

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 determined<sup>2</sup> 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 this<sup>3</sup> 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.

<sup>2</sup> So in original. Probably should be followed by a comma.

<sup>3</sup> 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, Sections<sup>1</sup> 1719 and 1720<sup>2</sup> 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

<sup>1</sup> So in original. Probably should not be capitalized.

<sup>2</sup> See References in Text note below.