

## Surface Mining Reclamation and Enforcement, Interior

## § 1208.4

*ONRR* means the Office of Natural Resources Revenue of the Department of the Interior.

*Operator* means any person, including a lessee, who has control of or who manages operations on an oil and gas lease site on Federal onshore lands or on the OCS.

*Payor* means any person responsible for reporting royalties from a Federal lease or leases on Form MMS-2014.

*Person* means any individual, firm, corporation, association, partnership, consortium, or joint venture.

*Preference eligible refiner* means an eligible refiner with at least one operating refinery which is located within the area designated as the preference eligible area in the "Notice of Availability of Royalty Oil." A refiner may be deemed to be a preference eligible refiner if it owns a refinery located in the preference eligible area which is not operational if the refiner meets the requirements of §1208.7(g) of this part.

*Purchaser* means anyone who acquires royalty oil sold by DOI under the Federal Government's Royalty-in-Kind (RIK) Program and who has a contractual obligation under an agreement to purchase royalty oil.

*Reallocation* means an offering of royalty oil previously allocated in a specific sale but subsequently turned back to ONRR. A reallocation would only be made if substantial amounts of royalty oil are turned back.

*Refined petroleum product* means gasoline, kerosene, distillates (including Number 2 fuel oil), refined lubricating oils, or diesel fuel.

*Royalty oil* means that amount of oil that DOI takes in kind in partial or full satisfaction of a lessee's royalty or net profit share obligations as determined by whatever lease interest the lessee holds under an applicable mineral leasing law.

*Secretary* means the Secretary of the Department of the Interior or his/her delegate(s).

*Section 6 lease* means an oil and gas lease originally issued by any State and currently maintained in effect pursuant to section 6 of the OCSLA.

*Section 8 lease* means an oil and gas lease originally issued by the United

States pursuant to section 8 of the OCSLA.

[52 FR 41913, Oct. 30, 1987; 52 FR 45528, Nov. 30, 1987, as amended at 58 FR 64901, Dec. 10, 1993; 64 FR 26251, May 13, 1999]

### § 1208.3 Information collection.

The information collection requirements contained in this part have been approved by OMB under 44 U.S.C. 3501 *et seq.* The form, filing date, and approved OMB clearance number are identified in 30 CFR 210.10.

[58 FR 64901, Dec. 10, 1993]

### § 1208.4 Royalty oil sales to eligible refiners.

(a) *Determination to take royalty oil in kind.* The Secretary may evaluate crude oil market conditions from time to time. The evaluation will include, among other things, the availability of crude oil and the crude oil requirements of the Federal Government, primarily those requirements concerning matters of national interest and defense. The Secretary will review these items and will determine whether eligible refiners have access to adequate supplies of crude oil and whether such oil is available to eligible refiners at equitable prices. Such determinations may be made on a regional basis. The determination by the Secretary shall be published in the FEDERAL REGISTER concurrent with or included in the "Notice of Availability of Royalty Oil" required by §1208.5.

(b) *Sale to eligible refiners.* (1) Upon a determination by the Secretary under paragraph (a) of this section that eligible refiners do not have access to adequate supplies of crude oil at equitable prices, the Secretary, at his or her discretion, may elect to take in kind some or all of the royalty oil accruing to the United States from oil and gas leases on Federal lands onshore and on the OCS. The Secretary may authorize ONRR to offer royalty oil for sale to eligible refiners only for use in their refineries and not for resale (other than under an exchange agreement).

(2) All sales of royalty oil from onshore leases will be priced at the royalty value that would have been determined for that oil pursuant to 30 CFR part 1206 had the royalties been paid in

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value rather than taken in kind. All sales of royalty oil from OCS leases will be priced at the fair market value of the oil including associated transportation costs to the designated delivery point, if applicable.

(3) An eligible refiner must have a representative at a sale in order to participate. The Secretary may, at his or her discretion, establish purchase limitations and withhold any royalty oil from any offering.

(c) Upon a determination by the Secretary under paragraph (a) of this section that eligible refiners do have access to adequate supplies of crude oil at equitable prices, ONRR will not take royalties in kind from oil and gas leases for exclusive sale to such refiners. Such determinations may be made on a regional basis.

(d) *Interim sales.* The ONRR generally will not conduct interim sales. However, interim sales may be held at the discretion of the Secretary if substantial additional royalty oil becomes available. The potentially eligible refiners, individually or collectively, must submit documentation demonstrating that adequate supplies of crude oil at equitable prices are not available for purchase. Although sufficient documentation must be submitted, it is not mandatory for each potentially eligible refiner to participate in a submission of such documentation to be determined eligible. The documentation must be submitted to ONRR for a determination as to whether an interim sale is needed.

[52 FR 41913, Oct. 30, 1987, as amended at 66 FR 28657, May 24, 2001]

### § 1208.5 Notice of royalty oil sale.

If the Secretary decides to take royalty oil in kind for sale to eligible refiners, ONRR will issue a "Notice of Availability of Royalty Oil" specifying the manner in which the sale is to be effected, the approximate quantity of royalty oil to be offered, information required in applications, the closing date for the receipt of applications for royalty oil, and other general administrative details concerning the application, allocation, and contract award process for the royalty oil. The Notice will describe generally the terms under which the royalty oil contracts will be

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awarded and will specify which applicants will be deemed preference eligible refiners in the sale proceedings. The Notice will also contain guidelines for reallocation procedures in the event substantial quantities of royalty oil sold in that specific sale are subsequently turned back to ONRR. Only those purchasers that hold ongoing contracts from that specific sale will be allowed to participate in any reallocation, which would be voluntary, and then only if they continue to meet eligibility requirements as set forth in §§1208.2 and 1208.7. If a reallocation is held prior to the effective date of the contracts as specified in the "Notice of Availability of Royalty Oil", all eligible refiners that selected a lease or leases in that specific sale would be allowed to participate, pursuant to the procedures in the Notice.

### § 1208.6 General application procedures.

(a) To apply for the purchase of royalty oil, an applicant must file a Form MMS-4070 with ONRR in accordance with instructions provided in the "Notice of Availability of Royalty Oil" and in accordance with any instructions issued by ONRR for completion of Form MMS-4070. The applicant will be required to submit a letter of intent from a qualified financial institution stating that it would be granted surety coverage for the royalty oil for which it is applying, or other such proof of surety coverage, as deemed acceptable by ONRR. The letter of intent must be submitted with a completed Form MMS-4070.

(b) In addition to any other application requirements specified in the Notice, the following information is required on Form MMS-4070 at the time of application:

(1) Name and address of the applicant, the location of the applicant's refinery or refineries, and disclosure of the applicant's affiliation with any other persons.

(2) The capacity of the applicant's refineries in barrels of crude oil throughput per calendar day and a tabulation for the past 12 months of oil processed for each refinery, identified as to source (from own production or from other sources).