

Federal Oil and Gas Royalty Management Act

The Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982 (30 USC § 1701 et seq.), grants the Secretary of the Interior authority for managing and collecting oil and gas royalties from leases on federal and Indian lands. It consists of four sections, or Titles, as follows:

Title I: Federal Royalty Management and Enforcement.

This Title directs the Secretary of the Interior to: (1) establish a comprehensive inspection, collection and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interests, fines, penalties, fees, deposits, and other payments owed; and (2) collect and account for such amounts. It directs the Secretary to: (1) establish procedures for inspections of each lease site at least annually; and (2) establish procedures to train authorized representatives of the Secretary to make such inspections. Requires the Secretary to audit and reconcile current and past lease accounts and to make collections and refunds as necessary. Authorizes the Secretary to contract with independent certified public accountants to undertake such audits.

The Act sets forth the duties of lessees, operators, and motor vehicle transporters. Specifically, it requires any lessee to: (1) make required royalty payments on time; and (2) notify the Secretary of assignments of any interest in the lease. Requires any operator to: (1) develop and comply with a site security plan which conforms to such minimum standards as the Secretary may prescribe; (2) notify the Secretary, no later than the fifth day after beginning production, of any new well. The act requires any individual engaged in transporting by motor vehicle any oil from any lease site to carry documentation showing both the origin and destination of the oil. It requires any individual engaged in transporting by pipeline any oil or gas from any lease site to maintain documentation showing the origin and destination of the oil or gas. It requires a lessee, operator, or other individual directly involved in developing, producing, transporting, purchasing, or selling oil or gas through the point of first sale or the point of royalty computation, whichever is later, to make such reports as the Secretary may require.

The Act amends the Mineral Lands Leasing Act of 1920 to require royalty payments to be made to the States and Indian tribes monthly, except for portions under challenge. Requires that whenever a State receives a payment, a description of such payment shall be provided. The statute permits inspection of lease sites by authorized representatives of the Secretary. Sets forth civil penalties of up to: (1) \$500 per violation for each day any individual refuses to comply with any mineral leasing law requirement, refuses to comply with the terms of any lease, or fails to permit an authorized inspection; (2) \$5000 per day per violation if corrective action is not taken within 40 days after due notice of a violation; (3) \$25,000 per violation for each day any individual either knowingly prepares misleading reports, knowingly diverts oil or gas resources from any lease site without authority, or deals with any oil or gas resource having reason to know that the resource was stolen or unlawfully divested. The Act provides for the imposition of criminal penalties in addition to the civil penalties. It also requires the Secretary to charge interest on late royalty payments or on any underpayment due the Secretary. It requires the

Secretary to pay interest on any late payments made to a State or Indian tribe by the Secretary. Authorizes the Attorney General to bring a civil action to restrain violations of this Act or to compel the taking of any action required under any mineral leasing law. Authorizes the Secretary to reward any individual, who is not a U.S. employee, up to 10 percent of any royalty payment for providing information leading to the recovery of an unpaid royalty. Directs the Secretary to conduct a study of the effects of a change in the royalty rates for noncompetitive Federal oil and gas leases on: (1) the exploration, development, or production of oil or gas; and (2) the overall revenues generated by such change.

Title II: States and Indian Tribes

This Title states that this title applies only with respect to oil and gas leases on Federal or Indian lands. Authorizes the Secretary to enter into a cooperative agreement with any State or Indian tribe to share oil or gas royalty management information, and to carry out inspection, auditing investigation or enforcement activities under this Act.

The Act gives States and Indian tribes access to royalty accounting information in the Secretary's possession, pursuant to such an agreement. Restricts the availability of trade secrets, proprietary and other confidential information. Makes such information available to a State or Indian tribe only if: (1) such information is available only to those who are directly involved in an audit or investigation under this Act; (2) the State or tribe accepts liability for wrongful disclosure; and (3) the information is essential for an audit or investigation. It authorizes a State to commence a civil action under this Act against any person to recover any royalties, interest, or civil penalties which the State believes is due based on credible evidence, with respect to any oil and gas lease on Federal lands located within that State. It authorizes the Secretary, upon the written request of a State, to delegate to a State all or part of his or her authorities and responsibilities to conduct inspections, audits, and investigations.

The act directs the Secretary to promulgate regulations pertaining to such authorities and responsibilities which assure that a uniform and effective system of accounting and payment of royalties will prevail among States. It also authorizes the revocation of the delegation of authority if a State is in violation of any applicable requirement. The act requires 50 percent of any civil penalty collected by the Federal Government under this Act to be paid to a State or Indian tribe.

Title III General Provisions

This Title directs the Secretary to prescribe such rules and regulations as are reasonably necessary to carry out this Act. Directs the Secretary to report annually to Congress on the implementation of this Act. Directs the Inspector General of the Department of the Interior to conduct a biennial audit of the Federal royalty management system. Directs the Secretary to study the question of the adequacy of royalty management for coal, uranium and other energy and nonenergy minerals on Federal and Indian lands. States that: (1) the penalties and authorities provided in this Act are supplemental to any other penalties or authorities; and (2) nothing in this Act shall be construed to reduce the responsibilities of the Secretary to ensure prompt and proper collection of revenues from other energy and nonenergy minerals on Federal and Indian lands.

Provides that the provisions of this Act shall apply to oil and gas leases issued before, on, or after the date of enactment, except that in the case of a lease issued before such date, no provision of this Act shall alter the express and specific provisions of such a lease. Authorizes the appropriation of such funds as are necessary to carry out the provisions of this Act.

In addition, the Act sets the statute of limitations for the recovery of penalties at six years, except in the case of fraud. It makes any lessee liable for royalty payments on oil or gas lost or wasted from a lease site when such loss or waste is due to negligence or failure to comply with any rule or regulation issued under this Act or any mineral leasing law.

Title IV: Reinstatement of Leases and Conversion of Unpatented Oil Placer Claims

These provisions amend the Mineral Lands Leasing Act of 1920 to authorize the Secretary to reinstate a lease automatically terminated for failure to pay the full rental, if the failure to pay was justifiable or inadvertent. Provides that a reinstatement will be made only if: (1) no valid lease, whether still in existence or not, has been issued affecting any of the lands covered by the terminated lease prior to the filing of such petition, except that after receipt of a petition for reinstatement the Secretary shall not issue any new lease affecting any of the lands covered by such terminated lease for a reasonable period; (2) there is payment of back rentals and either payment of future rentals at not less than \$10 an acre per year for a competitive lease or at not less than \$5 an acre per year for a noncompetitive lease; (3) there is payment of back royalties and the inclusion in a competitive reinstated lease of a requirement for future royalties at a rate of not less than 16 2/3 percent, computed on a sliding scale based upon the average production per well per day, at a rate which shall be not less than four percentage points greater than the competitive royalty schedule then in force and used for royalty determination for competitive leases; (4) there is payment of back royalties and inclusion in a noncompetitive reinstated lease of a requirement for future royalties at a rate not less than 16 2/3 percent; and (5) notice of the proposed reinstatement of a terminated lease is furnished to Congress.