

The Ending Taxpayer Welfare for Oil and Gas Companies Act of 2021

Rep. Katie Porter (CA-45)

The Ending Taxpayer Welfare for Oil and Gas Companies Act would raise royalties, rental rates, inspection fees, and penalties that have not been updated in decades. These artificially low fees are costing taxpayers hundreds of millions of dollars and creating a financial windfall for oil and gas companies that extract resources from public lands. The Act will also close loopholes that enable corporate waste, fraud, and abuse by oil and gas companies operating on public lands.

Section 1. Short Title. Ending Taxpayer Welfare for Oil and Gas Companies Act of 2021.

Section 2. Table of Contents. Table of Contents. The most significant changes to the fiscal system are in Sections 3-7. The balance of the bill consists of technical fixes and provisions to improve oversight.

Section 3. Onshore Fossil Fuel Royalty Rates. Raises onshore royalty rates to 18.75 percent for all new oil and gas and coal leases. The federal onshore royalty rate of 12.5 percent has not been adjusted in over a century and is considerably below the federal offshore royalty rate and the royalty rates charged by states.

Section 4. Minimum Bid Amount. Raises the current onshore oil and gas minimum bid from \$2 to \$5 and requires it to be indexed to inflation. The current minimum bid for onshore oil and gas leases has not been adjusted since 1987.

Section 5. Onshore Oil and Gas Rental Rates. Raises per-acre onshore rental rates for oil and gas leases from their current values of \$1.50 for the first 5 years and \$2 for the second five years, to \$3 for the first 5 years and \$5 for the second 5 years.

Section 6. Inspection Fee. Requires companies to pay user fees to cover the cost of the onshore oil and gas inspection program. The fees are set at \$700 for leases without active wells, \$1,225 for leases with 1-10 wells, \$4,900 for leases with 11-50 wells, and \$9,800 for leases with more than 50 wells. Companies operating offshore already pay inspection fees, but companies onshore do not.

Section 7. Penalties. Raises civil and criminal penalties in the Mineral Leasing Act (MLA), the Outer Continental Shelf Lands Act (OCS), and the Federal Oil and Gas Royalty Management Act (FOGRMA).

Section 8. Royalty Relief. Repeals the shallow-water-deep-gas, deep-water, and Alaskan OCS royalty relief provisions that were enacted by Sections 344 and 345 of the Energy Policy Act of 2005.

Section 9. Royalty In Kind. Eliminates the authority of the Secretary to take royalties in kind except for filling the Strategic Petroleum Reserve.

Section 10. Amendments to Definition. This section amends FOGRMA by adding new definitions to simplify and strengthen royalty payment oversight.

Section 11. Compliance Reviews. Provides statutory authority for the Secretary to conduct compliance reviews of royalty payments and requires any uncovered discrepancies to be referred to an auditor.

Section 12. Liability for Royalty Payments. Clarifies that designees are liable for royalty payments under a lease, and that lease owners and operators are liable for their pro-rated share of payment obligations under a lease.

Section 13. Recordkeeping. Requires oil and gas records to be kept by payors for seven years instead of the current six, which aligns that timeframe with the statute of limitations for the government established under the Royalty Fairness and Simplification Act of 1995 to collect unpaid royalties.

Section 14. Adjustments and Refunds. Eliminates the opportunity for lessees to make adjustments to their royalty obligations after a compliance review or audit is completed on a lease in question and limits the ability to make adjustments to four years after the date royalties were initially due. Currently, lessees are allowed to make adjustments for a full six years even after the Department of the Interior (DOI) has already completely a compliance review or audit.

Section 15. Obligation Period. Establishes that in the case of an adjustment made by a lessee that results in an underpayment, the lessee would be obligated to repay that amount (plus interest) from the date the lessee makes the adjustment, thus extending the statute of limitations on that royalty payment. This will enable DOI to audit such lease during the ensuing six-year cycle.

Section 16. Tolling Agreements and Subpoenas. Allows the Secretary to correspond only with the lease designee in the case of subpoenas or agreements to pause the statute of limitations, as opposed to having to contact each lessee individually.

Section 17. Appeals. Extends the timeframe for the Secretary to issue final decisions on any appeals on demands or orders to pay royalties or penalties to 48 months, from the current 33 months.

Section 18. Assessments. Repeals a section of FOGRMA that prohibits the Secretary from imposing assessments on payors who chronically submit erroneous royalty reports.

Section 19. Pilot Project on Automatic Data Transfer. Establishes a pilot project for the automated transmission of electronic data from offshore wellheads and meters to the federal government, in order to improve the accuracy and efficiency of data and royalty collection.

Section 20. Penalty for Late or Incorrect Reporting of Data. Establishes a penalty for companies that file late or incorrect data, to be set at a level the Secretary determines is sufficient to ensure that companies file correct data on time, but no less than \$10 per incorrect line of data.

Section 21. Required Recordkeeping for Natural Gas Plants. Requires the Secretary to promulgate a regulation that requires purchasers of federal natural gas to maintain and provide records. FOGRMA already includes this authority, but the existing regulation applies only to lessees and operators.

Section 22. Shared Penalties. Eliminates a disincentive for states and tribes to diligently pursue royalty violators.

Section 23. Applicability to Other Minerals. Extends the civil and criminal enforcement authority in FOGRMA to coal and other solid minerals on federal lands, as well as to solid mineral mining or alternative energy development on the OCS.

Section 24. Entitlements. Requires the Secretary to publish final regulations regarding procedures for reporting royalties on entitled shares of production from unitized leases when lessees do not actually sell their share of production from that lease.

Section 25. Royalties on All Extracted Methane. Eliminates the royalty waiver for natural gas produced and used on the lease and requires royalties to be paid on all gas vented, flared, or lost through leakage.

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