

§ 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 on 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 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]

§ 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 MMS-4425, Designation Form for Royalty Payment Responsibility. Your notification for each lease must include the following:

- (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 MMS-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 MMS-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]