

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.

(Pub. L. 97-451, §3, Jan. 12, 1983, 96 Stat. 2448; Pub. L. 92-203, §29(f)(1), as added Pub. L. 100-241, §15, Feb. 3, 1988, 101 Stat. 1813; Pub. L. 104-185, §2, Aug. 13, 1996, 110 Stat. 1700; Pub. L. 104-200, §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, §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, §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, §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, §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.

SUBCHAPTER I—FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

§ 1711. Duties of Secretary

(a) Establishment of inspection, collection, and accounting and auditing system

The Secretary shall establish a comprehensive inspection, collection and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed, and to collect and account for such amounts in a timely manner.

(b) Annual inspection of lease sites; training

The Secretary shall—

(1) establish procedures to ensure that authorized and properly identified representatives of the Secretary will inspect at least once annually each lease site producing or expected to produce significant quantities of oil or gas in any year or which has a history of noncompliance with applicable provisions of law or regulations; and

(2) establish and maintain adequate programs providing for the training of all such authorized representatives in methods and techniques of inspection and accounting that will be used in the implementation of this chapter.

(c) Audit and reconciliation of lease accounts; contracts with certified public accountants; availability of books, accounts, records, etc., necessary for audit

(1) The Secretary shall audit and reconcile, to the extent practicable, all current and past lease accounts for leases of oil or gas and take appropriate actions to make additional collections or refunds as warranted. The Secretary shall conduct audits and reconciliations of lease accounts in conformity with the business practices and recordkeeping systems which were required of the lessee by the Secretary for the period covered by the audit. The Secretary shall give priority to auditing those lease accounts identified by a State or Indian tribe as having significant potential for underpayment. The Secretary may also audit accounts and records of selected lessees and operators.

(2) The Secretary may enter into contracts or other appropriate arrangements with independent certified public accountants to undertake audits of accounts and records of any lessee or operator relating to the lease of oil or gas. Selection of such independent certified public ac-

countants shall be by competitive bidding in accordance with chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, except that the Secretary may not enter into a contract or other arrangement with any independent certified public accountant to audit any lessee or operator where such lessee or operator is a primary audit client of such certified public accountant.

(3) All books, accounts, financial records, reports, files, and other papers of the Secretary, or used by the Secretary, which are reasonably necessary to facilitate the audits required under this section shall be made available to any person or governmental entity conducting audits under this chapter.

(Pub. L. 97-451, title I, § 101, Jan. 12, 1983, 96 Stat. 2449.)

CODIFICATION

In subsec. (c)(2), “chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” substituted for “the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252)” on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111-350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§ 1712. Duties of lessees, operators, and motor vehicle transporters

(a) Liability for royalty payments

In order to increase receipts and achieve effective collections of royalty and other payments, a lessee who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary or the applicable delegated State. A lessee may designate a person to make all or part of the payments due under a lease on the lessee's behalf and shall notify the Secretary or the applicable delegated State in writing of such designation, in which event said designated person may, in its own name, pay, offset or credit monies, make adjustments, request and receive refunds and submit reports with respect to payments required by the lessee. Notwithstanding any other provision of this chapter to the contrary, a designee shall not be liable for any payment obligation under the lease. The person owning operating rights in a lease shall be primarily liable for its pro rata share of payment obligations under the lease. If the person owning the legal record title in a lease is other than the operating rights owner, the person owning the legal record title shall be secondarily liable for its pro rata share of such payment obligations under the lease.

(b) Development of and compliance with site security plan and minimum site security measures by operators; notification to Secretary of well production

An operator shall—

(1) develop and comply with a site security plan designed to protect the oil or gas produced or stored on an onshore lease site from theft, which plan shall conform with such

minimum standards as the Secretary may prescribe by rule, taking into account the variety of circumstances at lease sites;

(2) develop and comply with such minimum site security measures as the Secretary deems appropriate to protect oil or gas produced or stored on a lease site or on the Outer Continental Shelf from theft; and

(3) not later than the 5th business day after any well begins production anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well which has been off of production for more than 90 days, notify the Secretary, in the manner prescribed by the Secretary, of the date on which such production has begun or resumed.

(c) Possession of documentation by transporters of oil or gas by motor vehicle or pipeline

(1) Any person engaged in transporting by motor vehicle any oil from any lease site, or allocated to any such lease site, shall carry, on his person, in his vehicle, or in his immediate control, documentation showing, at a minimum, the amount, origin, and intended first destination of the oil.

(2) Any person engaged in transporting any oil or gas by pipeline from any lease site, or allocated to any lease site, on Federal or Indian lands shall maintain documentation showing, at a minimum, amount, origin, and intended first destination of such oil or gas.

(Pub. L. 97-451, title I, § 102, Jan. 12, 1983, 96 Stat. 2450; Pub. L. 104-185, § 6(g), Aug. 13, 1996, 110 Stat. 1715.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-185 inserted heading and amended text generally. Prior to amendment, text read as follows: “A lessee—

“(1) who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary; and

“(2) shall notify the Secretary, in the time and manner as may be specified by the Secretary, of any assignment the lessee may have made of the obligation to make any royalty or other payment under a lease or under the mineral leasing laws.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-185 applicable with respect to the 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.

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.

§ 1713. Required recordkeeping

(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,