

103D CONGRESS
1ST SESSION

H. R. 2575

To amend the Reclamation Reform Act of 1982, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 1993

Mr. SMITH of Oregon (for himself, Mr. ALLARD, Mr. DOOLEY, Mr. DORNAN, Mr. CRAPO, Mr. INSLEE, Mr. HUNTER, Mr. HANSEN, Mr. LAROCO, Mr. LEHMAN, and Mr. DOOLITTLE) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Reclamation Reform Act of 1982, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CERTIFICATION AND REPORTING REQUIRE-**
4 **MENTS.**

5 Section 206 of the Reclamation Reform Act of 1982
6 (43 U.S.C. 390ff) is amended—

7 (1) by inserting “(a)” after “SEC. 206.”;

8 (2) by inserting “whose total landholding
9 westwide exceeds 320 acres” after “such district”;

10 (3) by striking “title” and inserting “Act”;

1 (4) by inserting at the end of subsection (a), as
2 so designated by paragraph (1) of this section, the
3 following new sentence: “In the event that there is
4 no change from the information contained in the
5 form previously submitted, a landowner or lessee
6 may notify the district in writing that no change has
7 occurred in lieu of submitting a new form.”; and

8 (5) by inserting after subsection (a), as so des-
9 ignated by paragraph (1) of this section, the follow-
10 ing:

11 “(b)(1) In the case of noncompliance in connection
12 with reporting and certification forms for incidents of non-
13 compliance violations based on errors, good faith questions
14 of interpretation or unintentional omissions, the Secretary
15 shall have the authority to impose penalties not to exceed
16 \$1,500 per year against the person or legal entity who
17 is in such noncompliance. For the imposition of the pen-
18 alty, the Secretary shall establish a table of penalties
19 which shall account for the acreage of the person or legal
20 entity in violation and the number of their previous viola-
21 tions, if any. A penalty under this paragraph may not be
22 applied to any person or legal entity who is otherwise liable
23 if the violation was discovered and reported to the Sec-
24 retary or his authorized representative by the liable person
25 or legal entity and corrected within 30 days of the submis-

1 sion of the form. In the event the person or legal entity
2 in noncompliance under this section received irrigation
3 water on ineligible lands or at less than the appropriate
4 water rate, the total penalty imposed against the non-
5 complying person or legal entity shall not exceed \$1,500
6 per year, and the noncomplying person or legal entity shall
7 not be subject to the underpayment penalty provisions set
8 forth in section 224(i) of the Act.

9 “(2) The Secretary shall collect the fines and pen-
10 alties assessed pursuant to this subsection from the person
11 or legal entity who is in violation and not the district
12 which delivers the irrigation water to the person or legal
13 entity who is in violation.

14 “(3) Any funds recovered by the Secretary pursuant
15 to this subsection shall be covered into the Reclamation
16 Fund and placed to the credit of the district from whence
17 such funds were derived.

18 “(4) The Secretary is directed to review all compli-
19 ance violations identified prior to the date of enactment
20 of this subsection. In the case of incidents of noncompli-
21 ance based on errors, late submissions of forms, good faith
22 questions of interpretations, and unintentional omissions,
23 in lieu of an assessment of full cost, whether or not pre-
24 viously collected from the landholder or district, the Sec-
25 retary may impose penalties of up to \$1,500 per year

1 against the person or legal entity who was in violation.
2 Any amounts collected in excess thereof shall be refunded
3 or credited to future payments of the district. The Sec-
4 retary shall collect the fines and penalties from the person
5 or legal entity who was in violation.

6 “(c) Notwithstanding any other provision of law, any
7 determination of noncompliance by the Secretary under
8 this section or under section 224(i) shall be in accordance
9 with chapter 5 of title 5 of the United States Code (relat-
10 ing to administrative procedure) and subject to an adju-
11 dicatory hearing. No penalty shall be imposed by the Sec-
12 retary on a landholder for failure to comply with any pro-
13 vision of this Act and the regulations established pursuant
14 to this Act after one year from the date of noncompliance
15 unless such noncompliance was the result of fraud or in-
16 tentional misrepresentation of fact by the landholder.”.

17 **SEC. 2. EFFECTIVE DATE.**

18 The amendments made by this Act shall take effect
19 on January 1, 1994.

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