

## Surface Mining Reclamation and Enforcement, Interior

## § 1208.8

(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).

(3) Identification of any Government royalty oil contracts under which the applicant is currently receiving royalty oil.

(4) Identification of the locations (area/region and State) where the applicant proposes to purchase royalty oil, the volume of oil requested, and the specific refineries in which the oil will be refined.

(5) A certification from the applicant that it is an eligible refiner for the purchase of Government royalty oil, as defined in § 1208.2 of this part.

[52 FR 41913, Oct. 30, 1987, as amended at 58 FR 64901, Dec. 10, 1993]

### § 1208.7 Determination of eligibility.

(a) The ONRR will examine each application and may request additional information if the information in the application is inadequate. An application received after the close of the application period will be rejected. If additional information is requested by ONRR, it must be received by the time specified or the application will be rejected.

(b) After the close of the application period and the receipt of any additional requested information, ONRR will determine which applicants may participate in the royalty oil sale and the quantity of royalty oil which each applicant is authorized to purchase.

(c) When applications are filed by two or more eligible refiners for the same royalty oil, the oil will be allocated among such applicants on an equitable basis as determined by ONRR. Preference eligible refiners will be given priority in the allocation procedures in sales and subsequent reallocations of royalty oil.

(d) No eligible refiner shall be awarded contracts for volumes of royalty oil that, when added to volumes of other

Federal royalty oil being received, are in excess of 60 percent of the combined refinery capacity of that refiner.

(e) The ONRR may exclude any section 6 lease from a royalty oil sale.

(f) If two or more eligible refiners are related through common ownership or control or otherwise affiliated, only one of them shall be entitled to an allotment of royalty oil from a specific sale.

(g) Any applicant whose refinery is not in operation during the 60-day period prior to the date of the royalty oil sale shall not be entitled to participate in the sale unless such applicant self-certifies and demonstrates to the satisfaction of ONRR that it will begin operations by the first month in which oil becomes available under a royalty oil contract. If operations do not begin by that month, ONRR will terminate the contract.

(h) Applicants or purchasers that have delinquent balances with ONRR as of the date of a royalty oil sale or subsequent reallocation will not be allowed to participate in that sale or reallocation. If a person which is controlled by, in control of, under common control with, or otherwise affiliated with an applicant or purchaser has such delinquent balances, the applicant or purchaser will not be allowed to participate in a royalty oil sale or reallocation. To the extent a purchaser or affiliated person has appealed a billing and posted a surety instrument in accordance with the contract terms and applicable ONRR regulations or other law, the balance shall not be considered delinquent.

(i) A purchaser must meet the eligibility criteria on the date of contract issuance. However, a change in a purchaser's eligibility status during the term of the contract will not affect the purchaser's right to continue that contract until its term expires, including any extensions thereof.

[52 FR 41913, Oct. 30, 1987, as amended at 58 FR 64901, Dec. 10, 1993]

### § 1208.8 Transportation and delivery.

(a) The lessee shall deliver royalty oil from onshore leases to the purchaser at a point on or adjacent to the lease pursuant to the terms of the lease. If the purchaser does not have

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access to its onshore royalty oil entitlement at facilities on or adjacent to the lease, the operator of the lease must designate an alternate delivery point at no additional cost to the purchaser or the Government. The purchaser must have physical access to the oil at the alternate delivery point and such point must be approved by ONRR.

(b) The lessee shall deliver royalty oil from section 8 offshore leases issued after September 1969 at a delivery point to be designated by ONRR. The lessee shall deliver royalty oil from section 8 offshore leases issued before October 1969 or from section 6 leases at a delivery point to be designated by the lessee. If the delivery point is on or immediately adjacent to the lease, the royalty oil will be delivered without cost to the Federal Government as an undivided portion of production in marketable condition at pipeline connections or other facilities provided by the lessee, unless other arrangements are approved by ONRR. If the delivery point is not on or immediately adjacent to the lease, ONRR will reimburse the lessee for the reasonable cost of transportation to such point in an amount not to exceed the transportation allowance determined pursuant to 30 CFR part 1206. The ONRR will include such transportation costs in the price charged for the oil taken in kind to reflect the value of the oil at the delivery point. Arrangements for delivery of the royalty oil from, or exchange of the oil at, the delivery point, and related transportation costs, are the responsibility of the purchaser of the royalty oil. In addition, quality differentials between the royalty oil to which a purchaser is entitled and the oil which is made available at the delivery point are matters to be resolved between the purchaser and the operator.

(c) When the purchaser has physical access to the royalty oil at the delivery point, the lessee shall deliver such oil in marketable condition at pipeline connections or other facilities designated by ONRR. If the lessee is unable to provide the royalty portion of actual production from the lease, the lessee must provide crude oil to the purchaser which is equivalent in vol-

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ume or value to the royalty oil to which the purchaser is entitled. The lessee will deliver the royalty oil to the purchaser during normal operating hours and in reasonable quantities and intervals. The lessee will make available and the purchaser will accept delivery of the royalty oil entitlement no later than the last day of the calendar month immediately following the calendar month in which the oil was produced. Failure to accept deliveries shall constitute grounds for the termination of the contract.

(d) Upon termination of deliveries under a royalty oil contract, the transportation allowance and delivery point designation authorized by this section no longer will remain in effect.

### § 1208.9 Agreements.

(a) A purchaser must submit to ONRR two copies of any written third-party agreements, or two copies of a full written explanation of any oral third-party agreements, relating to the method and costs of delivery of royalty oil, or crude oil exchanged for the royalty oil, from the point of delivery under the contract to the purchaser's refinery. In addition, the purchaser must submit copies of agreements pertaining to quality differentials which may occur between leases and delivery points.

(b) A purchaser may not sell royalty oil which it purchases pursuant to this part except for purposes of an exchange for other crude oil on a volume or equivalent value basis.

(c) Royalty oil purchased under this part, or crude oil received in exchange for such royalty oil, must be processed into refined petroleum products in the purchaser's refinery.

### § 1208.10 Notices.

(a) The ONRR shall notify each operator, by certified mail, of the Secretary's decision to take royalty oil in kind. This notice shall be mailed at least 45 days in advance of the effective date of delivery and will specify delivery points for offshore oil for OCS leases issued after September 1969.

(b) Deliveries of royalty oil may be partially terminated only with the written approval of the Director, ONRR.