S.C. 1726] of the Federal Oil and Gas Royalty Management Act of 1982 (as added by this Act), this Act [see Short Title of 1996 Amendment note below], and the amendments made by this Act, shall apply with respect to the production of oil and gas after the first day of the month following the date of the enactment of this Act [Aug. 13, 1996].''

Effective Date

Section 305 of Pub. L. 97-451 provided that: ``The provisions of this Act [enacting this chapter, amending sections 188 and 191 of this title, and enacting provisions set out as notes under this section and sections 1714 and 1752 of this title] shall apply to oil and gas leases issued before, on, or after the date of the enactment of this Act [Jan. 12, 1983], except that in the case of a lease issued before such date, no provision of this Act or any rule or regulation prescribed under this Act shall alter the express and specific provisions of such a lease.''

Short Title of 1996 Amendment

Pub. L. 104-185, Sec. 1, Aug. 13, 1996, 110 Stat. 1700, provided that: ``This Act [enacting sections 1721a and 1724 to 1726 of this title, amending sections 1702, 1712, 1721, and 1735 of this title, repealing section 1339 of Title 43, Public Lands, and enacting provisions set out as notes under this section, section 1732 of this title, and section 1339 of Title 43] may be cited as the `Federal Oil and Gas Royalty Simplification and Fairness Act of 1996'.''

Short Title

Section 1 of Pub. L. 97-451 provided that: ``This Act [enacting this chapter, amending sections 188 and 191 of this title, and enacting provisions set out as notes under this section and sections 1714 and 1752 of this title] may be cited as the `Federal Oil and Gas Royalty Management Act of 1982'.''

Applicability of 1996 Amendment

Pub. L. 104-185, Sec. 9, Aug. 13, 1996, 110 Stat. 1717, provided that: ``The amendments made by this Act [see Short Title of 1996 Amendment note above] shall not apply with respect to Indian lands, and the provisions of the Federal Oil and Gas Royalty Management Act of 1982 [30 U.S.C. 1701 et seq.] as in effect on the day before the date of enactment of this Act [Aug. 13, 1996] shall continue to apply after such date with respect to Indian lands.''

Pub. L. 104-185, Sec. 10, Aug. 13, 1996, 110 Stat. 1717, provided that: ``This Act [see Short Title of 1996 Amendment note above] shall not apply to any privately owned minerals.''

Construction of 1996 Amendment

Pub. L. 104-185, Sec. 12, Aug. 13, 1996, 110 Stat. 1717, provided that: ``Nothing in this Act [see Short Title of 1996 Amendment note above] shall be construed to give a State a property right or interest in any Federal lease or land.''

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[CITE: 30USC1702]

TITLE 30--MINERAL LANDS AND MINING

CHAPTER 29--OIL AND GAS ROYALTY MANAGEMENT

Sec. 1702. Definitions

For the purposes of this chapter, the term--

(1) ``Federal land'' means all land and interests in land owned by the United States which are subject to the mineral leasing laws, including mineral resources or mineral estates reserved to the United States in the conveyance of a surface or nonmineral estate;

(2) ``Indian allottee'' means any Indian for whom land or an interest in land is held in trust by the United States or who holds title subject to Federal restriction against alienation;

(3) ``Indian lands'' means any lands or interest in lands of an Indian tribe or an Indian allottee held in trust by the United States or which is subject to Federal restriction against alienation or which is administered by the United States pursuant to section 1613(g) of title 43, including mineral resources and mineral estates reserved to an Indian tribe or an Indian allottee in the conveyance of a surface or nonmineral estate, except that such term does not include any lands subject to the provisions of section 3 of the Act of June 28, 1906 (34 Stat. 539);

(4) ``Indian tribe'' means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indians, including the Metlakatla Indian Community of Annette Island Reserve, for which any land or interest in land is held by the United States in trust or which is subject to Federal restriction against alienation or which is administered by the United States pursuant to section 1613(g) of title 43;

(5) ``lease'' means any contract, profit-share arrangement, joint venture, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, extraction of, or removal of oil or gas;

(6) ``lease site'' means any lands or submerged lands, including the surface of a severed mineral estate, on which exploration for, or extraction or removal of, oil or gas is authorized pursuant to a lease;

(7) ``lessee'' means any person to whom the United States issues an oil and gas lease or any person to whom operating rights in a lease have been assigned;

(8) ``mineral leasing law'' means any Federal law administered by the Secretary authorizing the disposition under lease of oil or gas;

(9) ``oil or gas'' means any oil or gas originating from, or allocated to, the Outer Continental Shelf, Federal, or Indian lands;

(10) ``Outer Continental Shelf'' has the same meaning as provided in the Outer Continental Shelf Lands Act (Public Law 95-372);

(11) ``operator'' means any person, including a lessee, who has control of, or who manages operations on, an oil and gas lease site on Federal or Indian lands or on the Outer Continental Shelf;

(12) ``person'' means any individual, firm, corporation, association, partnership, consortium, or joint venture;

(13) ``production'' means those activities which take place for the removal of oil or gas, including such removal, field operations, transfer of oil or gas off the lease site, operation monitoring, maintenance, and workover drilling;

(14) ``royalty'' means any payment based on the value or volume of production which is due to the United States or an Indian tribe or an Indian allottee on production of oil or gas from the Outer Continental Shelf, Federal, or Indian lands, or any minimum royalty owed to the United States or an Indian tribe or an Indian allottee under any provision of a lease;

(15) ``Secretary'' means the Secretary of the Interior or his designee;

(16) ``State'' means the several States of the Union, the District of Columbia, Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands;

(17) ``adjustment'' means an amendment to a previously filed report on an obligation, and any additional payment or credit, if any, applicable thereto, to rectify an underpayment or overpayment on an obligation;

(18) ``administrative proceeding'' means any Department of the Interior agency process in which a demand, decision or order issued by the Secretary or a delegated State is subject to appeal or has been appealed;

(19) ``assessment'' means any fee or charge levied or imposed by the Secretary or a delegated State other than--

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

(B) any interest; or

(C) any civil or criminal penalty;

(20) ``commence'' means--

(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, cross claim, or other pleading seeking affirmative relief or seeking credit or recoupment: Provided, That if the Secretary commences a judicial proceeding against a designee, the Secretary shall give notice of that commencement to the lessee who designated the designee, but the Secretary is not required to give notice to other lessees who may be liable pursuant to section 1712(a) of this title, for the obligation that is the subject of the judicial proceeding; or

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

(21) ``credit'' means the application of an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

(22) ``delegated State'' means a State which, pursuant to an agreement or agreements under section 1735 of this title, performs authorities, duties, responsibilities, or activities of the Secretary;

(23) ``demand'' means--

(A) an order to pay issued by the Secretary or the applicable delegated State to a lessee or its designee (with written notice to the lessee who designated the designee) that has a reasonable basis to conclude that the obligation in the amount of the demand is due and owing; or

(B) a separate written request by a lessee or its designee which asserts an obligation due the lessee or its designee that provides a reasonable basis to conclude that the obligation in the amount of the demand is due and owing, but does not mean any royalty or production report, or any information contained therein, required by the Secretary or a delegated State;

(24) ``designee'' means the person designated by a lessee pursuant to section 1712(a) of this title, with such written designation effective on the date such designation is received by the Secretary and remaining in effect until the Secretary receives

notice in writing that the designation is modified or terminated;

(25) ``obligation'' means--

(A) any duty of the Secretary or, if applicable, a delegated State--

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

(ii) to pay, refund, offset, or credit monies including (but not limited to)--

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

(II) any interest; and

(B) any duty of a lessee or its designee (subject to the provisions of section 1712(a) of this title)--

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

(ii) to pay, offset or credit monies including (but not limited to)--

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

(II) any interest;

(III) any penalty; or

(IV) any assessment,

which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;

(26) ``order to pay'' means a written order issued by the Secretary or the applicable delegated State to a lessee or its designee (with notice to the lessee who designated the designee) which--

(A) asserts a specific, definite, and quantified obligation claimed to be due, and

(B) specifically identifies the obligation by lease, production month and monetary amount of such obligation claimed to be due and ordered to be paid, as well as the reason or reasons such obligation is claimed to be due, but such term does not include any other communication or action by or on behalf of the Secretary or a delegated State;

(27) ``overpayment'' means any payment by a lessee or its designee in excess of an amount legally required to be paid on an obligation and includes the portion of any estimated payment for a production month that is in excess of the royalties due for that month;

(28) ``payment'' means satisfaction, in whole or in part, of an obligation;

(29) ``penalty'' means a statutorily authorized civil fine levied or imposed for a violation of this chapter, any mineral leasing law, or a term or provision of a lease administered by the Secretary;

(30) ``refund'' means the return of an overpayment;

(31) ``State concerned'' means, with respect to a lease, a State which receives a portion of royalties or other payments under the mineral leasing laws from such lease;

(32) ``underpayment'' means any payment or nonpayment by a lessee or its designee that is less than the amount legally required to be paid on an obligation; and

(33) ``United States'' means the United States Government and any department, agency, or instrumentality thereof, the several States, the District of Columbia, and the territories of the United States.

Sec. 29(f)(1), as added Pub. L. 100-241, Sec. 15, Feb. 3, 1988, 101 Stat. 1813; Pub. L. 104-185, Sec. 2, Aug. 13, 1996, 110 Stat. 1700; Pub. L. 104-200, Sec. 1(1), Sept. 22, 1996, 110 Stat. 2421.)

References in Text

Section 3 of the Act of June 28, 1906 (34 Stat. 539), referred to in par. (3), is not classified to the Code.

``Outer Continental Shelf'' as provided in the Outer Continental Shelf Lands Act (Public Law 95-372), referred to in par. (10), is defined in section 1331(a) of Title 43, Public Lands.

Amendments

1996--Par. (7). Pub. L. 104-185, Sec. 2(1), amended par. (7) generally. Prior to amendment, par. (7) read as follows: `` `lessee' means any person to whom the United States, an Indian tribe, or an Indian allottee, issues a lease, or any person who has been assigned an obligation to make royalty or other payments required by the lease;''.

Pars. (17) to (25). Pub. L. 104-185, Sec. 2(2), added pars. (17) to (25).

Par. (25)(B). Pub. L. 104-200, substituted ``provisions of section 1712(a)'' for ``provision of section 1712(a)'' in introductory provisions.

Pars. (26) to (33). Pub. L. 104-185, Sec. 2(2), added pars. (26) to (33).

1988--Pars. (3), (4). Pub. L. 92-203 inserted ``or which is administered by the United States pursuant to section 1613(g) of title 43'' after ``alienation''.

Effective Date of 1996 Amendment

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

Effective Date of 1988 Amendment

Section 29(f)(2) of Pub. L. 92-203, as added by Pub. L. 100-241, Sec. 15, Feb. 3, 1988, 101 Stat. 1813, provided that: ``The amendment made by paragraph (1) [amending this section] shall be effective as if originally included in section 3 of Public Law 97-451 [this section].''

Applicability of 1996 Amendment

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

Termination of Trust Territory of the Pacific Islands

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

[Go to 1st query term\(s\)](#)

-CITE-

30 USC Sec. 189

01/06/03

-EXPCITE-

TITLE 30 - MINERAL LANDS AND MINING

CHAPTER 3A - LEASES AND PROSPECTING PERMITS

SUBCHAPTER I - GENERAL PROVISIONS

-HEAD-

Sec. 189. Rules and regulations; boundary lines; State rights

unaffected; taxation

-STATUTE-

The Secretary of the Interior is authorized to prescribe necessary and proper rules and regulations and to do any and all things necessary to carry out and accomplish the purposes of this chapter, also to fix and determine the boundary lines of any structure, or oil or gas field, for the purposes of this chapter. Nothing in this chapter shall be construed or held to affect the rights of the States or other local authority to exercise any rights which they may have, including the right to levy and collect taxes upon improvements, output of mines, or other rights, property, or assets of any lessee of the United States.

-SOURCE-

(Feb. 25, 1920, ch. 85, Sec. 32, 41 Stat. 450.)

-TRANS-

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior to promulgate regulations under this chapter relating to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of

rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97-100, title II, Sec. 201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97-315, pp. 25, 26, Nov. 5, 1981.

-MISC1-

OUTER CONTINENTAL SHELF; RULES AND REGULATIONS WITH RESPECT TO
LEASES

Rules and regulations with respect to mineral leases on submerged lands of outer Continental Shelf to be prescribed by Secretary of the Interior, see section 1334 of Title 43, Public Lands.

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 275, 285 of this title; title 10 sections 7421, 7435.



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-CITE-

30 USC Sec. 359

01/22/02

-EXPCITE-

TITLE 30 - MINERAL LANDS AND MINING

CHAPTER 7 - LEASE OF MINERAL DEPOSITS WITHIN ACQUIRED LANDS

-HEAD-

Sec. 359. Rules and regulations

-STATUTE-

The Secretary of the Interior is authorized to prescribe such rules and regulations as are necessary and appropriate to carry out the purposes of this chapter, which rules and regulations shall be the same as those prescribed under the mineral leasing laws to the extent that they are applicable.

-SOURCE-

(Aug. 7, 1947, ch. 513, Sec. 10, 61 Stat. 915.)

-REFTEXT-

REFERENCES IN TEXT

For definition of 'mineral leasing laws', see section 351 of this title.

-TRANS-

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior to promulgate regulations under this chapter relating to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to

Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97-100, title II, Sec. 201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97-315, pp. 25, 26, Nov. 5, 1981.



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[CITE: 25USC396d]

TITLE 25--INDIANS

CHAPTER 12--LEASE, SALE, OR SURRENDER OF ALLOTTED OR UNALLOTTED LANDS

Sec. 396d. Rules and regulations governing operations;
limitations on oil or gas leases

All operations under any oil, gas, or other mineral lease issued pursuant to the terms of sections 396a to 396g of this title or any other Act affecting restricted Indian lands shall be subject to the rules and regulations promulgated by the Secretary of the Interior. In the discretion of the said Secretary, any lease for oil or gas issued under the provisions of sections 396a to 396g of this title shall be made subject to the terms of any reasonable cooperative unit or other plan approved or prescribed by said Secretary prior or subsequent to the issuance of any such lease which involves the development or production of oil or gas from land covered by such lease.

(May 11, 1938, ch. 198, Sec. 4, 52 Stat. 348.)

Repeal of Inconsistent Acts

For repeal of inconsistent acts, see section 7 of act May 11, 1938, set out as a note under section 396a of this title.

Section Referred to in Other Sections

This section is referred to in sections 396a, 396f, 459c, 1724, 2105 of this title.

[Go to 1st query term\(s\)](#)

-CITE-

43 USC Sec. 1334

01/22/02

-EXPCITE-

TITLE 43 - PUBLIC LANDS

CHAPTER 29 - SUBMERGED LANDS

SUBCHAPTER III - OUTER CONTINENTAL SHELF LANDS

-HEAD-

Sec. 1334. Administration of leasing

-STATUTE-

(a) Rules and regulations; amendment; cooperation with State agencies; subject matter and scope of regulations

The Secretary shall administer the provisions of this subchapter relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this subchapter. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant departments and agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General with respect to matters which may affect competition. In considering

any regulations and in preparing any such views, the Attorney General shall consult with the Federal Trade Commission. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions -

(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, in the national interest, to facilitate proper development of a lease or to allow for the construction or negotiation for use of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by suspension or prohibition under clause (A) or (B) by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued with respect to such lease or permit;

(2) with respect to cancellation of any lease or permit -

(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that -

(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environment;

(ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period

of time; and

(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit force;

(B) that such cancellation shall not occur unless and until operations under such lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease or permit term continuously for a period of five years, or for a lesser period upon request of the lessee;

(C) that such cancellation shall entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (i) the fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oilspill, and all other costs reasonably anticipated on the lease, or (ii) the excess, if any, over the lessee's revenues, from the lease (plus interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement), except that (I) with respect to leases issued before September 18, 1978, such compensation shall be equal to the amount specified in clause (i) of this subparagraph; and (II) in the case of joint leases which are canceled due to the failure of one or more partners to exercise due diligence, the innocent parties shall have the right to

seek damages for such loss from the responsible party or parties and the right to acquire the interests of the negligent party or parties and be issued the lease in question;

(3) for the assignment or relinquishment of a lease;

(4) for unitization, pooling, and drilling agreements;

(5) for the subsurface storage of oil and gas other than by the Federal Government;

(6) for drilling or easements necessary for exploration, development, and production;

(7) for the prompt and efficient exploration and development of a lease area; and

(8) for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), to the extent that activities authorized under this subchapter significantly affect the air quality of any State.

(b) Compliance with regulations as condition for issuance, continuation, assignment, or other transfer of leases

The issuance and continuance in effect of any lease, or of any assignment or other transfer of any lease, under the provisions of this subchapter shall be conditioned upon compliance with regulations issued under this subchapter.

(c) Cancellation of nonproducing lease

Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this subchapter, or of the lease, or of the regulations issued under this subchapter, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this subchapter, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

(d) Cancellation of producing lease

Whenever the owner of any producing lease fails to comply with

any of the provisions of this subchapter, of the lease, or of the regulations issued under this subchapter, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this subchapter.

(e) Pipeline rights-of-way; forfeiture of grant

Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this subchapter, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other minerals, or under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, including (as provided in section 1347(b) of this title) assuring maximum environmental protection by utilization of the best available and safest technologies, including the safest practices for pipeline burial and upon the express condition that oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from submerged lands or outer Continental Shelf lands in the vicinity of the pipelines in such proportionate amounts as the Federal Energy Regulatory Commission, in consultation with the Secretary of Energy, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be grounds for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of this subchapter.

(f) Competitive principles governing pipeline operation

(1) Except as provided in paragraph (2), every permit, license, easement, right-of-way, or other grant of authority for the transportation by pipeline on or across the outer Continental Shelf of oil or gas shall require that the pipeline be operated in accordance with the following competitive principles:

(A) The pipeline must provide open and nondiscriminatory access to both owner and nonowner shippers.

(B) Upon the specific request of one or more owner or nonowner shippers able to provide a guaranteed level of throughput, and on the condition that the shipper or shippers requesting such expansion shall be responsible for bearing their proportionate share of the costs and risks related thereto, the Federal Energy Regulatory Commission may, upon finding, after a full hearing with due notice thereof to the interested parties, that such expansion is within technological limits and economic feasibility, order a subsequent expansion of throughput capacity of any pipeline for which the permit, license, easement, right-of-way, or other grant of authority is approved or issued after September 18, 1978. This subparagraph (FOOTNOTE 1) shall not apply to any such grant of authority approved or issued for the Gulf of Mexico or the Santa Barbara Channel.

(FOOTNOTE 1) So in original. Probably should be ''subparagraph''.

(2) The Federal Energy Regulatory Commission may, by order or regulation, exempt from any or all of the requirements of paragraph (1) of this subsection any pipeline or class of pipelines which feeds into a facility where oil and gas are first collected or a facility where oil and gas are first separated, dehydrated, or otherwise processed.

(3) The Secretary of Energy and the Federal Energy Regulatory Commission shall consult with and give due consideration to the

views of the Attorney General on specific conditions to be included in any permit, license, easement, right-of-way, or grant of authority in order to ensure that pipelines are operated in accordance with the competitive principles set forth in paragraph (1) of this subsection. In preparing any such views, the Attorney General shall consult with the Federal Trade Commission.

(4) Nothing in this subsection shall be deemed to limit, abridge, or modify any authority of the United States under any other provision of law with respect to pipelines on or across the outer Continental Shelf.

(g) Rates of production

(1) The leasee (FOOTNOTE 2) shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provision of law.

(FOOTNOTE 2) So in original. Probably should be ''lessee''.

(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary of Energy which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

(h) Federal action affecting outer Continental Shelf; notification; recommended changes

The head of any Federal department or agency who takes any action which has a direct and significant effect on the outer Continental Shelf or its development shall promptly notify the Secretary of such action and the Secretary shall thereafter notify the Governor

of any affected State and the Secretary may thereafter recommend such changes in such action as are considered appropriate.

(i) Flaring of natural gas

After September 18, 1978, no holder of any oil and gas lease issued or maintained pursuant to this subchapter shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.

(j) Cooperative development of common hydrocarbon-bearing areas

(1) Findings

(A) (FOOTNOTE 3) The Congress of the United States finds that the unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing geological area underlying the Federal and State boundary may result in a number of harmful national effects, including -

(FOOTNOTE 3) So in original. No subpar. (B) has been enacted.

(i) the drilling of unnecessary wells, the installation of unnecessary facilities and other imprudent operating practices that result in economic waste, environmental damage, and damage to life and property;

(ii) the physical waste of hydrocarbons and an unnecessary reduction in the amounts of hydrocarbons that can be produced from certain hydrocarbon-bearing areas; and

(iii) the loss of correlative rights which can result in the reduced value of national hydrocarbon resources and disorders in the leasing of Federal and State resources.

(2) Prevention of harmful effects

The Secretary shall prevent, through the cooperative development of an area, the harmful effects of unrestrained competitive production of hydrocarbons from a common

hydrocarbon-bearing area underlying the Federal and State boundary.

-SOURCE-

(Aug. 7, 1953, ch. 345, Sec. 5, 67 Stat. 464; Pub. L. 95-372, title II, Sec. 204, Sept. 18, 1978, 92 Stat. 636; Pub. L. 101-380, title VI, Sec. 6004(a), Aug. 18, 1990, 104 Stat. 558.)

-REFTEXT-

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (a)(8), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (Sec. 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

-MISC2-

AMENDMENTS

1990 - Subsec. (j). Pub. L. 101-380 added subsec. (j).

1978 - Subsec. (a). Pub. L. 95-372 expanded provisions formerly contained in subsec. (a)(1) so as to include the enforcement of safety and environmental laws and regulations, consultation with the Attorney General and the Federal Trade Commission, and regulations for the suspension or temporary prohibition of any operation or activity including production, the cancellation of leases or permits, the prompt and efficient exploration and development of a lease area, and compliance with the national ambient air quality standards to the extent that activities authorized significantly affect the air quality of any State.

Subsec. (b). Pub. L. 95-372 redesignated as subsec. (b) provisions formerly contained in subsec. (a)(2) conditioning the issuance and continuation of leases or of assignments or other transfers of leases upon compliance with regulations, and struck

out provisions that had set a penalty of a fine of not more than \$2,000 or imprisonment for not more than six months or both for the knowing and willful violation of rules or regulations promulgated by the Secretary. See section 1350 of this title.

Subsec. (c). Pub. L. 95-372 redesignated as subsec. (c) provisions formerly contained in subsec. (b)(1) covering the cancellation of nonproducing leases for failure of the owner to comply with any of the provisions of this subchapter, or of the lease, or of the regulations issued under this subchapter.

Subsec. (d). Pub. L. 95-372 redesignated as subsec. (d) provisions formerly contained in subsec. (b)(2) covering the cancellation and forfeiture of producing leases for failure of the owner to comply with any of the provisions of this subchapter, the lease, or regulations promulgated under this subchapter.

Subsec. (e). Pub. L. 95-372 redesignated as subsec. (e) provisions formerly contained in subsec. (c) relating to pipeline rights-of-way and inserted provisions relating to regulations prescribed by the Secretary of Transportation and assurances of maximum environmental protection through the use of the best available and safest technologies including the safest practices for pipeline burial, and substituted references to the Federal Energy Regulatory Commission and the Secretary of Energy for existing references to the Federal Power Commission and the Interstate Commerce Commission.

Subsecs. (f) to (i). Pub. L. 95-372 added subsecs. (f) to (i).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

-TRANS-

TRANSFER OF FUNCTIONS

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

Functions of Secretary of the Interior to promulgate regulations under this subchapter which relate to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42. Section 7152(b) of Title 42 was repealed by Pub. L. 97-100, title II, Sec. 201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97-315, pp. 25, 26, Nov. 5, 1981.

-MISC5-

WEST DELTA FIELD

Section 6004(b) of Pub. L. 101-380 provided that: "Section 5(j) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(j)), as added by this section, shall not be applicable with respect to Blocks 17 and 18 of the West Delta Field offshore Louisiana."

KEY LARGO CORAL REEF PRESERVE

Secretary of the Interior to prescribe rules and regulations governing the protection and conservation of the coral and other mineral resources in the area designated Key Largo Coral Reef Preserve, see Proc. No. 3339, Mar. 15, 1960, 25 F.R. 2352, set out

as a note under section 461 of Title 16, Conservation.

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1335, 1337, 1340, 1351 of this title; title 42 section 7627.



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-EXPCITE-

TITLE 30 - MINERAL LANDS AND MINING

CHAPTER 29 - OIL AND GAS ROYALTY MANAGEMENT

SUBCHAPTER I - FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

-HEAD-

Sec. 1713. Required recordkeeping

-STATUTE-

(a) Maintenance and availability of records, reports, and information for inspection and duplication

A lessee, operator, or other person directly involved in developing, producing, transporting, purchasing, or selling oil or gas subject to this chapter through the point of first sale or the point of royalty computation, whichever is later, shall establish and maintain any records, make any reports, and provide any information that the Secretary may, by rule, reasonably require for the purposes of implementing this chapter or determining compliance with rules or orders under this chapter. Upon the request of any officer or employee duly designated by the Secretary or any State or Indian tribe conducting an audit or investigation pursuant to this chapter, the appropriate records, reports, or information which may be required by this section shall be made available for inspection and duplication by such officer or employee, State, or Indian tribe.

(b) Length of time maintenance required

Records required by the Secretary with respect to oil and gas leases from Federal or Indian lands or the Outer Continental Shelf shall be maintained for 6 years after the records are generated

unless the Secretary notifies the record holder that he has initiated an audit or investigation involving such records and that such records must be maintained for a longer period. In any case when an audit or investigation is underway, records shall be maintained until the Secretary releases the record holder of the obligation to maintain such records.

-SOURCE-

(Pub. L. 97-451, title I, Sec. 103, Jan. 12, 1983, 96 Stat. 2451.)

-SECREP-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1724 of this title.



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