

**Subpart F—Other Solid Minerals**

**§ 1217.250 Audits.**

An audit of the lessee’s accounts and books may be made annually or at such other times as may be directed by the mining supervisor, by certified public accountants, and at the expense of the lessee. The lessee shall furnish free of cost duplicate copies of such annual or other audits to the mining supervisor, within 30 days after the completion of each auditing.

[37 FR 11041, June 1, 1972. Redesignated at 48 FR 35641, Aug. 5, 1983]

**Subpart G—Geothermal Resources**

SOURCE: 72 FR 24468, May 2, 2007, unless otherwise noted.

**§ 1217.300 Audit or review of records.**

The Secretary, or his/her authorized representative, will initiate and conduct audits or reviews relating to the scope, nature, and extent of compliance by lessees, operators, revenue payors, and other persons with rental, royalty, fees, and other payment requirements on a Federal geothermal lease. Audits or reviews will also relate to compliance with applicable regulations and orders. All audits or reviews will be conducted in accordance with this part.

**§ 1217.301 Lease account reconciliations.**

Specific lease account reconciliations will be performed with priority being given to reconciling those lease accounts specifically identified by a State as having significant potential for underpayment.

**§ 1217.302 Definitions.**

Terms used in this subpart will have the same meaning as in 30 U.S.C. 1702.

**Subpart H—Indian Lands [Reserved]**

**PART 1218—COLLECTION OF ROYALTIES, RENTALS, BONUSES, AND OTHER MONIES DUE THE FEDERAL GOVERNMENT**

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AUTHORITY: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181

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*et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 31 U.S.C. 3335, 3711, 3716-18, 3720A, 9701; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.*

SOURCE: 48 FR 35641, Aug. 5, 1983, unless otherwise noted. Redesignated at 75 FR 61084, Oct. 4, 2010.

### Subpart A—General Provisions

#### § 1218.10 Information collection.

The information collection requirements contained in this part have been approved by OMB under 44 U.S.C. 3501 *et seq.* The forms, filing date, and approved OMB clearance numbers are identified in § 1210.10 of this chapter.

[57 FR 41867, Sept. 14, 1992]

#### § 1218.40 Assessments for incorrect or late reports and failure to report.

(a) An assessment of an amount not to exceed \$10 per day may be charged for each report not received by Office of Natural Resources Revenue (ONRR) by the designated due date for geothermal, solid minerals, and Indian oil and gas leases.

(b) An assessment of an amount not to exceed \$10 per day may be charged for each incorrectly completed report for geothermal, solid minerals, and Indian oil and gas leases.

(c) For purpose of assessments discussed in this section, a report is defined as follows:

(1) For coal and other solid minerals leases, a report is each line on Form ONRR-4430, Solid Minerals Production and Royalty Report; or on Form ONRR-2014, Report of Sales and Royalty Remittance, as appropriate.

(2) For Indian oil and gas and all geothermal leases, a report is each line on Form ONRR-2014.

(d) An assessment under this section shall not be shared with a State, Indian tribe, or Indian allottee.

(e) The amount of the assessment to be imposed pursuant to paragraphs (a) and (b) of this section shall be established periodically by ONRR. The assessment amount for each violation will be based on ONRR's experience with costs and improper reporting. The

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ONRR will publish a Notice of the assessment amount to be applied in the FEDERAL REGISTER.

[49 FR 37346, Sept. 21, 1984. Redesignated and amended at 51 FR 15767, Apr. 28, 1986; 52 FR 27546, July 22, 1987; 52 FR 37452, Oct. 7, 1987; 57 FR 52720, Nov. 5, 1992; 59 FR 38906, Aug. 1, 1994; 66 FR 45773, Aug. 30, 2001; 73 FR 15897, Mar. 26, 2008]

### **§ 1218.41 Assessments for failure to submit payment of same amount as Form ONRR-2014 or bill document or to provide adequate information.**

(a) The ONRR may assess an amount not to exceed \$250 when the amount of a payment submitted by a reporter/payor for geothermal, solid minerals, and Indian oil and gas leases is not equivalent in amount to the total of individual line items on the associated Form ONRR-2014, Form ONRR-4430, or a bill document, unless ONRR has authorized the difference in amount.

(b) The ONRR may assess an amount not to exceed \$250 for each payment for geothermal, solid minerals, and Indian oil and gas leases submitted by a reporter/payor that cannot be automatically applied to the associated Form ONRR-2014, Form ONRR-4430, or a bill document because of inadequate or erroneous information submitted by the reporter/payor.

(c) For purposes of this section, inadequate or erroneous information is defined as:

(1) Absent or incorrect payor-assigned document number, required to be identified by the reporter/payor in Block 4 on Form ONRR-2014 (document 4 number), or the reuse of the same incorrect payor-assigned document 4 number in a subsequent reporting period.

(2) Absent or incorrect bill document invoice number (to include the three-character alpha prefix and the nine-digit number) or the payor-assigned document 4 number required to be identified by the reporter/payor on the associated payment document, or the reuse of the same incorrect payor-assigned document 4 number in a subsequent reporting period.

(3) Absent or incorrect name of the administering Bureau of Indian Affairs Agency/Area office; or the word "allotted" or the tribe name on payment documents remitted to ONRR for an

Indian tribe or allottee. If the payment is made by EFT, the reporter/payor must identify the tribe/allottee on the EFT message by a pre-established five-digit code.

(4) Absent or incorrect ONRR-assigned payor code on a payment document.

(5) Absent or incorrect identification on a payment document.

(d) For purposes of this section, the term "Form ONRR-2014" includes submission of reports of royalty information, such as Form ONRR-4430.

(e) For purposes of this section, a bill document is defined as any invoice that ONRR has issued for assessments, late-payment interest charges, or other amount owed. A payment document is defined as a check or wire transfer message.

(f) The amount of the assessment to be imposed pursuant to paragraphs (a) and (b) of this section shall be established periodically by ONRR. The assessment amount will be based on ONRR's experience with costs and improper reporting and/or payment as specified in this section. The ONRR will publish a Notice in the FEDERAL REGISTER of the assessment amount to be applied with the effective date.

[58 FR 45438, Aug. 30, 1993, as amended at 73 FR 15897, Mar. 26, 2008]

### **§ 1218.42 Cross-lease netting in calculation of late-payment interest.**

(a) Interest due from a payor on any underpayment for any Federal mineral lease or leases (onshore or offshore) and on any Indian tribal mineral lease or leases for any production month shall not be reduced by offsetting against that underpayment any overpayment made by the payor on any other lease or leases, except as provided in paragraph (b) of this section. Interest due from a payor or any underpayment on any Indian allotted lease shall not be reduced by offsetting against any overpayment on any other Indian allotted lease under any circumstances.

(b) Royalties attributed to production from a lease or leases which should have been attributed to production from a different lease or leases may be offset to determine whether and to what extent an underpayment

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exists on which interest is due if the following conditions are met:

(1) The error results from attributing and reporting an equal volume of production, produced from a lease or leases during a particular production month, to a different lease or leases from which it was not produced for the same or another production month;

(2) The payor is the same for the lease or leases to which production was attributed and the lease or leases to which it should have been attributed;

(3) The payor submits production reports, pipeline allocation reports, or other similar documentary evidence pertaining to the specific production involved which verifies the correct production information;

(4) The lessor is the same for the leases involved (in the case of Indian tribal leases, the same tribe is the lessor); and

(5) The ultimate recipients of any royalty or other lease revenues under any applicable permanent indefinite appropriations are the same for, and receive the same percentage of revenue from, the leases.

(c) If ONRR assesses late-payment interest and the payor asserts that some or all of the interest assessed is not owed pursuant to the exception set forth in paragraph (b) of this section, the burden is on the payor to demonstrate that the exception applies in the specific circumstances of the case.

(d) The exception set forth in paragraph (b) of this section shall not operate to relieve any payor of liability imposed by statute or regulation for erroneous reporting.

[57 FR 62206, Dec. 30, 1992]

**Subpart B—Oil and Gas, General**

SOURCE: 49 FR 37346, Sept. 21, 1984, unless otherwise noted.

**§ 1218.50 Timing of payment.**

(a) Royalty payments are due at the end of the month following the month during which the oil and gas is produced and sold except when the last day of the month falls on a weekend or holiday. In such cases, payments are due on the first business day of the suc-

ceeding month. Rental payments are due as specified by the lease terms.

(b) Invoices will be issued and payable as final collection actions. Payments made on an invoice are due as specified by the invoice.

(c) All payments to ONRR are due as specified and are not deferred or suspended by reason of an appeal having been filed unless such deferral or suspension is approved in writing by an authorized ONRR official.

(d)(1) Notwithstanding the provisions of paragraph (a) of this section and corresponding lease terms and §1210.52 of this chapter, the due date for submittal of royalty payments and Reports of Sales and Royalty Remittance (Form ONRR-2014) for the production months of July, August, September, and October 2005 for Federal offshore and onshore oil and gas leases by oil and gas lessees or royalty payors who make the certification required under paragraph (d)(2) of this section is extended until January 3, 2006.

(2) The extended due dates in paragraph (d)(1) of this section will apply to royalty payments and Reports of Sales and Royalty Remittance (Form ONRR-2014) by any lessee or royalty payor who certifies that a hurricane that struck the Gulf of Mexico coast of the United States in August or September 2005 disrupted the lessee's or payor's operations to the extent that it prevented the lessee or royalty payor from making an accurate royalty payment or submitting an accurate Form ONRR-2014.

(3) A lessee's or royalty payor's certification under paragraph (d)(2) of this section that it is unable to generate and submit either an accurate royalty report or an accurate royalty payment will extend the due date for both royalty reporting and royalty payment.

(4) Paragraphs (d)(1) through (d)(3) of this section do not apply to Indian leases or to Federal leases for minerals other than oil and gas.

(5) You should submit your certifications under paragraph (d)(2) of this section to Financial Management, Office of Natural Resources Revenue, P.O. Box 25627, Denver, CO 80225-0627.

(e)(1) A lessee or royalty payor who submits a certification required under paragraph (d)(2) of this section may

rely on the extended due dates prescribed in paragraph (d)(1) of this section unless and until ONRR notifies the lessee or royalty payor or operator that ONRR does not accept the certification.

(2) If ONRR notifies the lessee or royalty payor that ONRR does not accept the lessee's or royalty payor's certification under paragraph (d)(2) of this section, the due date for royalty payments and Reports of Sales and Royalty Remittance will be the date specified in the notice.

[49 FR 37346, Sept. 21, 1984, as amended at 70 FR 56853, Sept. 29, 2005; 73 FR 15898, Mar. 26, 2008; 77 FR 25880, May 2, 2012]

#### § 1218.51 How to make payments.

##### (a) Definitions.

**ACH**—Automated Clearing House. A type of EFT using the ACH bank-to-bank network.

**Courtesy Notice**—An ONRR-issued notice of rental or bonus due.

**Deferred Bonus Payment**—Lease bonus paid in equal annual installments over a specified number of years.

**EFT**—Electronic Funds Transfer. Any paperless transfer of funds initiated through an electronic terminal. For ONRR purposes, EFT includes Fedwire and ACH transfers, such as *Pay.gov*.

**Fedwire**—A type of EFT using the Federal Reserve Wire network.

**Invoice document identification**—The ONRR-assigned invoice document identification (three-alpha and nine-numeric characters).

**Pay.gov**—A type of EFT using the ACH network that is initiated by a payor on the *Pay.gov* Web site.

**Payment**—Any monies for royalty, bonus, rental, late payment charge, assessment, penalty, or other money sent to ONRR.

**Person**—Any individual, firm, corporation, association, partnership, consortium, or joint venture (when established as a separate entity). The term does not include Federal agencies.

**Report**—Form ONRR-2014, *Report of Sales and Royalty Remittance*.

(b) **General instructions.** You must make all payments to ONRR electronically to the extent it is cost effective and practical. If you pay money to ONRR or to an Indian tribe or allottee, you must follow these procedures:

(1) If ONRR instructs you to use EFT, you must use EFT for all payments to ONRR and/or a tribe.

(2) Contact ONRR before using EFT. ONRR will provide you with EFT payment instructions.

(3) Separate any payments on a Federal lease from any payments on an Indian lease.

(4) If you are not required to use EFT, use one of the following types of payment documents. ONRR prefers that you use these payment documents in the order presented:

(i) Commercial check drawn on a solvent bank;

(ii) Certified check;

(iii) Cashier's check;

(iv) Money order;

(v) Bank draft drawn on a solvent bank; or

(vi) Federal Reserve check.

(5) You must include your payor code on all payments.

(6) You must pay in U.S. dollars.

(c) **How to complete a non-EFT payment.** (1) Make any payment on a Federal lease payable to: "Department of the Interior—Office of Natural Resources Revenue" or "DOI-ONRR."

(2) For an Indian allottee payment, send a separate payment for each Bureau of Indian Affairs (BIA) agency or area office represented by the leases on your report or invoice document. You must include the name of the applicable BIA agency or area office on your payment. Make your payment document payable to: "Department of the Interior—Office of Natural Resources Revenue for BIA [Name] Agency (allotted)" or "DOI-ONRR for BIA [Name] Agency (allotted)."

(3) For an Indian tribal payment other than a lockbox payment, send a separate payment for each tribe represented by the leases on your report or invoice document. You must include the name of the Indian tribe on your payment. Make it payable to: "Department of the Interior—Office of Natural Resources Revenue for BIA [Name of Tribe]" or "DOI-ONRR for BIA [Name of Tribe]."

(4) For an Indian tribal lockbox payment, follow the instructions ONRR provides you on how to report and make the lockbox payment. These instructions are specific to each tribe's

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lockbox written agreement with the bank authorized to receive payments on the tribe's mineral leases. You will receive these instructions from ONRR when you are required to use a tribal lockbox for reports and payments.

(d) *Where to send a non-EFT payment when you use the U.S. Postal Service.* (1) For a payment to an Indian tribal lockbox, send your payment to the appropriate tribal lockbox address.

(2) For a Federal nonproducing lease rental or deferred bonus payment, send it to: Office of Natural Resources Revenue, P.O. Box 25627, Denver, CO 80225-0627.

(e) *Where to send a non-EFT payment when you use a courier or overnight delivery service.* You should send this type of payment to: Office of Natural Resources Revenue, Building 85, Denver Federal Center, 6th Avenue and Kipling Street, Room A322, Denver, CO 80225.

(f) *How to prepare and what to include on your payment document.* (1) For Form ONRR-2014 payments, you must include both your payor code and your payor-assigned document number.

(2) For invoice payments, including RIK invoice payments, you must include both your payor code and invoice document identification.

(3) For bonus payments:

(i) For one-fifth bonus payments for offshore oil, gas, and sulphur leases, follow the instructions in the Notice of Lease Offering.

(ii) For payment of the four-fifths bonus for an offshore lease, use EFT and follow the instructions in § 1218.155(c).

(iii) For the successful bidder's bonus in the competitive sale of a coal, geothermal, or offshore mineral (other than oil, gas or sulfur) lease, follow the instructions and terms of the Notice of Competitive Lease Sale.

(iv) For installment payments of deferred bonuses, you must use EFT.

(4) If you are paying a lease rental you must:

(i) See § 1218.155(c) for instructions on how to pay first-year rentals of an offshore oil, gas, or sulfur lease;

(ii) See the Notice of Lease Offering for instructions on how to pay first-year rentals other than those covered in paragraph (f)(4)(i) of this section.

(iii) Include the ONRR Courtesy Notice, when provided, or write your payor code and government-assigned lease number on the payment document when paying a rental that is not reported on Form ONRR-2014 and not paid by EFT.

(g) *When is a payment to ONRR due?*

(1) All payments are due to ONRR at the time law, regulation, or lease terms require unless ONRR approves a change according to part 1243 of this chapter. If you file an appeal, and the requirement to submit payment is suspended, the original payment due date for purposes such as calculating late payment interest is not changed.

(2) If you use the U.S. Postal Service, courier, or overnight mail to send your payment, it is due at the ONRR addresses in paragraphs (d) and (e) of this section before 4 p.m. Mountain Time on the due date, regardless of when you sent it.

(3) If you use EFT to send your payment, it is due in the ONRR account by the payment due date. You are responsible for your actions or your bank's actions that cause a late or incorrect payment. You will not be held responsible for mechanical or system failures of EFT payments.

(h) *What happens if payments are late or overdue?* (1) If ONRR receives your payment late, ONRR will impose a late-payment interest charge under § 1218.54.

(2) If you do not pay an amount you owe, ONRR may assess civil penalties under part 1241 of this chapter or other applicable regulations.

[62 FR 19498, Apr. 22, 1997, as amended at 66 FR 45773, Aug. 30, 2001; 67 FR 19112, Apr. 18, 2002; 73 FR 15898, Mar. 26, 2008; 77 FR 25880, May 2, 2012; 87 FR 21746, Apr. 13, 2022]

§ 1218.52 How does a lessee designate a Designee?

(a) If you are a lessee under 30 U.S.C. 1702(7), and you want to designate a person to make all or part of the payments due under a lease on your behalf under 30 U.S.C. 1712(a), you must notify ONRR or the applicable delegated state in writing of such designation by submitting Form ONRR-4425, Designation Form for Royalty Payment Responsibility. Your notification for each lease must include the following:

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- (1) The lease number for the lease;
  - (2) The type of products you make payments for e.g., oil, gas.
  - (3) The type of payments you are responsible for e.g., royalty, minimum royalty, rental.
  - (4) Whether you are:
    - (i) A lessee of record (record title owner) in the lease; or
    - (ii) An operating rights owner (working interest owner) in the lease, and the percentage of your operating rights ownership in the lease;
  - (5) The name, address, Taxpayer Identification Number (TIN), and phone number of your Designee;
  - (6) The name, address, and phone number of the individual to contact for the person you named in paragraph (a)(5) of this section;
  - (7) Your TIN;
  - (8) The date the designation is effective;
  - (9) The date the designation terminates, if applicable, and
  - (10) A copy of the written designation;
- (b) The person you designate under paragraph (a) of this section is your Designee under 30 U.S.C. 1701(24) and 30 U.S.C. 1712(a).
- (c) If you want to terminate a designation you made under paragraph (a) of this section, you must submit a revised Form ONRR-4425 before the termination stating:
- (1) The date the designation is due to terminate; and
  - (2) If you are not reporting and paying royalties and making other payments to ONRR, a new designation under paragraph (a) of this section.
- (d) ONRR may require you to provide notice when there is a change in the percentage of your record title or operating rights ownership.

[62 FR 42066, Aug. 5, 1997, as amended at 73 FR 15898, Mar. 26, 2008]

**§ 1218.53 Recoupment of overpayments on Indian mineral leases.**

(a) Whenever an overpayment is made under an Indian oil and gas lease, a payor may recoup the overpayment through a recoupment on Form ONRR-2014 against the current month's royalties or other revenues owed on the same lease. However, for any month a payor may not recoup more than 50

percent of the royalties or other revenues owed in that month under an individual allotted lease or more than 100 percent of the royalties or other revenues owed in that month under a tribal lease.

(b) With written permission authorized by tribal statute or resolution, a payor may recoup an overpayment against royalties or other revenues owed in that month under other leases for which that tribe is the lessor. A copy of the tribe's written permission must be furnished to ONRR pursuant to instructions for reporting recoupments in the ONRR revenue reporter handbook. See part 1210 of this chapter. Recouping overpayments on one allotted lease from royalties paid to another allotted lease is specifically prohibited.

(c) Overpayments subject to recoupment under this section include all payments made in excess of the required payment for royalty, rental, bonus, or other amounts owed as specified by statute, regulation, order, or terms of an Indian mineral lease.

(d) The ONRR Director or his/her designee may order any payor to not recoup any amount for such reasonable period of time as may be necessary for ONRR to review the nature and amount of any claimed overpayment.

[60 FR 3087, Jan. 13, 1995, as amended at 67 FR 19112, Apr. 18, 2002]

**§ 1218.54 Late payments.**

(a) An interest charge shall be assessed on unpaid and underpaid amounts from the date the amounts are due.

(b) The interest charge on late payments shall be at the underpayment rate established by the Internal Revenue Code, 26 U.S.C. 6621(a)(2) (Supp. 1987).

(c) Interest will be charged only on the amount of the payment not received. Interest will be charged only for the number of days the payment is late.

(d) A portion of the interest collected will be paid to a State where the State shares in mineral revenues from Federal leases.

(e) An overpayment on a lease or leases may be offset against an underpayment on a different lease or leases

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to determine a net underpayment on which interest is due pursuant to conditions specified in §1218.42.

[49 FR 37346, Sept. 21, 1984, as amended at 55 FR 37230, Sept. 10, 1990; 57 FR 62206, Dec. 30, 1992]

**§ 1218.55 Interest payments to Indians.**

(a) All interest collected from unpaid or underpayments on Indian tribal or allotted leases will be paid to the tribe or allottee.

(b) Any disbursement of Indian mineral revenues not made by the due date as required in §1219.103 of this chapter shall accrue interest.

(c) Interest shall be computed at the underpayment rate established by the Internal Revenue Code, 26 U.S.C. 6621(a)(2) (Supp. 1987).

(d) The interest shall be payable only for the number of days the disbursement is late.

[49 FR 37346, Sept. 21, 1984, as amended at 55 FR 37230, Sept. 10, 1990]

**§ 1218.56 Definitions.**

Terms used in this subpart shall have the same meaning as in 30 U.S.C. 1702.

[49 FR 37346, Sept. 21, 1984. Redesignated at 51 FR 15767, Apr. 28, 1986]

**Subpart C—Oil and Gas, Onshore**

**§ 1218.100 Royalty and rental payments.**

(a) *Payment of royalties and rentals.* As specified under the provisions of the lease, the lessee shall submit all rental payments when due and shall pay in value or deliver in production all royalties in the amounts of value or production determined by ONRR to be due.

(b) If the lessor elects to take royalty in oil or gas, unless otherwise agreed upon, such royalty shall be delivered on the leasehold, by the lessee to the order of and without cost to the lessor, as instructed by the Director.

(c) *Method of payment.* The payor shall tender all payments in accordance with §1218.51.

[47 FR 47773, Oct. 27, 1982. Redesignated at 48 FR 35641, Aug. 5, 1983, and amended at 52 FR 23815, June 25, 1987]

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**§ 1218.101 Royalty and rental remittance (naval petroleum reserves).**

Remittance covering payments of royalty or rental on naval petroleum reserves must be accomplished by necessary identification information and sent direct to the Director, Naval Petroleum Reserves in California.

[47 FR 47773, Oct. 27, 1982. Redesignated at 48 FR 35641, Aug. 5, 1983]

**§ 1218.102 Late payment or underpayment charges.**

(a) The failure to make timely or proper payments of any monies due pursuant to leases, permits, and contracts subject to these regulations will result in the collection by the ONRR of the full amount past due plus a late payment charge. Exceptions to this late payment charge may be granted when estimated payments on minerals production have already been made timely and otherwise in accordance with instructions provided by ONRR to the payor. However, late payment charges assessed with respect to any Indian lease, permit, or contract shall be collected and paid to the Indian or tribe to which the amount overdue is owed.

(b) Late payment charges will be assessed on any late payment or underpayment from the date that the payment was due until the date that the payment was received at the ONRR addresses specified in §1218.51. Payments received at the specified ONRR addresses after 4 p.m. mountain time are considered received the following business day.

(c) Late payment charges apply to all underpayments and payments received after the date due. The charges include production and minimum royalties; assessments for liquidated damages; administrative fees and payments by purchasers of royalty taken-in-kind; or any other payments, fees, or assessments that a lessee/operator/permittee/payor/royalty taken-in-kind purchaser is required to pay by a specified date. The failure to pay past due amounts, including late-payment charges, will result in the initiation of other enforcement proceedings.

(d) An overpayment on a lease or leases may be offset against an underpayment on a different lease or leases



to determine a net underpayment on which interest is due pursuant to conditions specified in § 1218.42.

[47 FR 47773, Oct. 27, 1982. Redesignated at 48 FR 35641, Aug. 5, 1983, and amended at 49 FR 37347, Sept. 21, 1984; 57 FR 41868, Sept. 14, 1992; 57 FR 62206, Dec. 30, 1992; 67 FR 19112, Apr. 18, 2002]

#### § 1218.103 Payments to States.

(a) Any amount that is payable by ONRR to a State but is not paid on the due date, as specified in § 1219.100 of this chapter, or that is held in a suspense account pending resolution of a dispute as specified in § 1219.101 of this chapter, shall accrue interest payable to the State.

(b) Interest shall be computed at the underpayment rate established by the Internal Revenue Code, 26 U.S.C. 6621(a)(2) (Supp. 1987).

(c) Interest shall be computed only for the number of days the disbursement is late. In the case of suspended amounts subject to interest, it shall be computed beginning with the calendar day following the day that the monies normally would have been paid to the State had they not been in suspense.

[49 FR 37347, Sept. 21, 1984, as amended at 55 FR 37230, Sept. 10, 1990]

#### § 1218.104 Exemption of States from certain interest and penalties.

(a) States are exempt from being assessed for any interest or penalties found to be due against the Department of the Interior for failure to comply with the Emergency Petroleum Allocation Act of 1973, as amended, or any regulation issued by the Secretary of Energy thereunder concerning the certification or processing of crude oil taken in-kind as royalty by the Secretary.

(b) Any State shall be assessed for its share of any overcharge resulting from a determination that DOI failed to comply with the Emergency Petroleum Allocation Act of 1973, as amended. Each State's share shall be assessed against monies owed to the State. Such assessment shall be first against monies owed to such State as a result of royalty audits prior to January 12, 1983, the enactment date of the Federal Oil and Gas Royalty Management Act of 1982, then against other monies

owed. The State shall be liable for any balance.

(c) A State's liability for repayment of an overcharge under this section shall exist for any amounts resulting from a judgment in a civil suit or as the result of settlement of a claim through a negotiated agreement. State liability would be offset against future mineral revenue distributions to the State.

[49 FR 37347, Sept. 21, 1984]

#### § 1218.105 Definitions.

Terms used in this subpart have the same meaning as in 30 U.S.C. 1702.

[49 FR 37347, Sept. 21, 1984]

### Subpart D—Oil, Gas and Sulfur, Offshore

#### § 1218.150 Royalties, net profit shares, and rental payments.

(a) As specified under the provisions of the lease, the lessee shall submit all rental payments when due and shall pay in value or deliver in production all royalties and net profit shares in the amounts of value or production determined by ONRR to be due.

(b) The failure to make timely or proper payments of any monies due pursuant to leases, permits, and contracts subject to these regulations will result in the collection of the amount past due plus a late payment charge. Exceptions to this late payment charge may be granted when estimated payments on minerals production have already been made timely and otherwise in accordance with instructions provided by ONRR to the payor.

(c) Late payment charges will be assessed on any late payment or underpayment from the date that the payment was due until the date that the payment was received at the ONRR addresses specified in § 1218.51. Payments received at the specified ONRR addresses after 4 p.m. mountain time are considered received the following business day.

(d) Late payment charges apply to all underpayments and payments received after the date due. These charges include production and minimum royalties; assessments for liquidated damages; administrative fees and payments

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by purchasers of royalty taken-in-kind; or any other payments, fees, or assessments that a lessee/operator/payor/permittee/royalty taken-in-kind purchaser is required to pay by a specified date. The failure to pay past due amounts, including late payment charges, will result in the initiation of other enforcement proceedings.

(e) An overpayment on a lease or leases, excluding rental payments, may be offset against an underpayment on a different lease or leases to determine a net underpayment on which interest is due pursuant to conditions specified in § 1218.42.

[47 FR 22528, May 25, 1982. Redesignated at 48 FR 35641, Aug. 5, 1983, and amended at 49 FR 37347, Sept. 21, 1984; 52 FR 23815, June 25, 1987; 57 FR 41868, Sept. 14, 1992; 57 FR 62206, Dec. 30, 1992; 67 FR 19112, Apr. 18, 2002]

§ 1218.151 Rental fees.

The annual rental paid in any year is in addition to, and is not credited against, any royalties due from production. The lessee must pay an annual rental as shown in paragraphs (a), (b), and (c) of this section. Discovery means one or more wells on the lease that meet the requirements in part 250, subpart A of this title.

(a) This paragraph applies to any lease not covered by paragraph (b) or paragraph (c) of this section.

For—	Issued as a result of a sale held—	The lessee must pay rental—
(1) An oil and gas lease .....	Before March 26, 2001 .....	On or before the first day of each lease year before the discovery of oil or gas on the lease.
(2) An oil and gas lease .....	After March 26, 2001 .....	On or before the first day of each lease year before the discovery of oil or gas on the lease, then on or before the last day of each lease year in any full year in which royalties on production are not due.
(3) A mineral lease for other than oil or gas.	Before March 26, 2001 .....	On or before the first day of each lease year before the discovery of paying quantities.
(4) A mineral lease for other than oil or gas.	After March 26, 2001 .....	On or before the first day of each lease year before the date the first royalty payment is due on the lease, then on or before the last day of each lease year in any full year in which royalties on production are not due.

(b) This paragraph applies to any lease created by segregating a portion of a producing lease when there is no actual or allocated production on the segregated portion. The lessee must

pay an annual rental for the segregated portion at the rate specified in the lease. The lessee must pay the rental as shown in the following table.

If the lease results from a segregation—	The lessee must pay rental—
(1) Before March 26, 2001 .....	On or before the first day of each lease year before the discovery of oil or gas on the segregated portion.
(2) After March 26, 2001 .....	On or before the first day of each lease year before the discovery of oil or gas on the lease, then on or before the last day of each lease year in any full year in which royalties on production are not due.

(c) For leases issued subject to the net profit sharing provisions, annual rental payments shall be due and payable in advance, on the first day of each lease year which commences prior to the date the first profit share payment becomes due. The owner of any lease created by the segregation of a portion of a lease subject to net profit sharing provisions, shall pay an annual

rental for such segregated portion at the rate per acre or hectare specified in the lease. This rental shall be payable each year following the year in which the segregation becomes effective and shall continue to be due and payable, in advance, on the first day of each year which commences prior to the

date the first profit share payment becomes due.

[44 FR 38276, June 29, 1979, as amended at 45 FR 69175, Oct. 17, 1980; 47 FR 25972, June 16, 1982. Redesignated at 47 FR 47006, Oct. 22, 1982, and at 48 FR 35641, Aug. 5, 1983; 66 FR 11518, Feb. 23, 2001; 67 FR 19112, Apr. 18, 2002]

**§ 1218.152 Fishermen's Contingency Fund.**

Upon the establishment of the Fishermen's Contingency Fund, any holder of a lease issued or maintained under the Outer Continental Shelf Lands Act and any holder of an exploration permit or of an easement or right-of-way for the construction of a pipeline, shall pay an amount specified by the Director, ONRR, who shall assess and collect the specified amount from each holder and deposit it into the Fund. With respect to prelease exploratory drilling permits, the amount will be collected at the time of issuance of the permit.

[52 FR 5458, Feb. 23, 1987]

**§ 1218.153 [Reserved]**

**§ 1218.154 Effect of suspensions on royalty and rental.**

(a) ONRR will not relieve the lessee of the obligation to pay rental or minimum royalty for or during the suspension if the Bureau of Safety and Environmental Enforcement (BSEE) Regional Supervisor:

(1) Grants a suspension of operations or production, or both, at the request of the lessee; or

(2) Directs a suspension of operations or production, or both, under 30 CFR 250.173(a).

(b) ONRR will not require a lessee to pay rental or minimum royalty for or during the suspension if the BSEE Regional Supervisor directs a suspension of operations or production, or both, except as provided in (a)(2) of this section.

(c) If the lease anniversary date falls within a period of suspension for which no rental or minimum royalty payments are required under paragraph (b) of this section, the prorated rentals or minimum royalties are due and payable as of the date the suspension period terminates. These amounts shall be computed and notice thereof given the lessee. The lessee shall pay the

amount due within 30 days after receipt of such notice. The anniversary date of a lease shall not change by reason of any period of lease suspension or rental or royalty relief resulting therefrom.

[44 FR 38276, June 29, 1979; 44 FR 55380, Sept. 26, 1979. Redesignated and amended at 47 FR 47006, 47007, Oct. 22, 1982. Further redesignated at 48 FR 35641, Aug. 5, 1983 and amended at 51 FR 19063, May 27, 1986; 54 FR 50616, Dec. 8, 1989; 64 FR 72775, Dec. 28, 1999; 73 FR 15898, Mar. 26, 2008; 76 FR 38561, July 1, 2011; 78 FR 30206, May 22, 2013]

**§ 1218.155 Method of payment.**

(a) *Payment of royalties and rentals.* With the exception of first-year rental, the payor shall tender all payments in accordance with §1218.51. First-year rental shall be paid in accordance with paragraph (c) of this section.

(b) *Payment of the one-fifth bonus bid amount.* (1) Each lease bid must include a payment for the one-fifth bonus bid deposit amount unless the bidder is otherwise directed by the Secretary. Further instructions on how to make payment with the bid will be included in the notice of each lease offering. EFT may be used as a method of payment for the one-fifth bonus bid amount.

(2) Beginning with lease offerings held after February 1, 1984, the one-fifth bonus amount received from a high bidder shall be deposited into an escrow account created pursuant to an agreement between the Departments of the Interior and Treasury, pending acceptance or rejection of the bid. The one-fifth bonus funds will be invested in public debt securities. Investment of this amount by the U.S. Government does not indicate acceptance of the bid. The one-fifth bonus amounts submitted with bids other than the highest valid bid will be returned to respective bidders after bids are opened, recorded, and ranked. Return of such amounts will not affect the status, validity, or ranking of bids. The one-fifth bonus bid amount received from any high bidder and held by the Government pending acceptance or rejection, will be returned with actual interest earned, if the bid is subsequently rejected. The interest accrued during the period held in the account pending acceptance or

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rejection of the bid will accrue to the Government when the bid is accepted.

(c) *Payment of the four-fifths bonus bid amount and the first year's rental.* Payment shall be made to ONRR by EFT unless otherwise directed by the Secretary. The payment by EFT via the FRCS must be received by the Federal Reserve Bank of New York no later than noon, eastern standard time, on the 11th business day after receipt of the lease forms by the successful bidder. A "business day" is considered to be a day on which the OCS regional office issuing the lease is open for business. The lease will not be executed by the appropriate ONRR official until payment is received. Failure to remit by EFT or as directed by the Secretary within the time specified above will result in forfeiture of the one-fifth bonus bid amount and the lease will not be executed by the appropriate ONRR official. Payors will not be held responsible for late payment due to actions beyond their control, such as mechanical or systems failure of FRCS or FDS. Payors will be held responsible for incorrect actions of their bank which result in late payments. A 2-day grace period will be allowed to make up a deficient payment, but a late payment charge will be assessed for this late payment and a penalty will also be assessed if appropriate. Late payment charges will be assessed in accordance with subpart B of this part.

(d) *General.* (1) Payors using the appropriate means of payment (EFT, check, etc.) may pay for multiple lease obligations with a single remittance but must ensure that the payment complies with subpart B of this part and the remittance advice adequately identifies the single payment. The format to be used for such identification will be provided by the ONRR Accounting Center.

(2) Where to pay.

(3) The ONRR mailing addresses for payments to ONRR are specified in §1218.51.

(4) Payments received at the ONRR addresses after 4 p.m. mountain time are considered received the following business day.

(e) *Miscellaneous payments.* Payments shall be made to the manager of the appropriate Outer Continental Shelf field

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office by cash, check or bank draft payable to "Department of the Interior—ONRR" for miscellaneous payments such as:

(1) Pipeline rights-of-way application filing fees and rentals, pipeline accessory site rentals and application fees, and other related costs.

(2) Filing and approval fees for transfers of interest in leases.

[49 FR 8605, Mar. 8, 1984, as amended at 52 FR 23815, June 25, 1987; 53 FR 43201, Oct. 26, 1988; 57 FR 41868, Sept. 14, 1992; 62 FR 19499, Apr. 22, 1997; 67 FR 19112, Apr. 18, 2002; 73 FR 15898, Mar. 26, 2008]

### § 1218.156 Definitions.

Terms used in this subpart have the same meaning as in 30 U.S.C. 1702.

[52 FR 23815, June 25, 1987]

## Subpart E—Solid Minerals— General

### § 1218.200 Payment of royalties, rentals, and deferred bonuses.

As specified under the provisions of the lease, the lessee shall submit all rental and deferred bonus payments when due and shall pay in value all royalties in the amount determined by ONRR to be due.

[52 FR 23815, June 25, 1987]

### § 1218.201 Method of payment.

You must tender all payments in accordance with §1218.51, except as follows:

(a) For purposes of this section, *report* means the Solid Minerals Production and Royalty Report, Form ONRR-4430, rather than the Form ONRR-2014.

(b) For Form ONRR-4430 payments, include both your customer identification and your customer document identification numbers on your payment document, rather than the information required under §1218.51(f)(1).

(c) For a rental payment that is not reported on Form ONRR-4430, include the ONRR Courtesy Notice when provided or write your customer identification number and Government-assigned lease number on the payment document, rather than the information required under §1218.51(f)(4)(iii).

[66 FR 45773, Aug. 30, 2001]

**§ 1218.202 Late payment or underpayment charges.**

(a) The failure to make timely or proper payment of any monies due pursuant to leases and contracts subject to these rules will result in the collection by ONRR of the full amount past due plus a late payment charge. Exceptions to this late payment charge may be granted when estimated payments on minerals production have already been made timely and otherwise in accordance with instructions provided by ONRR to the operator/lessee. However, late payment charges assessed with respect to any Indian lease, permit, or contract shall be collected and paid to the Indian or tribe to which the amount overdue is owed.

(b) Late payment charges will be assessed on any late payment or underpayment from the date that the payment was due until the date that the payment was received at the ONRR addresses specified in § 1218.51. Payments received at the specified ONRR addresses after 4 p.m. mountain time are considered received the following business day.

(c) Late payment charges are calculated on the basis of a percentage assessment rate. In the absence of a specific lease, permit, license or contract provision prescribing a different rate, this percentage assessment rate is prescribed by the Department of the Treasury as the "Treasury Current Value of Funds Rate."

(d) This rate is available in the Treasury Fiscal Requirements Manual Bulletins that are published prior to the first day of each calendar quarter for application to overdue payments or underpayments in the new calendar quarter. The rate is also published in the Notices section of the FEDERAL REGISTER and indexed under "Fiscal Service/Notices/Funds Rate; Treasury Current Value."

(e) Late payment charges apply to all underpayments and payments received after the date due. These charges include production, minimum, or advance royalties; assessments for liquidated damages; or any other payments, fees, or assessments that an operator/lessee is required to pay by a specified date. The failure to pay past due payments, including late payment

charges, will result in the initiation of other enforcement proceedings.

(f) An overpayment on a lease or leases may be offset against an underpayment on a different lease or leases to determine a net underpayment on which interest is due pursuant to conditions specified in § 1218.42.

[47 FR 33195, July 30, 1982; 47 FR 53366, Nov. 26, 1982. Redesignated at 48 FR 35641, Aug. 5, 1983, and further redesignated at 52 FR 23815, June 25, 1987, as amended at 57 FR 41868, Sept. 14, 1992; 57 FR 62207, Dec. 30, 1992; 59 FR 14559, Mar. 29, 1994; 65 FR 55189, Sept. 13, 2000; 67 FR 19112, Apr. 18, 2002]

**§ 1218.203 Recoupment of overpayments on Indian mineral leases.**

(a) Whenever an overpayment is made under an Indian solid mineral lease, a payor may recoup the overpayment through a recoupment on Form ONRR-4430 against the current month's royalties or other revenues owed on the same lease. However, for any month a payor may not recoup more than 50 percent of the royalties or other revenues owed in that month under an individual allotted lease or more than 100 percent of the royalties or other revenues owed in that month under a tribal lease.

(b) With written permission authorized by tribal statute or resolution, a payor may recoup an overpayment against royalties or other revenues owed in that month under other leases for which that tribe is the lessor. A copy of the tribe's written permission must be furnished to ONRR for reporting recoupments. Call 1-888-201-6416 for instructions. Recouping overpayments on one allotted lease from royalties paid to another allotted lease is specifically prohibited.

(c) Overpayments subject to recoupment under this section include all payments made in excess of the required payment for royalty, rental, bonus, or other amounts owed as specified by statute, regulation, order, or terms of an Indian mineral lease.

(d) The ONRR Director or his/her designee may order any payor to not recoup any amount for such reasonable period of time as may be necessary for

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ONRR to review the nature and amount of any claimed overpayment.

[60 FR 3087, Jan. 13, 1995, as amended at 66 FR 45773, Aug. 30, 2001; 66 FR 50827, Oct. 5, 2001]

## Subpart F—Geothermal Resources

### § 1218.300 Payment of royalties, rentals, and deferred bonuses.

As specified under the provisions of the lease, the lessee shall submit all rental and deferred bonus payments when due and shall pay in value all royalties in the amount determined by ONRR to be due.

[52 FR 23815, June 25, 1987]

### § 1218.301 Method of payment.

The payor shall tender all payments in accordance with § 1218.51.

[52 FR 23815, June 25, 1987]

### § 1218.302 Late payment or underpayment charges.

(a) The failure to make timely or proper payment of any monies due pursuant to leases and contracts subject to these regulations will result in the collection by the ONRR of the full amount past due plus a late payment charge. Exceptions to this late payment charge may be granted when estimated payments on minerals production have already been made timely and otherwise in accordance with the instructions provided by the ONRR to the payor.

(b) Late payment charges will be assessed on any late payment or underpayment from the date that the payment was due until the date that the payment was received at the ONRR addresses specified in § 1218.51. Payments received at the specified ONRR addresses after 4 p.m. Mountain Time are considered received the following business day.

(c) Late payment charges are calculated on the basis of a percentage assessment rate. In the absence of a specific lease, permit, license or contract provision prescribing a different rate, this percentage assessment rate is prescribed by the Department of the Treasury as the “Treasury Current Value of Funds Rate.”

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(d) This rate is available in the Treasury Fiscal Requirements Manual Bulletins that are published prior to the first day of each calendar quarter for application to overdue payments or underpayments in the new calendar quarter. The rate is also published in the Notices section of the FEDERAL REGISTER and indexed under “Fiscal Service/Notices/Funds Rate; Treasury Current Value.”

(e) Late payment charges apply to all underpayments and payments received after the date due. These charges include production, minimum, and compensatory royalties; assessments for liquidated damages; administrative fees and payments by purchasers of royalty taken-in-kind; or any other payments, fees, or assessments that a lessee/operator/payor/royalty taken-in-kind purchaser is required to pay by a specified date. The failure to pay past due payments, including late payment charges, will result in the initiation of other enforcement proceedings.

(f) An overpayment on a lease or leases may be offset against an underpayment on a different lease or leases to determine a net underpayment on which interest is due pursuant to conditions specified in § 1218.42.

[47 FR 22528, May 25, 1982. Redesignated at 48 FR 35641, Aug. 5, 1983, and further redesignated at 51 FR 15767, Apr. 28, 1986 and 52 FR 23815, June 25, 1987, as amended at 57 FR 41868, Sept. 14, 1992; 57 FR 62207, Dec. 30, 1992; 59 FR 14559, Mar. 29, 1994; 65 FR 55189, Sept. 13, 2000; 67 FR 19112, Apr. 18, 2002]

### § 1218.303 May I credit rental towards royalty?

(a)(1) For Class II leases as defined in § 1206.351 of this chapter, and for Class III leases as defined in that section that elect under 43 CFR 3200.7(a)(2) to be subject to all of the BLM regulations promulgated for leases issued after August 8, 2005 you may credit the annual rental that you paid before the first day of the year for which the annual rental is owed against the royalty due for the lease year for which the rental was paid. You may not apply any annual rental paid in excess of the royalty due for a particular lease year as a credit against any royalty due in any subsequent lease year.

(2) For purposes of this section, the term "royalty" includes any advanced royalty payable under 30 U.S.C. 1004(f) for a cessation of production.

(b) If portions of your lease are located both within and outside of a participating area, you may credit against royalty under paragraph (a) only that percentage of the rental you paid that corresponds to the percentage of the lease within the participating area on a per-acre basis.

[72 FR 24468, May 2, 2007]

**§ 1218.304 May I credit rental towards direct use fees?**

You may not credit annual rental toward direct use fees you are required to pay that year under §1206.356 of this chapter. You must pay the direct use fees in addition to the annual rental due.

[72 FR 24468, May 2, 2007]

**§ 1218.305 How do I pay advanced royalties I owe under BLM regulations?**

If you pay advanced royalties under 43 CFR 3212.15(a)(1) to retain your lease:

(a) You must pay an advanced royalty monthly equal to the average monthly royalty you paid under 30 CFR part 1206, subpart H (including the amount against which you applied the annual rental as a credit) for the last 3 years the lease was producing. If your lease has been producing for less than 3 years, then use the average monthly royalty payment for the entire period your lease has been producing continuously;

(b) The ONRR must receive your advanced royalty payment before the end of each full calendar month in which no production occurs;

(c) You may credit any advanced royalty you pay against production royalties you owe after your lease resumes production. You may not reduce the amount of any production royalty paid for any year below zero.

[72 FR 24468, May 2, 2007]

**§ 1218.306 May I receive a credit against production royalties for in-kind deliveries of electricity I provide under contract to a State or county government?**

(a) You may receive a credit against royalties for in-kind deliveries of electricity you provide under contract to a State or county government if:

(1) The State or county to which you provide electricity would receive a portion of the royalties you paid in money for the lease under 30 U.S.C. 191 or 30 U.S.C. 1019, except as otherwise provided under the Mineral Leasing Act for Acquired Lands, 30 U.S.C. 355, because your lease is located in that State or county. If your lease is located in more than one State or county, the revenues are paid to the respective States or counties based on their proportionate shares of the total acres in the lease;

(2) The ONRR approves in advance your contract with the State or county to which you are providing in-kind electricity; and

(3) Your contract provides that you will use the wholesale value of the electricity for the area where your lease is located to establish the specific methodology to determine the amount of the credit; and

(b) The maximum credit you may take under this section is equal to the portion of the royalty revenue that ONRR would have paid to the State or county that is a party to the contract had you paid royalty in money on all of the electricity you delivered to the State or county based on the wholesale value of the electricity. You must pay in money any royalty amount that is not offset by the credit allowed under this section, calculated based on the wholesale value of the electricity.

(c) The electricity the State or county government receives from you satisfies the Secretary's payment obligation to the State or county under 30 U.S.C. 191 or 30 U.S.C. 1019.

[72 FR 24468, May 2, 2007]

**§ 1218.307 How do I pay royalties due for my existing leases that qualify for near-term production incentives under BLM regulations?**

If you qualify for a production incentive under BLM regulations at 43 CFR

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subpart 3212, your royalty due on the production BLM determines to be qualified for a production incentive under 43 CFR 3212.23 and 3212.24 is 50 percent of the amount of the total royalty that would otherwise be due under 30 CFR part 1206, subpart H.

[72 FR 24468, May 2, 2007]

### Subpart G—Indian Lands [Reserved]

### Subpart H—Service of Official Correspondence

SOURCE: 71 FR 51751, Aug. 31, 2006, unless otherwise noted.

#### § 1218.500 What is the purpose of this subpart?

This subpart contains instructions for designating a specific addressee of record for service of official correspondence using Form ONRR-4444, Addressee of Record Designation for Service of Official Correspondence.

#### § 1218.520 What definitions apply to this subpart?

*Address of record* is the address to which official correspondence is served.

*Addressee of record for service of official correspondence* is the person or position to whom official correspondence is served, as specified on Form ONRR-4444, or in the absence of such a form, as established in § 1218.540(b)(2). The addressee of record in a part 1290, appeal will be the person or representative making the appeal.

*Official correspondence* is all correspondence from ONRR or our delegates, served on companies related to matters such as: forms reporting, audit and compliance, enforcement notices, rental courtesy notices, and invoices.

#### § 1218.540 How does ONRR serve official correspondence?

ONRR will serve all Notices of Non-compliance or Civil Penalty following the procedures in part 1241. We will serve all other documents following the procedures in this section.

(a) *Method of service.* ONRR will serve all official correspondence to the addressee of record by one of the following methods:

- (1) U.S. Postal Service mail;
- (2) Personal delivery made pursuant to the law of the State in which the service is effected; or
- (3) Private mailing service (such as the United Parcel Service or Federal Express), with signature and date upon delivery acknowledging the addressee of record's receipt of the official correspondence document.

(b) *Selection of addressee of record information.* (1) We will address official correspondence to the party shown on the most recently received Form ONRR-4444 for the type of correspondence at issue. The company or reporting entity is responsible for notifying ONRR of any name or address changes on Form ONRR-4444. The addressee of record in a part 1290, appeal will be the person or representative making the appeal.

(2) If we do not receive addressee of record information from you on Form ONRR-4444, we may use the individual name and address, position title, or department name and address in our database, based on previous formal or informal communications or correspondence for the type of official correspondence at issue. Alternately, we may obtain contact information from public records and send correspondence to:

- (i) The registered agent;
- (ii) Any corporate officer; or
- (iii) The addressee of record shown in the files of any State Secretary; Corporate Commission; Federal or state agency that keeps official records of business entities or corporations; or other appropriate public records for individuals, business entities, or corporations.

(c) *Dates of service.* Except as provided in paragraph (d) of this section, ONRR considers official correspondence as served on the date that it is received at the address of record. A receipt, signed and dated by any person at that address, is evidence of service and of the date of service. If official correspondence is served in more than one manner and the dates differ, the date of the earliest service is used<sub>[smc1]</sub>.

(d) *Constructive service.* If we cannot make delivery to the addressee of record after making a reasonable effort, we deem official correspondence



as constructively served seven days after the date when we mail the document. This provision covers situations such as those where no delivery occurs because:

- (1) The addressee of record has moved without filing a forwarding address;
- (2) The forwarding order has expired;
- (3) Delivery was expressly refused; or
- (4) The document was unclaimed and the attempt to deliver it is substantiated by:
  - (i) The U.S. Postal Service;
  - (ii) A private mailing service, as described in this section; or
  - (iii) The person who attempted to make delivery using some other method of service.

[71 FR 51751, Aug. 31, 2006, as amended at 78 FR 52433, Aug. 23, 2013; 83 FR 3077, Jan. 23, 2018]

**§ 1218.560 How do I submit Form ONRR-4444?**

You may obtain a copy of Form ONRR-4444 and instructions from ONRR. This form is posted at <http://www.onrr.gov/FM/Forms/default.htm>. Submit the completed, signed form to the address designated on Form ONRR-4444 instructions.

[77 FR 25881, May 2, 2012]

**§ 1218.580 When do I submit Form ONRR-4444?**

Initially, you must submit Form ONRR-4444 by November 29, 2006, and subsequently, within 2 weeks of any change of your address.

**Subpart I [Reserved]**

**Subpart J—Debt Collection and Administrative Offset**

SOURCE: 77 FR 25887, May 2, 2012, unless otherwise noted.

**§ 1218.700 What definitions apply to the regulations in this subpart?**

As used in this subpart:

*Administrative offset* means the withholding of funds payable by the United States (including funds payable by the United States on behalf of a state government) to any person, or the withholding of funds held by the United

States for any person, in order to satisfy a debt owed to the United States.

*Agency* means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of government, including a government corporation.

*Day* means calendar day. To count days, include the last day of the period unless it is a Saturday, Sunday, or Federal legal holiday.

*Debt* and *claim* are synonymous and interchangeable. They refer to, among other things, royalties, rentals, and any other monies due to, or collectible by, the United States as well as fines, fees, assessments, penalties, and any other monies that have been determined to be legally enforceable and due to the United States from any person, organization, or entity, except another Federal agency. For the purposes of administrative offset under 31 U.S.C. 3716 and this subpart, the terms “debt” and “claims” include money, funds, or property owed to, or collectible by, the United States.

*Debtor* means a lessee, payor, or other person that owes a debt to the United States or ONRR, or from whom ONRR collects debts on behalf of the United States, the Department, or an Indian lessor.

*Delinquent or past due* refers to the status of a debt and means a debt that is legally enforceable and has not been paid within the time limit prescribed by the applicable act, law, regulation, lease, order, demand, notice of non-compliance, and/or assessment of civil penalties, contract, decision, or any other agreement.

*Department* means the Department of the Interior, and any of its bureaus or offices.

*Director* means the Director of the Office of Natural Resources Revenue, or his or her designee.

*DOJ* means the U.S. Department of Justice.

*FCCS* means the Federal Claims Collection Standards, which are published at 31 CFR parts 900 through 904.

*FMS* means the Financial Management Service, a bureau of the U.S. Department of the Treasury.

*Lease* means any contract, profit-share arrangement, joint venture, or

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other agreement issued or approved by the United States under any statutory authority including, but not limited to, a mineral leasing law that authorizes exploration for and development or extraction of oil, gas, coal, any other mineral or geothermal resources, or power generation from renewable energy sources, on Federal or Indian tribal or allotted lands or the Outer Continental Shelf. Depending on the context, lease may also refer to the land area covered by that authorization.

*Legally enforceable* means that there has been a final non-appealable agency determination that the debt, in the amount stated, is due, and there are no legal bars to collection by offset.

*Lessee* means any person to whom the United States or an Indian tribe or individual Indian mineral owner issues a Federal or Indian mineral or other resource lease, easement, right-of-way, or other agreement, an assignee of all or a part of the record title interest, or any person to whom operating rights have been assigned.

*ONRR* means the Office of Natural Resources Revenue, an office of the Department.

*Other agreement* means any agreement other than a lease and includes, but is not limited to, any agreement between you and the Department to pay the Department money, funds, or property, regardless of form.

*Past due* has the same meaning as "delinquent" as defined above.

*Payor* means any person who reports and pays royalties under a lease, regardless of whether that person is also a lessee.

*Person* includes a natural person or persons, profit or nonprofit corporation, partnership, association, limited liability company, trust, estate, consortium, or other entity that owes a debt to the United States.

*Tax refund offset* means the reduction of a tax refund by the amount of a past-due, legally enforceable debt.

*You* and *your* refer to the debtor.

### § 1218.701 What is ONRR's authority to issue these regulations?

(a) The ONRR is issuing the regulations in this subpart under the authority of the FCCS, the Debt Collection Act of 1982, and the Debt Collection Im-

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provement Act of 1996, 31 U.S.C. 3711, 3716-3718, and 3720A.

(b) The regulations in this subpart adopt and supplement the FCCS as necessary.

### § 1218.702 What happens to delinquent debts you owe ONRR?

(a) The ONRR will collect debts from you under the regulations in this subpart in addition to other applicable statutory and regulatory authorities.

(b) The ONRR will transfer to the U.S. Department of the Treasury any past due, legally enforceable nontax debt that is delinquent within 180 days from the date the debt becomes delinquent so that Treasury may take appropriate action to collect the debt or terminate the collection action under 26 U.S.C. 6402(d)(1) and (2); 31 U.S.C. 3711, 3716, and 3720A; the FCCS; and 31 CFR 285.2 and 285.5.

### § 1218.703 What notice will ONRR give you of our intent to refer a matter to Treasury to collect a debt?

(a) When the Director determines that you owe, or may owe, a legally enforceable debt to ONRR, the Director will send a written notice to you informing you that ONRR intends to refer the debt to Treasury. We will send the notice by facsimile or mail to the most current address known to us. The notice will inform you of the following:

(1) The amount, nature, and basis of the debt.

(2) The methods of offset that ONRR or Treasury may use.

(3) Your opportunity to inspect and copy agency records related to the debt.

(4) Your opportunity to enter into a written agreement with us to repay the debt.

(5) Our policy concerning interest and administrative costs under § 1218.704, including a statement that we will make such assessments against you unless we determine otherwise under the criteria of the FCCS and this part.

(6) The date by which you must remit payment to avoid additional late charges and enforced collection.

(7) The name, address, and telephone number of a contact person (or office)

at ONRR who is available to discuss your debt.

(b)(1) You may not appeal the notice issued under this section unless the notice specifically provides you with the opportunity for review under 30 CFR parts 1290 or 1241 because you did not previously receive a notice of the order, decision on appeal, or any other notice or decision that is the basis of the debt that ONRR intends to refer to Treasury, and for which you may be liable in whole or in part under applicable law. You may not dispute matters related to your delinquent debt that were the subject of a final order or appeal decision of which you were the recipient, or to which you were a party that is the basis of your delinquent debt.

(2) This section applies whether or not you appealed the order, demand, notice of noncompliance, or assessment of civil penalties under 30 CFR parts 1290 or 1241.

**§ 1218.704 What is ONRR's policy on interest and administrative costs?**

(a) *Interest.* (1) The ONRR will assess interest on all delinquent debts as prescribed by applicable statutes and regulations.

(i) Interest will accrue on debts involving Federal and Indian oil and gas leases under 30 CFR 1218.54, 1218.102, and 1218.150.

(ii) Interest will accrue on debts involving Federal and Indian solid mineral and geothermal resource leases under 30 CFR 1218.202 and 1218.302.

(iii) Interest will accrue on civil penalties ONRR assesses under 30 CFR part 1241.

(2) Interest begins to accrue on all debts from the date that the payment was due unless otherwise specified by law or lease terms.

(b) *Penalties.* The ONRR will assess penalties under our authority in 30 U.S.C. 1719 and 1720a, and implementing regulations at 30 CFR part 1241.

(c) *Administrative costs.* The ONRR initially will assess \$436 for administrative costs incurred as a result of your failure to pay a delinquent debt. We will publish a notice of any increase in administrative costs assessed under this section in the FEDERAL REGISTER.

The ONRR also may assess \$436 for administrative costs that continue to accrue during any appeal process if:

(1) The notice we provide you under 30 CFR 1218.703 grants you the right to appeal and you exercise that right; and

(2) Your appeal is denied and we refer the delinquent debt to Treasury under this subpart.

(d) *Allocation of payments.* The ONRR will apply a partial or installment payment you make on a delinquent debt sent to Treasury, first to outstanding penalty assessments, second to administrative costs, third to accrued interest, and fourth to the outstanding debt principal.

(e) *Additional authority.* The ONRR may assess interest, penalty charges, and administrative costs on debts that are not subject to 31 U.S.C. 3717 to the extent authorized under common law or other applicable statutory or regulatory authority.

(f) *Waiver.* The Director may decide to waive collection of all or part of the administrative costs under paragraph (c) of this section either in compromise of the delinquent debt or if the Director determines collection of this charge would be against equity and good conscience or not in the Government's best interest.

(g) The ONRR's decision whether to collect or waive collection of administrative costs under paragraph (f) of this section is the final decision for the Department and is not subject to administrative review.

**§ 1218.705 What is ONRR's policy on recommending revocation of your ability to engage in Federal or Indian leasing, licensing, or granting of easements, permits, or rights-of-way?**

The Director may recommend that the leasing or issuing agency, under statutory or regulatory authority applicable to that agency, revoke your ability to engage in Federal or Indian leasing, licensing, or granting of easements, permits, or rights-of-way if you inexcusably or willfully fail to pay a debt. The Director will recommend that any revocation of your ability to engage in Federal or Indian leasing, licensing, or granting of easements, permits, or rights-of-way should last only

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as long as your debt remains unpaid or unresolved.

**§ 1218.706 What debts may ONRR refer to Treasury to collect by administrative offset or tax refund offset?**

(a) The ONRR may refer any past due, legally enforceable debt you owe to ONRR to Treasury to collect through administrative offset or tax refund offset at least 60 days after we give you notice under 30 CFR 1218.703 if the debt:

- (1) Is at least \$25.00 or another amount established by Treasury; and
- (2) Does not involve Federal oil and gas lease obligations for which offset is precluded under 30 U.S.C. 1724(b)(3).

(b) The ONRR may refer debts reduced to judgment to Treasury for tax refund offset at any time.

**PART 1219—DISTRIBUTION AND DISBURSEMENT OF ROYALTIES, RENTALS, AND BONUSES**

**Subparts A–B [Reserved]**

**Subpart C—Oil and Gas, Onshore**

Sec.

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- 1219.101 What receipts are subject to an interest charge?
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- 1219.414 How will ONRR allocate the qualified OCS revenues (Phase I) to coastal political subdivisions within the Gulf producing States?
- 1219.415 How will ONRR allocate qualified OCS revenues (Phase I) to the coastal po-

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litical subdivisions if, during any fiscal year, there are no applicable leased tracts in the 181 Area in the Eastern Gulf of Mexico Planning Area?

- 1219.416 When will ONRR disburse funds to Gulf producing States and coastal political subdivisions?

**Subpart E—Oil and Gas, Offshore, GOMESA Phase II Revenue Sharing**

- 1219.510 What does this subpart contain?
- 1219.511 What definitions apply to this subpart?
- 1219.512 How will ONRR divide the qualified OCS revenues (Phase II)?
- 1219.513 How will ONRR determine each Gulf producing State’s share of the qualified OCS revenues (Phase II) from leases in the 181 Area, the 181 South Area and the 2002–2007 Planning Area?
- 1219.514 How will ONRR allocate the qualified OCS revenues (Phase II) to coastal political subdivisions within the Gulf producing States?
- 1219.515 How will ONRR update the group of “historical lease sites” and “applicable leased tracts (Phase II)” used for determining the allocation of shared revenues?
- 1219.516 When will ONRR disburse funds to Gulf producing States and coastal political subdivisions?

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**Subparts A–B [Reserved]**

**Subpart C—Oil and Gas, Onshore**

**§ 1219.100 What is ONRR’s timing of payment to the States?**

ONRR will pay a State’s share of mineral leasing revenues to the State not later than the last business day of the month in which the U.S. Treasury issues a warrant authorizing the disbursement, except for any portion of such revenues which is under challenge and placed in a suspense account pending resolution of a dispute.

**§ 1219.101 What receipts are subject to an interest charge?**

(a) Subject to the availability of appropriations, the Office of Natural Resources Revenue (ONRR) will pay the State its proportionate share of any interest charge for royalty and related