

10 of Pub. L. 104-185, set out as an Applicability of 1996 Amendment note under section 1701 of this title.

### § 1726. Alternatives for marginal properties

#### (a) Determination of best interests of State concerned and United States

The Secretary and the State concerned, acting in the best interests of the United States and the State concerned to promote production, reduce administrative costs, and increase net receipts to the United States and the States, shall jointly determine, on a case by case basis, the amount of what marginal production from a lease or leases or well or wells, or parts thereof, shall be subject to a prepayment under subsection (b) or regulatory relief under subsection (c). If the State concerned does not consent, such prepayments or regulatory relief shall not be made available under this section for such marginal production: *Provided*, That if royalty payments from a lease or leases, or well or wells are not shared with any State, such determination shall be made solely by the Secretary.

#### (b) Prepayment of royalty

##### (1) In general

Notwithstanding the provisions of any lease to the contrary, for any lease or leases or well or wells identified by the Secretary and the State concerned pursuant to subsection (a), the Secretary is authorized to accept a prepayment for royalties in lieu of monthly royalty payments under the lease for the remainder of the lease term if the affected lessee so agrees. Any prepayment agreed to by the Secretary, State concerned and lessee which is less than an average \$500 per month in total royalties shall be effectuated under this section not earlier than two years after August 13, 1996, and, any prepayment which is greater than an average \$500 per month in total royalties shall be effectuated under this section not earlier than three years after August 13, 1996. The Secretary and the State concerned may condition their acceptance of the prepayment authorized under this section on the lessee's agreeing to such terms and conditions as the Secretary and the State concerned deem appropriate and consistent with the purposes of this chapter. Such terms may—

(A) provide for prepayment that does not result in a loss of revenue to the United States in present value terms;

(B) include provisions for receiving additional prepayments or royalties for developments in the lease or leases or well or wells that deviate significantly from the assumptions and facts on which the valuation is determined; and

(C) require the lessee or its designee to provide such periodic production reports as may be necessary to allow the Secretary and the State concerned to monitor production for the purposes of subparagraph (B).

##### (2) State share

A prepayment under this section shall be shared by the Secretary with any State or other recipient to the same extent as any royalty payment for such lease.

#### (3) Satisfaction of obligation

Except as may be provided in the terms and conditions established by the Secretary under subsection (b), a lessee or its designee who makes a prepayment under this section shall have satisfied in full the lessee's obligation to pay royalty on the production stream sold from the lease or leases or well or wells.

#### (c) Alternative accounting and auditing requirements

Within one year after August 13, 1996, the Secretary or the delegated State shall provide accounting, reporting, and auditing relief that will encourage lessees to continue to produce and develop properties subject to subsection (a): *Provided*, That such relief will only be available to lessees in a State that concurs, which concurrence is not required if royalty payments from the lease or leases or well or wells are not shared with any State. Prior to granting such relief, the Secretary and, if appropriate, the State concerned shall agree that the type of marginal wells and relief provided under this paragraph is in the best interest of the United States and, if appropriate, the State concerned.

(Pub. L. 97-451, title I, §117, as added Pub. L. 104-185, §7(a), Aug. 13, 1996, 110 Stat. 1715; amended Pub. L. 104-200, §1(7), Sept. 22, 1996, 110 Stat. 2421.)

#### CODIFICATION

Pub. L. 104-185, §4(a), which directed the addition of this section at the end of the Federal Oil and Gas Royalty Management Act of 1982, was executed by adding this section at the end of title I of that Act to reflect the probable intent of Congress.

#### AMENDMENTS

1996—Subsec. (b)(1)(C). Pub. L. 104-200, §1(7), substituted “its designee” for “it designee”.

#### EFFECTIVE DATE

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

#### APPLICABILITY

Section 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 an Applicability of 1996 Amendment note under section 1701 of this title.

### SUBCHAPTER II—STATES AND INDIAN TRIBES

#### § 1731. Application of subchapter

This subchapter shall apply only with respect to oil and gas leases on Federal lands or Indian lands. Nothing in this subchapter shall be construed to apply to any lease on the Outer Continental Shelf.

(Pub. L. 97-451, title II, §201, Jan. 12, 1983, 96 Stat. 2457.)

#### § 1731a. Application of subchapter to leases of lands within three miles of seaward boundaries of coastal States

For fiscal year 1990 and each fiscal year thereafter, notwithstanding the provisions of section