

payment without bond or other surety instrument pending an administrative or judicial proceeding if the person periodically demonstrates to the satisfaction of the Secretary that such person is financially solvent or otherwise able to pay the obligation. In the event the person is not able to so demonstrate, the Secretary may require a bond or other surety instrument satisfactory to cover the obligation. Any person ordered by the Secretary or a delegated State to pay an assessment shall be entitled to a stay without bond or other surety instrument.

(Pub. L. 97-451, title I, §115, as added Pub. L. 104-185, §4(a), Aug. 13, 1996, 110 Stat. 1704; amended Pub. L. 104-200, §1(2), Sept. 22, 1996, 110 Stat. 2421.)

#### Editorial Notes

##### CODIFICATION

Pub. L. 104-185, §4(a), which directed the addition of this section after section 114 of the Federal Oil and Gas Royalty Management Act of 1982, Pub. L. 97-451, was executed by adding this section after section 113 to reflect the probable intent of Congress because Pub. L. 97-451 did not contain a section 114.

##### AMENDMENTS

1996—Subsec. (l). Pub. L. 104-200 inserted “so” after “the person is not able to”.

#### Statutory Notes and Related Subsidiaries

##### 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 subsec. (h) of 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.

#### § 1725. Assessments

Beginning eighteen months after August 13, 1996, to encourage proper royalty payment the Secretary or the delegated State shall impose assessments on a person who chronically submits erroneous reports under this chapter. Assessments under this chapter may only be issued as provided for in this section.

(Pub. L. 97-451, title I, §116, as added Pub. L. 104-185, §6(f)(1), Aug. 13, 1996, 110 Stat. 1714.)

#### Editorial Notes

##### 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.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section 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 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.

#### § 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).