

the coastal State or States entitled to receive revenues from it under section 1337(g) of title 43. (Pub. L. 101-121, title I, Oct. 23, 1989, 103 Stat. 711.)

#### CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1990, and not as part of the Federal Oil and Gas Royalty Management Act of 1982 which comprises this chapter.

#### SIMILAR PROVISIONS

Similar provisions were contained in Pub. L. 100-446, title I, Sept. 27, 1988, 102 Stat. 1791.

### § 1732. Cooperative agreements

#### (a) Authorization of Secretary; permission of Indian tribe required for activities on Indian lands

The Secretary is authorized to enter into a cooperative agreement or agreements with any State or Indian tribe to share oil or gas royalty management information, to carry out inspection, auditing, investigation or enforcement (not including the collection of royalties, civil or criminal penalties or other payments) activities under this chapter in cooperation with the Secretary, and to carry out any other activity described in section 1718 of this title. The Secretary shall not enter into any such cooperative agreement with a State with respect to any such activities on Indian lands, except with the permission of the Indian tribe involved.

#### (b) Access to royalty accounting information

Except as provided in section 1733 of this title, and pursuant to a cooperative agreement—

- (1) each State shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Federal lands within the State; and
- (2) each Indian tribe shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Indian lands under the jurisdiction of such tribe.

Information shall be made available under paragraphs (1) and (2) as soon as practicable after it comes into the possession of the Secretary. Effective October 1, 1983, such information shall be made available under paragraphs (1) and (2) not later than 30 days after such information comes into the possession of the Secretary.

#### (c) Agreements in accordance with chapter 63 of title 31; terms and conditions

Any cooperative agreement entered into pursuant to this section shall be in accordance with the provisions of chapter 63 of title 31, and shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of this chapter, including, but not limited to, a limitation on the use of Federal assistance to those costs which are directly required to carry out the agreed upon activities.

(Pub. L. 97-451, title II, §202, Jan. 12, 1983, 96 Stat. 2457.)

#### CODIFICATION

In subsec. (c), “chapter 63 of title 31” substituted for “the Federal Grant and Cooperative Agreement Act of

1977” on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which Act enacted Title 31, Money and Finance.

#### APPLICABILITY

Pub. L. 104-185, §8(a), Aug. 13, 1996, 110 Stat. 1717, provided that: “With respect to Federal lands, sections 202 and 307 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732 and 1755), are no longer applicable. The applicability of those sections to Indian leases is not affected.”

### § 1733. Information

#### (a) Availability of confidential information by Secretary pursuant to cooperative agreements; conditions

Trade secrets, proprietary and other confidential information shall be made available by the Secretary, pursuant to a cooperative agreement, to a State or Indian tribe upon request only if—

- (1) such State or Indian tribe consents in writing to restrict the dissemination of the information to those who are directly involved in an audit or investigation under this chapter and who have a need to know;
- (2) such State or tribe accepts liability for wrongful disclosure;
- (3) in the case of a State, such State demonstrates that such information is essential to the conduct of an audit or investigation or to litigation under section 1734 of this title; and
- (4) in the case of an Indian tribe, such tribe demonstrates that such information is essential to the conduct of an audit or investigation and waives sovereign immunity by express consent for wrongful disclosure by such tribe.

#### (b) Nonliability of United States for wrongful disclosure

The United States shall not be liable for the wrongful disclosure by any individual, State, or Indian tribe of any information provided to such individual, State, or Indian tribe pursuant to any cooperative agreement or a delegation, authorized by this chapter.

#### (c) Law governing disclosure

Whenever any individual, State, or Indian tribe has obtained possession of information pursuant to a cooperative agreement authorized by this section, or any individual or State has obtained possession of information pursuant to a delegation under section 1735 of this title, the individual shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to an officer or employee of the United States or of any department or agency thereof and the State or Indian tribe shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to the United States or any department or agency thereof. No State or State officer or employee who receives trade secrets, proprietary information, or other confidential information under this chapter may be required to disclose such information under State law.

(Pub. L. 97-451, title II, §203, Jan. 12, 1983, 96 Stat. 2458.)

**§ 1734. State suits under Federal law****(a) Action for royalty, interest, or civil penalty; limitations; notice of suit; award of costs and fees**

(1) A State may commence a civil action under this section against any person to recover any royalty, interest, or civil penalty which the State believes is due, based upon credible evidence, with respect to any oil and gas lease on Federal lands located within the State.

(2)(A) No action may be commenced under paragraph (1) prior to 90 days after the State has given notice in writing to the Secretary of the payment required. Such 90-day limitation may be waived by the Secretary on a case-by-case basis.

(B) If, within the 90-day period specified in subparagraph (A), the Secretary issues a demand for the payment concerned, no action may be commenced under paragraph (1) with respect to such payment during a 45-day period after issuance of such demand. If, during such 45-day period, the Secretary receives payment in full, no action may be commenced under paragraph (1).

(C) If the Secretary refers the case to the Attorney General of the United States within the 45-day period referred to in subparagraph (B) or within 10 business days after the expiration of such 45-day period, no action may be commenced under paragraph (1) if the Attorney General, within 45 days after the date of such referral, commences, and thereafter diligently prosecutes, a civil action in a court of the United States with respect to the payment concerned.

(3) The State shall notify the Secretary and the Attorney General of the United States of any suit filed by the State under this section.

(4) A court in issuing any final order in any action brought under paragraph (1) may award costs of litigation including reasonable attorney and expert witness fees, to any party in such action if the court determines such an award is appropriate.

**(b) Venue; jurisdiction of district court**

An action brought under subsection (a) of this section may be brought only in a United States district court for the judicial district in which the lease site or the leasing activity complained of is located. Such district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to require compliance or order payment in any such action.

**(c) Recovery of civil penalty by State; deposit of rent, royalty, or interest recovery in Treasury of the United States**

(1) Notwithstanding any other provision of law, any civil penalty recovered by a State under subsection (a) of this section shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate.

(2) Any rent, royalty, or interest recovered by a State under subsection (a) of this section shall be deposited in the Treasury of the United States in the same manner, and subject to the same requirements, as are applicable in the case of any rent, royalty, or interest collected by an officer or employee of the United States, except

that such amounts shall be deposited in the Treasury not later than 10 days after receipt by the State.

(Pub. L. 97-451, title II, §204, Jan. 12, 1983, 96 Stat. 2458.)

**§ 1735. Delegation of royalty collections and related activities****(a) Authorization of Secretary**

Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this chapter to:

- (1) conduct inspections, audits, and investigations;
- (2) receive and process production and financial reports;
- (3) correct erroneous report data;
- (4) perform automated verification; and
- (5) issue demands, subpoenas, and orders to perform restructured accounting, for royalty management enforcement purposes,

to any State with respect to all Federal land within the State.

**(b) Prerequisites**

After notice and opportunity for a hearing, the Secretary is authorized to delegate such authorities and responsibilities granted under this section as the State has requested, if the Secretary finds that—

- (1) it is likely that the State will provide adequate resources to achieve the purposes of this chapter;
- (2) the State has demonstrated that it will effectively and faithfully administer the rules and regulations of the Secretary under this chapter in accordance with the requirements of subsections (c) and (d) of this section;
- (3) such delegation will not create an unreasonable burden on any lessee;
- (4) the State agrees to adopt standardized reporting procedures prescribed by the Secretary for royalty and production accounting purposes, unless the State and all affected parties (including the Secretary) otherwise agree;
- (5) the State agrees to follow and adhere to regulations and guidelines issued by the Secretary pursuant to the mineral leasing laws regarding valuation of production; and
- (6) where necessary for a State to have authority to carry out and enforce a delegated activity, the State agrees to enact such laws and promulgate such regulations as are consistent with relevant Federal laws and regulations

with respect to the Federal lands within the State.

**(c) Ruling as to consistency of State's proposal**

After notice and opportunity for hearing, the Secretary shall issue a ruling as to the consistency of a State's proposal with the provisions of this section and regulations under subsection (d) of this section within 90 days after submission of such proposal. In any unfavorable ruling, the Secretary shall set forth the reasons therefor and state whether the Secretary will agree to delegate to the State if the State meets the conditions set forth in such ruling.