

## § 626.1

- 626.2 Definitions.
- 626.3 Applicability.
- 626.4 General acquisition strategy.
- 626.5 Acquisition procedures-general.
- 626.6 Acquiring oil by direct purchase.
- 626.7 Royalty transfer and exchange.
- 626.8 Deferrals of contractually scheduled deliveries.

AUTHORITY: 42 U.S.C. 6240(c); 42 U.S.C. 7101, *et seq.*

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### § 626.1 Purpose.

This part establishes the procedures for acquiring petroleum for, and deferring contractually scheduled deliveries to, the Strategic Petroleum Reserve. The procedures do not represent actual terms and conditions to be contained in the contracts for the acquisition of SPR petroleum.

### § 626.2 Definitions.

*Backwardation* means a market situation in which prices are progressively lower in succeeding delivery months than in earlier months.

*Contango* means a market situation in which prices are progressively higher in the succeeding delivery months than in earlier months.

*Contract* means the agreement under which DOE acquires SPR petroleum, consisting of the solicitation, the contract form signed by both parties, the successful offer, and any subsequent modifications, including those granting requests for deferrals.

*Contracting Officer* means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings, including entering into sales contracts on behalf of the Government. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

*DEAR* means the Department of Energy Acquisition Regulation.

*Deferral* means a process whereby petroleum scheduled for delivery to the SPR in a specific contract period is rescheduled for later delivery, outside of that period and encompasses the future delivery of the originally scheduled quantity plus an in-kind premium.

## 10 CFR Ch. II (1–1–10 Edition)

*DOE* means the Department of Energy.

*DOI* means the Department of the Interior.

*Exchange* means a process whereby petroleum owned by or due to the SPR is provided to a person or contractor in return for petroleum of comparable quality plus a premium quantity of petroleum delivered to the SPR in the future, or when SPR petroleum is traded for petroleum of a different quality for operational reasons based on the relative values of the quantities traded.

*FAR* means the Federal Acquisition Regulation.

*Government* means the United States Government, and includes DOE as its representative.

*International Energy Program* means the program established by the Agreement on an International Energy Program, signed by the United States on November 18, 1974, including any subsequent amendments and additions to that Agreement.

*OPR* means the Office of Petroleum Reserves within the DOE Office of Fossil Energy, whose responsibilities include the operation of the Strategic Petroleum Reserve.

*Petroleum* means crude oil, residual fuel oil, or any refined product (including any natural gas liquid, and any natural gas liquid product) owned, or contracted for, by DOE and in storage in any permanent SPR facility, or temporarily stored in other storage facilities.

*Secretary* means the Secretary of Energy.

*Strategic Petroleum Reserve* or *SPR* means the DOE program established by Title I, Part B, of the Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*

### § 626.3 Applicability.

The procedures in this part apply to the acquisition of petroleum by DOE for the Strategic Petroleum Reserve through direct purchase or transfer of royalty-in-kind oil, as well as to deferrals of contractually scheduled deliveries.

### § 626.4 General acquisition strategy.

(a) *Criteria for commencing acquisition.* To reduce the potential for negative

## Department of Energy

## § 626.5

impacts from market participation, DOE shall review the following factors prior to commencing acquisition of petroleum for the SPR:

- (1) The current inventory of the SPR;
- (2) The current level of private inventories;
- (3) Days of net import protection;
- (4) Current price levels for crude oil and related commodities;
- (5) The outlook for international and domestic production levels;
- (6) Existing or potential disruptions in supply or refining capability;
- (7) The level of market volatility;
- (8) Futures market price differentials for crude oil and related commodities; and
- (9) Any other factor the consideration of which the Secretary deems to be necessary or appropriate.

(b) *Review of rate of acquisition.* DOE shall review the appropriate rate of oil acquisition each time an open market acquisition has been suspended for more than three months, and every six months in the case of ongoing or suspended royalty-in-kind transfers.

(c) *Acquisition through other Federal agencies.* DOE may enter into arrangements with another Federal agency for that agency to acquire oil for the SPR on behalf of DOE.

### § 626.5 Acquisition procedures—general.

(a) *Notice of acquisition.* (1) Except when DOE has determined there is good cause to do otherwise, DOE shall provide advance public notice of its intent to acquire petroleum for the SPR. The notice of acquisition is usually in the form of a solicitation. DOE shall state in the notice of acquisition the general terms and details of DOE's crude oil acquisition and, to the extent feasible, shall inform the public of its overall fill goals, so that they may be factored into market participants' plans and activities.

(2) The notice of acquisition generally states:

- (i) The method of acquisition to be employed;
- (ii) The time that the solicitations will be open;
- (iii) The quantity of oil that is sought;

(iv) The minimum crude oil quality requirements;

(v) The acceptable delivery locations; and

(vi) The necessary instructions for the offer process.

(b) *Method of acquisition.* (1) DOE shall define the method of crude oil acquisition, direct purchase or royalty-in-kind transfer and exchange, in the notice of acquisition.

(2) DOE shall determine the method of crude oil acquisition after taking into account the availability of appropriated funds, current market conditions, the availability of oil from the Department of the Interior, and other considerations DOE deems to be relevant.

(c) *Solicitation.* (1) To secure the economic benefit and security of a diversified base of potential suppliers of petroleum to the SPR, DOE shall maintain a listing, developed through online registration and personal contact, of interested suppliers. Upon the issuance of a solicitation, DOE shall notify potential suppliers via their registered e-mail addresses.

(2) DOE shall make the solicitation publicly available on the Web sites of the DOE Office of Fossil Energy <http://www.fe.doe.gov/programs/reserves> and the OPR <http://www.spr.doe.gov>.

(d) *Timing and duration of solicitation.* (1) DOE shall determine crude oil requirements on nominal six-month cycles, and shall review and update these requirements prior to each solicitation cycle.

(2) DOE may terminate all solicitations and contracts pertaining to the acquisition of crude oil at the convenience of the Government, and in such event shall not be responsible for any costs incurred by suppliers, other than costs for oil delivered to the SPR and for reasonable, customary, and applicable costs incurred by the supplier in the performance of a valid contract for delivery before the effective date of termination of such contract. In no event shall the Government be liable for consequential damages or the contractor's lost profits as a result of such termination.

(e) *Quality.* (1) DOE shall define minimum crude oil quality specifications for the SPR. DOE shall include such