

106TH CONGRESS
1ST SESSION

H. R. 1269

To amend the Federal Oil and Gas Royalty Management Act of 1982 to strengthen sanctions for violations of that Act relating to oil or gas royalties.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 1999

Mr. GEORGE MILLER of California (for himself and Mr. DEFAZIO) introduced the following bill; which was referred to the Committee on Resources

A BILL

To amend the Federal Oil and Gas Royalty Management Act of 1982 to strengthen sanctions for violations of that Act relating to oil or gas royalties.

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. SHORT TITLE.**

4 This Act may be cited as the “Federal Oil and Gas
5 Reform Act of 1999”.

6 **SEC. 2. SANCTIONS FOR VIOLATIONS RELATING TO FED-**
7 **ERAL OIL AND GAS ROYALTIES.**

8 Section 109 of the Federal Oil and Gas Royalty Man-
9 agement Act of 1982 (30 U.S.C. 1719) is amended to read
10 as follows:

1 “CIVIL PENALTIES

2 “SEC. 109. (a) ROYALTY VIOLATIONS.—(1) No per-
3 son shall—

4 “(A) after due notice of violation or after such
5 violation has been reported under paragraph (3)(A),
6 fail or refuse to comply with any requirement of any
7 mineral leasing law or any regulation, order, lease,
8 or permit under such a law;

9 “(B) fail or refuse to make any royalty pay-
10 ment in the amount or value required by any min-
11 eral leasing law or any regulation, order, or lease
12 under such a law;

13 “(C) fail or refuse to make any royalty payment
14 by the date required by any mineral leasing law or
15 any regulation, order, or lease under such a law; or

16 “(D) prepare, maintain, or submit any false, in-
17 accurate, or misleading report, notice, affidavit,
18 record, data, or other written information or filing
19 related to royalty payments that is required under
20 any mineral leasing law or regulation issued under
21 any mineral leasing law.

22 “(2) A person who violates paragraph (1) shall be
23 liable—

24 “(A) in the case of a violation of subparagraph
25 (B) or (C) of paragraph (1) for an amount equal to

1 3 times the royalty the person fails or refuses to
2 pay, plus interest on that trebled amount measured
3 from the first date the royalty payment was due;
4 and

5 “(B) in the case of any violation, for a civil
6 penalty of \$25,000 per violation for each day the
7 violation continues.

8 “(3) Paragraph (2) shall not apply to a violation of
9 paragraph (1) if the person who commits the violation,
10 within 30 days of the violation—

11 “(A) reports the violation to the Secretary or a
12 representative designated by the Secretary; and

13 “(B) corrects the violation.

14 “(b) LEASE ADMINISTRATION VIOLATIONS.—Any
15 person who—

16 “(1) fails to notify the Secretary of—

17 “(A) any designation by the person under
18 section 102(a); or

19 “(B) any other assignment of obligations
20 or responsibilities of the person under a lease;

21 “(2) fails or refuses to permit—

22 “(A) lawful entry;

23 “(B) inspection, including any inspection
24 authorized by section 108; or

1 “(C) audit, including any failure or refusal
2 to promptly tender requested documents;

3 “(3) fails or refuses to comply with subsection
4 102(b)(3) (relating to notification regarding begin-
5 ning or resumption of production); or

6 “(4) fails to correctly report and timely provide
7 operations or financial records necessary for the Sec-
8 retary or any authorized designee of the Secretary to
9 accomplish lease management responsibilities,
10 shall be liable for a penalty of up to \$10,000 per violation
11 for each day such violation continues.

12 “(c) THEFT.—Any person who—

13 “(1) knowingly or willfully takes or removes,
14 transports, uses or diverts any oil or gas from any
15 lease site without having valid legal authority to do
16 so; or

17 “(2) purchases, accepts, sells, transports, or
18 conveys to another, any oil or gas knowing or having
19 reason to know that such oil or gas was stolen or
20 unlawfully removed or diverted,

21 shall be liable for a penalty of up to \$25,000 per violation
22 for each day such violation continues without correction.

23 “(d) REPEATED VIOLATIONS.—(1)(A) If the Sec-
24 retary or an authorized designee of the Secretary deter-
25 mines that any person has repeatedly violated subsection

1 (a), (b), or (c), the Secretary or designee shall notify the
2 person of the violation and demand compliance.

3 “(B) A person notified pursuant to subparagraph (A)
4 shall correct the violations by not later than 30 calendar
5 days after the date of the notification.

6 “(C) Any person who fails to comply with a demand
7 under subparagraph (A) shall be liable to the United
8 States for a civil penalty equal to 3 times the amount of
9 any civil penalty that otherwise applies under subsection
10 (a), (b), or (c) to the violations to which the demand re-
11 lates.

12 “(2) In addition to the penalty provided in paragraph
13 (1)(C), if the Secretary determines that any person has
14 repeatedly violated subsection (a), (b), or (c) or any lease
15 management order, the Secretary may—

16 “(A) shut in and cease production of any oil or
17 gas lease held by the person;

18 “(B) prohibit the person—

19 “(i) from acquiring any additional oil or
20 gas lease, including by transfer or assignment;
21 and

22 “(ii) from being designated under section
23 102(a) to make payments due under any lease;

24 “(C) cancel or transfer any interest in an oil or
25 gas lease held by the person; and

1 “(D) collect from the person reimbursement, in-
2 cluding interest, of all costs of release, transfer, or
3 reclamation of lease sites canceled or transferred, in-
4 cluding costs of disposing of lease property, facili-
5 ties, and equipment.

6 “(e) ADMINISTRATIVE APPEAL.—(1) Any determina-
7 tion by the Secretary or a designee of the Secretary of
8 the amount of any royalties or civil penalties owed under
9 subsection (a), (b), (c), or (d) shall be final, unless within
10 15 days after notification by the Secretary or designee the
11 person liable for such amount files an administrative ap-
12 peal in accordance with regulations issued by the Sec-
13 retary.

14 “(2) If a person files an administrative appeal pursu-
15 ant to paragraph (1), the Secretary or designee shall make
16 a final determination in accordance with the regulations
17 referred to in paragraph (1).

18 “(f) DEDUCTION.—The amount of any penalty under
19 this section, as finally determined may be deducted from
20 any sums owing by the United States to the person
21 charged.

22 “(g) COMPROMISE AND REDUCTION.—On a case-by-
23 case basis the Secretary may compromise or reduce civil
24 penalties under this section.

1 “(h) NOTICE.—Notice under this subsection (a) shall
2 be by personal service by an authorized representative of
3 the Secretary or by registered mail. Any person may, in
4 the manner prescribed by the Secretary, designate a rep-
5 resentative to receive any notice under this subsection.

6 “(i) RECORD OF DETERMINATION.—In determining
7 the amount of such penalty, or whether it should be remit-
8 ted or reduced, and in what amount, the Secretary shall
9 state on the record the reasons for his determinations.

10 “(j) JUDICIAL REVIEW.—Any person who has re-
11 quested a hearing in accordance with subsection (e) within
12 the time the Secretary has prescribed for such a hearing
13 and who is aggrieved by a final order of the Secretary
14 under this section may seek review of such order in the
15 United States district court for the judicial district in
16 which the violation allegedly took place. Review by the dis-
17 trict court shall be only on the administrative record and
18 not de novo. Such an action shall be barred unless filed
19 within 90 days after the Secretary’s final order.

20 “(k) FAILURE TO PAY.—If any person fails to pay
21 an assessment of a civil penalty under this Act—

22 “(1) after the order making the assessment has
23 become a final order and if such person does not file
24 a petition for judicial review of the order in accord-
25 ance with subsection (j), or

1 “(2) after a court in an action brought under
2 subsection (j) has entered a final judgment in favor
3 of the Secretary,
4 the court shall have jurisdiction to award the amount as-
5 sessed plus interest from the date of the expiration of the
6 90-day period referred to in subsection (j). Judgment by
7 the court shall include an order to pay.

8 “(1) RELATIONSHIP TO MINERAL LEASING ACT.—No
9 person shall be liable for a civil penalty under subsection
10 (a) or (b) for failure to pay any rental for any lease auto-
11 matically terminated pursuant to section 31 of the Mineral
12 Leasing Act.

13 “(m) TOLLING OF STATUTES OF LIMITATION.—(1)
14 Any determination by the Secretary or a designee of the
15 Secretary that a person has violated subsection (a), (b)(2),
16 or (b)(4) shall toll any applicable statute of limitations for
17 all oil and gas leases held or operated by such person, until
18 the later of—

19 “(A) the date on which the person corrects the
20 violation and certifies that all violations of a like na-
21 ture have been corrected for all of the oil and gas
22 leases held or operated by such person; or

23 “(B) the date a final, nonappealable order has
24 been issued by the Secretary or a court of competent
25 jurisdiction.

1 “(2) A person determined by the Secretary or a des-
 2 ignee of the Secretary to have violated subsection (a),
 3 (b)(2), or (b)(4) shall maintain all records with respect
 4 to the person’s oil and gas leases until the later of—

5 “(A) the date the Secretary releases the person
 6 from the obligation to maintain such records; and

7 “(B) the expiration of the period during which
 8 the records must be maintained under section
 9 103(b).

10 “(n) STATE SHARING OF PENALTIES.—Amounts re-
 11 ceived by the United States in an action brought under
 12 section 3730 of title 31, United States Code, that arises
 13 from any underpayment of royalties owed to the United
 14 States under any lease shall be treated as royalties paid
 15 to the United States under that lease for purposes of the
 16 mineral leasing laws and the Land and Water Conserva-
 17 tion Fund Act of 1965 (16 U.S.C. 4601–4 et seq.).”.

18 **SEC. 3. SHARED CIVIL PENALTIES.**

19 Section 206 of the Federal Oil and Gas Royalty Man-
 20 agement Act of 1982 (30 U.S.C. 1736) is amended—

21 (1) by inserting “trebled royalties or” after “50
 22 per centum of any” and before “civil penalty”; and

23 (2) by striking the second sentence.

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