

INTERIM REPORT OF THE
NATIONAL PETROLEUM COUNCIL'S COMMITTEE ON
GOVERNMENT ROYALTY OIL REGULATIONS

JULY 16, 1948

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to
THE NATIONAL PETROLEUM COUNCIL

In accordance with the conclusions reached at a meeting of your committee held in Cody, Wyoming, on June 18 and 19, 1948, the following tentative conclusions and recommendations are respectfully submitted for your consideration:

1. The committee concludes that it was not the intention of Congress in passing the Act of July 13, 1946, relating to the sale of government royalty oil that small refineries should pay more for government royalty oil than the prevailing market price for which the oil is currently being purchased, and it is therefore recommended that the regulations be amended accordingly to eliminate the requirement of competitive bidding among the parties entitled under the act to a preference to the oil.

2. The committee accepts the principle expressed in Section 225.3, Title 30, of the department's regulations issued September 13, 1946, that an applicant for government royalty oil is not disqualified from obtaining a preference merely because the applicant seeks to purchase the oil for use in making an exchange; however, the committee is not ready at this time to recommend whether or not exchanges should be restricted to exchanges within certain areas and, if so, what the definition of the areas should be.

3. The committee recommends that Section 225.4, Title 30, of the regulations issued September 13, 1946, specifying the showing that should be filed by preference right bidders, be retained in its

present form, and that Section 225.6 of the Department of the Interior's rough draft of proposed regulations setting forth four specific requirements for qualification not be used. A copy of both of said above referred to regulations is attached hereto.

4. The committee recommends that no sale of government royalty oil be made when the government is currently receiving the prevailing market price for such oil and the sale thereof would have the effect of depriving any party, who could qualify for a preference to purchase government royalty oil, of an equivalent amount of such party's present supply of oil. The committee suggests that this be accomplished by the Department, prior to advertising any oil for sale, notifying the operator or operators whose oil is to be sold and giving such operators, or any party qualified for a preference, an opportunity to show that the sale of the oil would directly or indirectly have the effect of depriving any party qualified for a preference of an equivalent amount of oil, royalty or otherwise, from the same or other fields.

5. The committee recommends, as a tentative measure until further study can be given to the matter, that the Secretary of the Interior in awarding oil among two or more parties qualified for a preference first attempt to determine whether the oil can logically be prorated upon the basis of the relative needs of the qualified preference applicants and, if so, award the oil on such basis, but if no such determination can be made, that the Secretary permit the qualified preference applicants to negotiate an agreement among themselves with respect to the prorating of the oil and that, if the parties are unable to agree, then the Secretary determine the award of the oil among the qualified preference applicants by public drawing.

Your committee contemplates giving further consideration to several points requiring considerable study, and hopes to be able to submit its final report and recommendations by the next meeting of the National Petroleum Council, following the submission of this report.

/s/ L. F. McCollum
Chairman

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CODE OF FEDERAL REGULATIONS

TITLE 30--MINERAL RESOURCES

CHAPTER II

GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR

PART 225--DISPOSAL OF GOVERNMENT ROYALTY OIL

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AUTHORITY: Act of July 13, 1946 (Public Law 506, 79th Cong., 2d Sess.): sec. 36, 41 Stat. 451, 30 U. S. C. 192.

Sec. 225.1 Statutory authority. The act of July 13, 1946 (Public Law 506, 79th Cong., 2 Sess.), provides that in order to assist small business enterprise by encouraging the operation of oil refineries not having an adequate supply of crude oil, the Secretary of the Interior is authorized and directed to grant a preference to such refineries in the sale of Government royalty oil accruing from public land oil and gas leases for processing or use in such refineries and not for resale in kind, when he determines that sufficient supplies of crude oil are not available to such refineries in the open market.

Sec. 225.2 Policy. Whenever practicable, royalty oil accruing to the United States and available for disposal pursuant to the act will be offered for sale, after notice by publication, by public drawing to applicants entitled to a preference under the act, or, if there are no applicants for a preference, by competitive bidding to the highest bidders, all in accordance with the procedure prescribed in secs. 225.4 to 225.9, inclusive.

The announcement of the sale of royalty will contain such information, terms, and conditions as are deemed necessary to effectuate the purposes of the act.

Sec. 225.3 Notice of offer of sale of oil. Where the Secretary elects to offer royalty oil for sale, the oil will be advertised for sale in designated newspapers or periodicals of general circulation for such period of time as may be specified. Such notice will set the day and hour on which applications to purchase will be received in the office of the Director, Geological Survey, will contain general information as to the terms and conditions of the sale, and will give the names and addresses of the offices where detailed specifications and information can be obtained. The notice will be published at the expense of the Government.

Sec. 225.4 Who may submit applications to purchase and priority of applicants. Applications to purchase may be submitted regardless of whether or not a preference is asserted pursuant to the act of July 13, 1946. Where such a preference is not asserted the application to purchase must be accompanied by a premium bid in accordance with the specifications governing the offer for sale. Where such a preference is asserted, the application purchase must be accompanied by the in-

formation and showing required under sections 225.3 and 225.4 hereof. Applicants asserting a preference and found properly entitled thereto will receive priority over applicants to purchase who have no preference where the applications to purchase are for the same royalty oil.

Sec. 225.5 Application: contents. A refiner unable to purchase in the open market an adequate supply of crude oil to meet the needs of his existing refinery capacity may file an application with the Director of the Geological Survey, Washington, D.C. Such application shall be filed in triplicate and must be accompanied by a detailed statement containing the following information:

(a) The full name and address of the applicant; the location of his refinery or refineries; a complete disclosure of applicant's affiliation or association with any other refiner of oil if such relationship exists; and reasons for believing that applicant is entitled to a preference under the act of July 13, 1946, including a full showing of efforts made to purchase the needed oil in the open market.

(b) The capacity of the refinery to be supplied and the amount, source, and grade of all crude oil currently available to the applicant refiner from his own production or by purchase, including a statement of the amounts of crude oil purchased under firm contracts, the dates of expiration of such contracts, and the amounts purchased under day-to-day, spot-buys, or other temporary arrangements subject to termination on not more than 30 days' notice. Give complete information on any current sales of crude oil. (The names of persons or companies from whom purchases are made shall be reported by separate attachment, and such information will be treated as confidential by the Department).

(c) The minimum amount and grade of additional crude oil needed to meet existing refinery capacity, or existing commitments, if smaller; the field or fields which the refiner believes offer a potential source of crude-oil supply because of proximity to the refinery; and the available transportation facilities which the refiner proposes to utilize.

(d) A tabulation for the preceding 12 months or for the last 12 months of operation of the amount and grade of crude oil refined each month, and the kind and amount of the principal finished products.

Applicants are warned that 18 U. S. C. sec. 18, makes it a crime for any person knowingly and wilfully to submit or cause to be submitted to any agency of the United States any false or fraudulent statements or representations as to any matter within its jurisdiction.

Sec. 225.6 Refineries not entitled to preference. A refinery (1) with a daily total crude oil capacity rating of more than 10,000 barrels, or (2) having a source of crude oil supply amounting to 75 per cent of its capacity, either its own or controlled production or under firm contracts running six months or more, after the closing date of the offer, or (3) not equipped to refine crude oil of the quality offered, or (4) not in the area that regularly and customarily receives crude oil from the fields in which the royalty oil offered if produced, will be regarded as not entitled to a preference. For the purposes of this section two or more refineries with or under the same or substantially the same ownership or control will be treated as one refinery.

Sec. 225.7 Exchange agreements. The act of July 13, 1946, requires refiners granted a preference to process or use in such refineries and not resell in kind royalty oil purchased thereunder. Agreements providing for the exchange of crude oil purchased under the act for other crude oil on a volume or equivalent value basis will not be construed as constituting resale in kind prohibited by the act. Where an exchange agreement has been entered into or is contemplated with regard to royalty oil available for sale, full information relative thereto must be furnished either at the time of filing application to purchase royalty oil or with the submission of a bid.

Sec. 225.8 Action by the Geological Survey. The Geological Survey shall examine each application filed pursuant to these regulations and where it finds that the showing submitted is inadequate or unsatisfactory, such additional showing shall be required as may be deemed necessary. Thereafter, the Geological Survey will make appropriate recommendation to the Secretary as to applications to purchase, applications for preference, any premium bids, applicants regarded as entitled to a preference, and the date and hour of the drawing if more than one applicant is entitled to a preference for the same royalty oil.

Sec. 225.9 Award of Oil. In no case will royalty oil be sold for less than the market price, and except in unusual circumstances, no award will be made which will increase a refinery's supply to more than 85 per cent of its capacity.

(a) If none of the applicants to purchase the royalty oil has filed an application for preference, the oil will be awarded to the qualified applicant, offering the highest price therefor in

accordance with the specifications governing the offer for sale.

(b) If one or more of the applicants has filed an application for preference but none is found to be entitled to a preference, all applications to purchase will be rejected and no award of the royalty oil will be made under the offer. The royalty oil may be reoffered at a later date or may be sold in accordance with the right reserved to the Secretary hereinafter, whichever he may deem appropriate.

(c) If two or more applicants to purchase have filed applications for preference and are found entitled to a preference, a date and hour for a public drawing will be fixed and all applicants to purchase will be notified of the time so fixed. The drawing will be conducted by the Director of the Geological survey or his designated representative and will be in the manner prescribed in 43 C.F.R. 295.8 (R.S. 453, 2478; 43 U.S.C. 2, 1201; G.L.O., now B.L.M., Circular 324, May 22, 1914, 43 L.D. 254). In the event only one applicant to purchase is found entitled to a preference no drawing will be necessary.

Sec. 225.10 Right reserved by the Secretary. In connection with any sale of royalty oil under the act of July 13, 1946, the Secretary of the Interior reserves the right to prorate the oil among the applicants to purchase in such amounts as he deems equitable, or, if it is not practicable to prorate the oil, to reject all applications to purchase the oil and sell it or any portion thereof at private sale to any refinery entitled to a preference or to others, if no refinery is entitled to a preference, at not less than the market price whenever in his judgment the spirit and intent of the act will be sub-

served thereby. The Secretary also reserves the right to terminate any agreement for the sale of royalty oil if and when he determines the purchaser under such contract is no longer eligible, on account of changes in ownership or control of the purchaser company or the acquisition of adequate crude oil supplies from other sources, to receive the oil under the act of July 13, 1946, (80 Stat. 533) and these regulations.

Acting Director

Approved: Secretary of the Interior

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225.7 Who may submit bids and priority of bidders.
225.8 Award of oil.

AUTHORITY: Act of July 13, 1946 (Public Law 506, 79th Cong., 2nd Sess.); Sec. 36, 41 Stat. 451, 30 U.S.C. 192.

Sec. 225.1 Statutory authority. The act of July 13, 1946 (Public Law 506, 79th Cong., 2d Sess.), provides that in order to assist small business enterprise by encouraging the operation of oil refineries not having an adequate supply of crude oil, the Secretary of the Interior is authorized and directed to grant a preference to such refineries in the sale of Government royalty oil accruing from public land oil and gas leases for processing or use in such refineries and not for resale in kind, when he determines that sufficient supplies of crude oil are not available to such refineries in the open market.

Sec. 225.2 Policy. Whenever practicable, Government royalty oil available for disposal pursuant to the act will be offered for sale by competitive bidding after notice by publication under sealed bids to the highest bidder entitled to a preference in accordance with the procedure prescribed in secs. 225.4--225.8 inclusive. The amount of the bond, the place of delivery of the oil, the volume measurements, the gravity determinations, and such other requirements or conditions of the sale as may be deemed necessary to effectuate the purposes of the act will be incorporated in the call for bids when royalty oil is offered for sale.

Sec. 225.3 Exchange agreements. The act of July 13, 1946 requires refiners granted a preference to process or use in such refineries and not resell in kind royalty oil purchased thereunder. Agreements providing for the exchange of crude oil purchased under the act for other crude oil on a volume or equivalent value basis will not be construed as constituting a resale in kind prohibited by the act. Where an exchange agreement has been entered into or is contemplated with regard to royalty oil available for sale, full information relative thereto must be furnished either at the time of filing application to purchase royalty oil or with the submission of a bid.

Sec. 225.4 Application; contents. A refiner unable to purchase in the open market an adequate supply of crude oil to meet the needs of his existing refinery capacity may file an application with the Director of the Geological Survey, Washington, D. C. Such application shall be filed in triplicate and must be accompanied by a detailed statement containing the following information:

(a) The full name and address of the applicant; the location of his refinery or refineries; a complete disclosure of applicant's affiliation or association with any other refiner of oil if such relationship exists; and reasons for believing that applicant is entitled to a preference under the act of July 13, 1946, including a full showing of efforts made to purchase the needed oil in the open market.

(b) The capacity of the refinery to be supplied and the amount, source, and grade of all crude oil currently available to the applicant refinery from his own production or by purchase.

(c) The minimum amount and grade of additional crude oil needed to meet existing refinery commitments or existing refinery capacity, the field or fields which the refiner believes offer a potential source of crude-oil supply because of proximity to the refinery, and the available transportation facilities which the refiner proposes to utilize.

(d) A tabulation for the preceding 12 months or for the last 12 months of operation of the amount and grade of crude oil refined each month, and the kind and amount of the principal finished products.

Sec. 225.5 Action by the Geological Survey. The Geological Survey shall examine each application filed pursuant to these regulations and where it finds that the showing submitted is inadequate or unsatisfactory, such additional showing shall be required as may be deemed necessary. Thereafter, the Geological Survey shall make appropriate recommendation to the Secretary as to the Government royalty oil to be sold, if any, and the terms and conditions to govern the sale.

Sec. 225.6 Notice of offer of sale of oil. Where the Secretary elects to offer royalty oil for sale, the oil will be advertised for sale in designated newspapers or periodicals of general circulation for such period of time as may be specified. Such notice will set the day and hour on which sealed bids will be received in the office of the Director, Geological Survey, and will contain the terms and conditions of the sale. The notice will be published at the expense of the Government. All bidders are warned against violation of the provisions of sec. 59 of the United States Criminal Code, approved March 4, 1909, prohibiting unlawful combination or intimidation of bidders.

Sec. 225.7 Who may submit bids and priority of bidders. Bids may be submitted regardless of whether or not a preference is asserted pursuant to the act of July 13, 1946. Where such a preference is asserted, bids must be accompanied by the showing required by sec. 225.4 hereof. Bidders asserting a preference and found properly entitled thereto will receive priority over bidders who have no preference where bids are made for the same royalty oil.

Sec. 225.8 Award of oil. The Geological Survey shall consider all bids submitted for Government royalty oil and make appropriate recommendation to the Secretary of the Interior in accordance with the general principles stated in this section. In no case will Government royalty oil be sold for less than the market price. Where none of the bidders for the same royalty oil is found to be entitled to a preference, the oil will be awarded to the qualified bidder offering the highest price therefor in accordance with the specifications governing the sale. Where two or more bidders for the same royalty oil are properly entitled to a preference, the oil will be awarded to the bidder offering the highest price therefor in accordance with the specifications governing the sale. In case two or more identical bids are received for the same royalty oil from bidders properly entitled to a preference, the Secretary of the Interior reserves the right to prorate the oil among such bidders in such amounts as he deems equitable or, if it is not practicable to prorate the oil, to award it to one of such bidders by public drawing after notice to the bidders who submitted the identical bids. In connection with any sale of royalty oil under the act of July 13, 1946, the Secretary of the Interior reserves the right to reject all bids and sell the oil or any portion thereof at private sale to any refinery entitled to a preference at not less than the market price whenever in his judgment the spirit and intent of the act will be subserved thereby.

/s/ Julian D. Sears
Acting Director.

Approved: September 13, 1946.

/s/ Oscar L. Chapman
Acting Secretary of the Interior.