

business, upon application by the Attorney General at the request of the Secretary and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary. Any failure to obey such order of the court may be punished by such court as contempt thereof and subject to a penalty of up to \$10,000 a day.

(Pub. L. 97-451, title I, § 107, Jan. 12, 1983, 96 Stat. 2452.)

§ 1718. Inspections

(a) Motor vehicles on lease sites; vehicles not on lease site

(1) On any lease site on Federal or Indian lands, any authorized and properly identified representative of the Secretary may stop and inspect any motor vehicle that he has probable cause to believe is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site, for the purpose of determining whether the driver of such vehicle has documentation related to such oil as required by law.

(2) Any authorized and properly identified representative of the Secretary, accompanied by any appropriate law enforcement officer, or an appropriate law enforcement officer alone, may stop and inspect any motor vehicle which is not on a lease site if he has probable cause to believe the vehicle is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site. Such inspection shall be for the purpose of determining whether the driver of such vehicle has the documentation required by law.

(b) Inspection of lease sites for compliance with mineral leasing laws and this chapter

Authorized and properly identified representatives of the Secretary may without advance notice, enter upon, travel across and inspect lease sites on Federal or Indian lands and may obtain from the operator immediate access to secured facilities on such lease sites, for the purpose of making any inspection or investigation for determining whether there is compliance with the requirements of the mineral leasing laws and this chapter. The Secretary shall develop guidelines setting forth the coverage and the frequency of such inspections.

(c) Right of Secretary to enter upon and travel across lease sites

For the purpose of making any inspection or investigation under this chapter, the Secretary shall have the same right to enter upon or travel across any lease site as the lessee or operator has acquired by purchase, condemnation, or otherwise.

(Pub. L. 97-451, title I, § 108, Jan. 12, 1983, 96 Stat. 2453.)

§ 1719. Civil penalties

(a) Failure to comply with applicable law, to permit inspection, or to notify Secretary of assignment; exceptions to application of penalty

Any person who—

(1) after due notice of violation or after such violation has been reported under subparagraph (A), fails or refuses to comply with any requirements of this chapter or any mineral leasing law, any rule or regulation thereunder, or the terms of any lease or permit issued thereunder; or

(2) fails to permit inspection authorized in section 1718 of this title or fails to notify the Secretary of any assignment under section 1712(a)(2)¹ of this title

shall be liable for a penalty of up to \$500 per violation for each day such violation continues, dating from the date of such notice or report. A penalty under this subsection may not be applied to any person who is otherwise liable for a violation of paragraph (1) if:

(A) the violation was discovered and reported to the Secretary or his authorized representative by the liable person and corrected within 20 days after such report or such longer time as the Secretary may agree to; or

(B) after the due notice of violation required in paragraph (1) has been given to such person by the Secretary or his authorized representative, such person has corrected the violation within 20 days of such notification or such longer time as the Secretary may agree to.

(b) Failure to take corrective action

If corrective action is not taken within 40 days or a longer period as the Secretary may agree to, after due notice or the report referred to in subsection (a)(1), such person shall be liable for a civil penalty of not more than \$5,000 per violation for each day such violation continues, dating from the date of such notice or report.

(c) Failure to make royalty payment; failure to permit lawful entry, inspection, or audit; failure to notify Secretary of well production

Any person who—

(1) knowingly or willfully fails to make any royalty payment by the date as specified by statute, regulation, order or terms of the lease;

(2) fails or refuses to permit lawful entry, inspection, or audit; or

(3) knowingly or willfully fails or refuses to comply with section 1712(b)(3) of this title,

shall be liable for a penalty of up to \$10,000 per violation for each day such violation continues.

(d) False information; unauthorized removal, etc., of oil or gas; purchase, sale, etc., of stolen oil or gas

Any person who—

(1) knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information;

(2) knowingly or willfully takes or removes, transports, uses or diverts any oil or gas from any lease site without having valid legal authority to do so; or

(3) purchases, accepts, sells, transports, or conveys to another, any oil or gas knowing or having reason to know that such oil or gas was stolen or unlawfully removed or diverted,

¹ See References in Text note below.

shall be liable for a penalty of up to \$25,000 per violation for each day such violation continues.

(e) Hearing

No penalty under this section shall be assessed until the person charged with a violation has been given the opportunity for a hearing on the record.

(f) Deduction of penalty from sums owed by United States

The amount of any penalty under this section, as finally determined² may be deducted from any sums owing by the United States to the person charged.

(g) Compromise or reduction of penalties

On a case-by-case basis the Secretary may compromise or reduce civil penalties under this section.

(h) Notice

Notice under this³ subsection (a) shall be by personal service by an authorized representative of the Secretary or by registered mail. Any person may, in the manner prescribed by the Secretary, designate a representative to receive any notice under this subsection.

(i) Reasons on record for amount of penalty

In determining the amount of such penalty, or whether it should be remitted or reduced, and in what amount, the Secretary shall state on the record the reasons for his determinations.

(j) Review

Any person who has requested a hearing in accordance with subsection (e) within the time the Secretary has prescribed for such a hearing and who is aggrieved by a final order of the Secretary under this section may seek review of such order in the United States district court for the judicial district in which the violation allegedly took place. Review by the district court shall be only on the administrative record and not de novo. Such an action shall be barred unless filed within 90 days after the Secretary's final order.

(k) Failure to pay penalty

If any person fails to pay an assessment of a civil penalty under this chapter—

- (1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with subsection (j), or
- (2) after a court in an action brought under subsection (j) has entered a final judgment in favor of the Secretary,

the court shall have jurisdiction to award the amount assessed plus interest from the date of the expiration of the 90-day period referred to in subsection (j). Judgment by the court shall include an order to pay.

(l) Nonliability for leases automatically terminated

No person shall be liable for a civil penalty under subsection (a) or (b) for failure to pay any rental for any lease automatically terminated pursuant to section 188 of this title.

² So in original. Probably should be followed by a comma.

³ So in original.

(Pub. L. 97-451, title I, § 109, Jan. 12, 1983, 96 Stat. 2454.)

REFERENCES IN TEXT

Section 1712(a) of this title, referred to in subsec. (a)(2), was amended generally by Pub. L. 104-185, §6(g), Aug. 13, 1996, 110 Stat. 1715, and, as so amended, no longer contains a par. (2). See section 1712(a) of this title.

§ 1720. Criminal penalties

Any person who commits an act for which a civil penalty is provided in section 1719(d) of this title shall, upon conviction, be punished by a fine of not more than \$50,000, or by imprisonment for not more than 2 years, or both.

(Pub. L. 97-451, title I, § 110, Jan. 12, 1983, 96 Stat. 2455.)

§ 1720a. Applicability of civil and criminal penalties to various uses of Federal or Indian lands and Outer Continental Shelf

Notwithstanding any other provision of law, Sections¹ 1719 and 1720² of this title shall, for fiscal year 2010 and each fiscal year thereafter, apply to any lease authorizing exploration for or development of coal, any other solid mineral, or any geothermal resource on any Federal or Indian lands and any lease, easement, right of way, or other agreement, regardless of form, for use of the Outer Continental Shelf or any of its resources under sections 1337(k) and 1337(p) of title 43 to the same extent as if such lease, easement, right of way, or other agreement, regardless of form, were an oil and gas lease, except that in such cases the term “royalty payment” shall include any payment required by such lease, easement, right of way or other agreement, regardless of form, or by applicable regulation.

(Pub. L. 111-88, div. A, title I, § 114, Oct. 30, 2009, 123 Stat. 2928.)

REFERENCES IN TEXT

Sections 1719 and 1720 of this title, referred to in text, was in the original “Sections 109 and 110 of the Federal Oil and Gas Royalty Management Act” and was translated as meaning sections 109 and 110 of the Federal Oil and Gas Royalty Management Act of 1982, to reflect the probable intent of Congress.

CODIFICATION

Section was enacted as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010, and not as part of the Federal Oil and Gas Royalty Management Act of 1982 which comprises this chapter.

§ 1721. Royalty terms and conditions, interest, and penalties

(a) Charge on late royalty payment or royalty payment deficiency

In the case of oil and gas leases where royalty payments are not received by the Secretary on the date that such payments are due, or are less than the amount due, the Secretary shall charge interest on such late payments or underpayments at the rate applicable under section 6621

¹ So in original. Probably should not be capitalized.

² See References in Text note below.