

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1975

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

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 1995

Mr. CALVERT (for himself, Mr. BREWSTER, Mr. DOOLEY, Mr. TAUZIN, and Mr. LUCAS) introduced the following bill; which was referred to the Committee on Resources

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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,*

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

4 (a) SHORT TITLE.—This Act may be cited as “The  
5 Federal Oil and Gas Royalty Simplification and Fairness  
6 Act of 1995”.

7 (b) TABLE OF CONTENTS.—The table of contents for  
8 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.

1 **SEC. 2. DEFINITIONS.**

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

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

8 (2) By amending paragraph (7) to read as fol-  
9 lows:

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

12 (3) By striking “and” at the end of paragraph  
13 (15), by striking the period at the end of paragraph  
14 (16) and inserting “; and”; and by adding at the  
15 end the following:

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

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

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

7                   “(B) any interest; and

8                   “(C) any civil or criminal penalty;

9           “(19) ‘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 offset or recoupment;

14                   “(B) with respect to an administrative pro-  
15                   ceeding—

16                           “(i) the receipt by a lessee of an order  
17                           to pay issued by the Secretary, or

18                           “(ii) the receipt by the Secretary of a  
19                           written request or demand by a lessee, or  
20                           any person acting on behalf of a lessee  
21                           which asserts an obligation due the lessee;

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

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

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

4                   or

5                   “(B) to pay, refund, credit or offset mon-  
6                   ies, including (but not limited to) a duty to cal-  
7                   culate, determine, report, pay, refund, credit or  
8                   offset—

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

12                           “(ii) any interest;

13                           “(iii) any penalty; or

14                           “(iv) any assessment,

15                   which arises from or relates to any lease admin-  
16                   istered by the Secretary for, or any mineral  
17                   leasing law related to, the exploration, produc-  
18                   tion and development of oil or gas on Federal  
19                   lands or the Outer Continental Shelf;

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

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

1           “(A) asserts a definite and quantified obli-  
2           gation due the Secretary or the United States;  
3           and

4           “(B) specifically identifies the obligation by  
5           lease, production month and amount of such  
6           obligation ordered to be paid, as well as the rea-  
7           son or reasons such obligation is claimed to be  
8           due,

9           but such term does not include any other commu-  
10          nication by or on behalf of the Secretary or the  
11          United States;

12          “(24) ‘overpayment’ means any payment (in-  
13          cluding any estimated royalty payment) by a lessee  
14          or by any person acting on behalf of a lessee in ex-  
15          cess of an amount legally required to be paid on an  
16          obligation;

17          “(25) ‘payment’ means satisfaction, in whole or  
18          in part, of an obligation due the Secretary or the  
19          United States;

20          “(26) ‘penalty’ means a statutorily authorized  
21          civil fine levied or imposed by the Secretary or the  
22          United States for a violation of this Act, a mineral  
23          leasing law, or a term or provision of a lease admin-  
24          istered by the Secretary;

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

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

8           “(29) ‘United States’ means—

9                   “(A) the United States Government and  
10                  any department, agency, or instrumentality  
11                  thereof, and

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

16 **SEC. 3. LIMITATION PERIODS.**

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

21 **“SEC. 115. LIMITATION PERIODS.**

22           “(a) IN GENERAL.—

23                   “(1) SIX-YEAR PERIOD.—A judicial or adminis-  
24                  trative proceeding which arises from, or relates to,  
25                  an obligation may not be commenced unless such

1 proceeding is commenced within 6 years from the  
2 date on which such obligation becomes due.

3 “(2) LIMIT ON TOLLING OF LIMITATION PE-  
4 RIOD.—The running of the limitation period under  
5 paragraph (1) shall not be suspended or tolled by  
6 any action of the United States or an officer or  
7 agency thereof other than the commencement of a  
8 judicial or administrative proceeding under para-  
9 graph (1) or an agreement under paragraph (3).

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

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

22 “(b) FINAL AGENCY ACTION.—The Director of the  
23 Minerals Management Service shall issue a final Director’s  
24 decision in any administrative proceeding before the Direc-  
25 tor within one year from the date such proceeding was

1 commenced. The Secretary shall issue a final agency deci-  
2 sion in any administrative proceeding within 3 years from  
3 the date such proceeding was commenced. If no such deci-  
4 sion has been issued by the Director or Secretary within  
5 the prescribed time periods referred to above:

6           “(1) the Director’s or Secretary’s decision, as  
7 the case may be, shall be deemed issued and granted  
8 in favor of the lessee or lessees as to any  
9 nonmonetary obligation and any obligation the prin-  
10 cipal amount of which is less than \$2,500; and

11           “(2) in the case of a monetary obligation the  
12 principal amount of which is \$2,500 or more, the  
13 Director’s or Secretary’s decision, as the case may  
14 be, shall be deemed issued and final, and the lessee  
15 shall have a right of de novo judicial review and ap-  
16 peal of such final agency action.

17           “(c) TOLLING BY AGREEMENT.—Prior to the expira-  
18 tion of any period of limitation under subsections (a) or  
19 (c), the Secretary and a lessee may consent in writing to  
20 extend such period as it relates to any obligation under  
21 the mineral leasing laws. The period so agreed upon may  
22 be extended by subsequent agreement or agreements in  
23 writing made before the expiration of the period previously  
24 agreed upon.

1       “(d) LIMITATION ON CERTAIN ACTIONS BY THE  
2 UNITED STATES.—When an action on or enforcement of  
3 an obligation under the mineral leasing laws is barred  
4 under subsection (a) or (b), the United States or an officer  
5 or agency thereof may not take any other or further action  
6 regarding that obligation including (but not limited to) the  
7 issuance of any order, request, demand or other commu-  
8 nication seeking any document, accounting, determination,  
9 calculation, recalculation, principal, interest, assessment,  
10 penalty or the initiation, pursuit or completion of an audit.

11       “(e) OBLIGATION BECOMES DUE.—

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

15               “(2) SPECIAL RULE REGARDING ROYALTY OBLI-  
16 GATION.—The right to enforce any royalty obligation  
17 is fixed for the purposes of this Act on the last day  
18 of the calendar month following the month in which  
19 oil or gas is produced, except that with respect to  
20 any such royalty obligation which is altered by a ret-  
21 roactive redetermination of working interest owner-  
22 ship pursuant to a unit or communitization agree-  
23 ment, the right to enforce such royalty obligation in  
24 such amended unit or communitization agreement is  
25 fixed for the purposes of this Act on the last day of

1 the calendar month in which such redetermination is  
2 made. The Secretary shall issue any such redeter-  
3 mination within 180 days of receipt of a request for  
4 redetermination.

5 “(f) JUDICIAL REVIEW OF ADMINISTRATIVE PRO-  
6 CEEDINGS.—In the event an administrative proceeding  
7 subject to subsection (a) is timely commenced and there-  
8 after the limitation period in subsection (a) lapses during  
9 the pendency of the administrative proceeding, no party  
10 to such administrative proceeding shall be barred by this  
11 section from commencing a judicial proceeding challenging  
12 the final agency action in such administrative proceeding  
13 so long as such judicial proceeding is commenced within  
14 90 days from receipt of notice of the final agency action.

15 “(g) IMPLEMENTATION OF FINAL DECISION.—In the  
16 event a judicial or administrative proceeding subject to  
17 subsection (a) is timely commenced and thereafter the lim-  
18 itation period in subsection (a) lapses during the pendency  
19 of such proceeding, any party to such proceeding shall not  
20 be barred from taking such action as is required or nec-  
21 essary to implement the final unappealable judicial or ad-  
22 ministrative decision, including any action required or nec-  
23 essary to implement such decision by the recovery or  
24 recoupment of an underpayment or overpayment by means  
25 of refund, credit or offset.

1       “(h) STAY OF PAYMENT OBLIGATION PENDING RE-  
2 VIEW.—Any party ordered by the Secretary or the United  
3 States to pay any obligation (including any interest, as-  
4 sessment or penalty) shall be entitled to a stay of such  
5 payment without bond or other surety pending administra-  
6 tive or judicial review unless the Secretary demonstrates  
7 that such party is or may become financially insolvent or  
8 otherwise unable to pay the obligation, in which case the  
9 Secretary may require a bond or other surety satisfactory  
10 to cover the obligation.

11       “(i) INAPPLICABILITY OF THE OTHER STATUTES OF  
12 LIMITATION.—The limitations set forth in sections 2401,  
13 2415, 2416, and 2462 of title 28, United States Code,  
14 section 42 of the Mineral Leasing Act (30 U.S.C. 226–  
15 2), and section 3716 of title 31, United States Code, shall  
16 not apply to any obligation to which this Act applies.”.

17       (b) CLERICAL AMENDMENT.—The table of contents  
18 in section 1 of such Act (30 U.S.C. 1701) is amended by  
19 adding after the item relating to section 114 the following  
20 new item:

“Sec. 115. Limitation period.”.

21 **SEC. 4. OVERPAYMENTS: OFFSETS 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  
24 amended by adding after section 111 the following new  
25 section:

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

2 “(a) OFFSETS.—

3 “(1) MANNER.—For each reporting month, a  
4 lessee or person acting on behalf of a lessee shall  
5 offset all underpayments and overpayments made for  
6 that reporting month for all leases within the same  
7 royalty distribution category established under per-  
8 manent indefinite appropriations.

9 “(2) OFFSET AGAINST OBLIGATIONS.—The net  
10 overpayment resulting within each category from the  
11 offsetting described in paragraph (1) may be offset  
12 and credited against any obligation for current or  
13 subsequent reporting months which have become due  
14 on leases within the same royalty distribution cat-  
15 egory.

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

20 “(4) EXCLUSION OF CERTAIN UNDER- AND  
21 OVERPAYMENTS.—Any underpayment or overpay-  
22 ment upon which an order has been issued which is  
23 subject to appeal shall be excluded from the offset-  
24 ting provisions of this section.

25 “(b) REFUNDS.—

1           “(1) IN GENERAL.—A refund request may be  
2           made to the Secretary not before one year after the  
3           subject reporting month. After such one-year period  
4           and when a lessee or a person acting on behalf of  
5           a lessee has made a net overpayment to the Sec-  
6           retary or the United States and has offset or cred-  
7           ited in accordance with subsection (a), the Secretary  
8           shall, upon request, refund to such lessee or person  
9           the net overpayment, with accumulated interest  
10          thereon determined in accordance with section 111.  
11          If for any reason, a lessee or person acting on behalf  
12          of a lessee is no longer accruing obligations on any  
13          lease within a category, then such lessee or person  
14          may immediately file a request for a refund of any  
15          net overpayment and accumulated interest.

16           “(2) REQUEST.—The request for refund is suf-  
17          ficient if it—

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

19                   “(B) identifies the person entitled to such  
20          refund;

21                   “(C) provides the Secretary information  
22          that reasonably enables the Secretary to iden-  
23          tify the overpayment for which such refund is  
24          sought.

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

5           “(4) PAYMENT BY SECRETARY OF THE TREAS-  
6 URY.—The Secretary shall certify the amount of the  
7 refund to be paid under paragraph (1) to the Sec-  
8 retary of the Treasury who is authorized and di-  
9 rected to make such refund.

10           “(5) PAYMENT PERIOD.—A refund under this  
11 subsection shall be paid within 90 days of the date  
12 on which the request for refund was received by the  
13 Secretary.

14           “(c) LIMITATION ON OFFSETS AND REFUNDS.—

15           “(1) LIMITATION PERIOD FOR OFFSETS AND  
16 REFUNDS.—Except as provided by paragraph (2), a  
17 lessee or person acting on behalf of a lessee may not  
18 offset or receive a refund of any overpayment which  
19 arises from or relates to an obligation unless such  
20 offset or refund request is initiated within six years  
21 from the date on which the obligation which is the  
22 subject of the overpayment became due.

23           “(2) EXCEPTION.—(A) For any overpayment  
24 the recoupment of which (in whole or in part) by off-  
25 set or refund, or both, may occur beyond the six-

1 year limitation period provided in paragraph (1),  
2 where the issue of whether an overpayment occurred  
3 has not been finally determined, or where  
4 recoupment of the overpayment has not been accom-  
5 plished within said six-year period, the lessee or per-  
6 son acting on behalf of a lessee may preserve its  
7 right to recover or recoup the overpayment beyond  
8 the limitation period by filing a written notice of the  
9 overpayment with the Secretary within the six-year  
10 period.

11 “(B) Notice under subparagraph (A) shall be  
12 sufficient if it—

13 “(i) identifies the person who made such  
14 overpayment;

15 “(ii) asserts the obligation due the lessee  
16 or person; and

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

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

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

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

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

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

9 “(c) Records required by the Secretary for the pur-  
10 pose of determining compliance with an applicable mineral  
11 leasing law, lease provision, regulation or order with re-  
12 spect to oil and gas leases from Federal lands or the Outer  
13 Continental Shelf shall be maintained for six years after  
14 an obligation becomes due unless the Secretary com-  
15 mences a judicial or administrative proceeding with re-  
16 spect to an obligation within the time period prescribed  
17 by section 115 in which such records may be relevant. In  
18 that event, the Secretary may direct the record holder to  
19 maintain such records until the final nonappealable deci-  
20 sion in such judicial or administrative proceeding is ren-  
21 dered. Under no circumstance shall a record holder be re-  
22 quired to maintain or produce any record covering a time  
23 period for which a substantive claim with respect to an  
24 obligation to which the record relates would be barred by  
25 the applicable statute of limitation in section 115.”.

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

2 (a) INTEREST CHARGED ON LATE PAYMENTS AND  
3 UNDERPAYMENTS.—Section 111(a) of the Federal Oil  
4 and Gas Royalty Management Act of 1982 (30 U.S.C.  
5 1721(a)) is amended to read as follows:

6 “(a) In the case of oil and gas leases where royalty  
7 payments are not received by the Secretary on the date  
8 that such payments are due, or are less than the amount  
9 due, the Secretary shall charge interest on a net late pay-  
10 ment or underpayment at the rate published by the De-  
11 partment of the Treasury as the Treasury Current Value  
12 Of Funds Rate. The Secretary may waive or forego such  
13 interest in whole or in part. In the case of a net  
14 underpayment for a given reporting month, interest shall  
15 be computed and charged only on the amount of the net  
16 underpayment and not on the total amount due from the  
17 date of the net underpayment. The net underpayment is  
18 determined by offsetting in the same manner as required  
19 under paragraphs (1) and (2) of section 111A(a). Interest  
20 may only be billed by the Secretary for any net  
21 underpayment not less than one year following the subject  
22 reporting month.”.

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

1       “(b) Any payment made by the Secretary to a State  
2 under section 35 of the Mineral Leasing Act, and any  
3 other payment made by the Secretary which is not paid  
4 on the date required under such section 35, shall include  
5 an interest charge computed at the rate published by the  
6 Department of the Treasury as the Treasury Current  
7 Value of Funds Rate. The Secretary shall not be required  
8 to pay interest under this paragraph until collected or  
9 when such interest has been waived or is otherwise not  
10 collected. With respect to any obligation, the Secretary  
11 may waive or forgo interest otherwise required under sec-  
12 tion 3717 of title 31, United States Code.”.

13       (c) PERIOD.—Section 111(f) of the Federal Oil and  
14 Gas Royalty Management Act of 1982 (30 U.S.C.  
15 1721(f)) is amended to read as follows:

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

20       (d) LESSEE INTEREST.—Section 111 of the Federal  
21 Oil and Gas Royalty Management Act of 1982 (30 U.S.C.  
22 1721) is amended by adding the following after subsection  
23 (g):

24       “(h) If a net overpayment, as determined by offset-  
25 ting as required under section 111A(1) and (2) for a re-

1 porting month, interest shall be allowed and paid or cred-  
2 ited on such net overpayment, with such interest to accrue  
3 from the date such net overpayment was made, at the rate  
4 published by the Department of the Treasury as the  
5 Treasury Current Value of Funds Rate.”.

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

10 “(i) For any well on a lease which produces on aver-  
11 age less than 250 thousand cubic feet of gas per day or  
12 25 barrels of oil per day, the royalty on the actual or allo-  
13 cated lease production may be paid—

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

16 “(B) 6 months following such period, for addi-  
17 tional production allocated to the lease during the  
18 period.

19 No interest shall be allowed or accrued on any  
20 underpayment resulting from this payment methodology  
21 until the month following the applicable 12-month pe-  
22 riod.”.

1 **SEC. 7. LIMITATION ON ASSESSMENTS.**

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

5 “(j) The Secretary may levy or impose an assessment  
6 upon any person not to exceed \$250 for any reporting  
7 month for the inaccurate reporting of information required  
8 under subsection (k). No assessment may be levied or im-  
9 posed upon any person for any underpayment, late pay-  
10 ment, or estimated payment or for any erroneous or in-  
11 complete royalty or production related report for informa-  
12 tion not required by subsection (k) absent a showing of  
13 gross negligence or willful misconduct.”.

14 **SEC. 8. COST-EFFECTIVE AUDIT AND COLLECTION RE-**  
15 **QUIREMENTS.**

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

19 “(d)(1) If the Secretary determines that the cost of  
20 accounting for and collecting of any obligation due for any  
21 oil or gas production exceeds or is likely to exceed the  
22 amount of the obligation to be collected, the Secretary  
23 shall waive such obligation.

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

1       “(3) In carrying out this section, for onshore produc-  
2 tion from any well which is less than 250 thousand cubic  
3 feet of gas per day or 25 barrels of oil per day, or for  
4 offshore production for any well less than 1,500,000 cubic  
5 feet of gas per day or 150 barrels of oil per day, the Sec-  
6 retary shall only require the lessee to submit the informa-  
7 tion described in section 111(k). For such onshore and  
8 offshore production, the Secretary shall not conduct roy-  
9 alty reporting compliance and enforcement activities, levy  
10 or impose assessments described in such section 111(k)  
11 and shall not bill for comparisons between royalty report-  
12 ing and production information. The Secretary may only  
13 conduct audits on such leases if the Secretary has reason  
14 to believe that the lessee has not complied with payment  
15 obligations for at least three months during a twelve  
16 month period. The Secretary shall not perform such audit  
17 if the Secretary determines that the cost of conducting the  
18 audit exceeds or is likely to exceed the additional royalties  
19 expected to be received as a result of such audit.”.

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

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

24       “(2) Except as provided in paragraph (3) of this sub-  
25 section, no action may be commenced under subsection

1 (a)(1) of this section if the Attorney General has com-  
2 menced and is diligently prosecuting a civil action in a  
3 court of the United States or a State with respect to such  
4 matter, but in any such action in a court of the United  
5 States any person having a legal interest which is or may  
6 be adversely affected may intervene as a matter of right.”.

7 **SEC. 10. ROYALTY IN KIND.**

8 (a) IN GENERAL.—Section 27(a)(1) of the Outer  
9 Continental Shelf Lands Act (43 U.S.C. 1353(a)(1)) and  
10 the first undesignated paragraph of section 36 of the Min-  
11 eral Leasing Act (30 U.S.C. 192) are each amended by  
12 adding at the end the following: “Any royalty or net profit  
13 share of oil or gas accruing to the United States under  
14 any lease issued or maintained by the Secretary for the  
15 exploration, production and development of oil and gas on  
16 Federal lands or the Outer Continental Shelf, at the Sec-  
17 retary’s option, may be taken in kind at or near the lease  
18 upon 90 days prior written notice to the lessee. Once the  
19 United States has commenced taking royalty in kind, it  
20 shall continue to do so until 90 days after the Secretary  
21 has provided written notice to the lessee that it will resume  
22 taking royalty in value. Delivery of royalty in kind by the  
23 lessee shall satisfy in full the lessee’s royalty obligation.  
24 Once the oil or gas is delivered in kind, the lessee shall  
25 not be subject to the reporting and recordkeeping require-

1 ments, including requirements under section 103, except  
2 for those reports and records necessary to verify the vol-  
3 ume of oil or gas produced and delivered prior to or at  
4 the point of delivery.”.

5 (b) SALE.—Section 27(c)(1) of the Outer Continental  
6 Shelf Lands Act (43 U.S.C. 1353(c)(1)) is amended by  
7 striking “competitive bidding for not more than its regu-  
8 lated price, or if no regulated price applies, not less than  
9 its fair market value” and inserting “competitive bidding  
10 or private sale”.

11 **SEC. 11. TIME, MANNER, AND INFORMATION REQUIRE-**  
12 **MENTS FOR ROYALTY PAYMENT AND RE-**  
13 **PORTING.**

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

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

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

25 “(A) identification of the lease;

1 “(B) product type;

2 “(C) volume (quantity) of such oil or gas pro-  
3 duced;

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

5 “(E) method of valuation and value, including  
6 deductions; and

7 “(F) royalty due the United States.

8 “(3) Other than the reporting required under para-  
9 graph (2), the Secretary shall not require additional re-  
10 ports or information for production or royalty accounting,  
11 including (but not limited to) information or reports on  
12 allowances, payor information, selling arrangements, and  
13 revenue source.

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

17 “(5) The Secretary shall establish reporting thresh-  
18 olds for de minimis production, which is defined as less  
19 than 100 thousand cubic feet of gas per day or 10 barrels  
20 of oil per day per lease. For such de minimis production,  
21 the lessee shall report retroactive adjustments with the  
22 current month royalty payment, and the Secretary shall  
23 not bill for, or collect, comparisons to production, assess-  
24 ments, or interest.

1       “(6) If the deadline for tendering a royalty payment  
2 imposed by paragraph (1) cannot be met for one or more  
3 leases, an estimated royalty payment in the approximate  
4 amount of royalties that would otherwise be due may be  
5 made by a lessee or person acting on behalf of a lessee  
6 for such leases to avoid late payment interest charges.  
7 When such estimated royalty payment is established, ac-  
8 tual royalties become due at the end of the second month  
9 following the month the production was removed or sold  
10 for as long as the estimated balance exists. Such estimated  
11 royalty payment may be carried forward and not reduced  
12 by actual royalties paid. Any estimated balance may be  
13 adjusted, recouped, or reinstated, at any time. The re-  
14 quirements of paragraph (2) shall not apply to any esti-  
15 mated royalty payment.”.

16 **SEC. 12. REPEALS.**

17       (a) FOGRMA.—Section 307 of the Federal Oil and  
18 Gas Royalty Management Act of 1982 (30 U.S.C. 1755),  
19 is repealed. Section 1 of such Act (relating to the table  
20 of contents) is amended by striking out the item relating  
21 to section 307.

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

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

2       The amendments made by this Act shall not apply  
3 with respect to Indian lands, and the provisions of the  
4 Federal Oil and Gas Royalty Management Act of 1982  
5 as in effect on the day before the date of enactment of  
6 this Act shall apply after such date only with respect to  
7 Indian lands.

8 **SEC. 14. EFFECTIVE DATE.**

9       This Act, and the amendments made by this Act,  
10 shall take effect on the date of the enactment of this Act  
11 with respect to any obligation which becomes due on or  
12 after such date of enactment.

○

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