OCT 28 2008

Dear Operator:

**Reminder of the 20 Percent Set-Aside Provision for Small or Independent Refiners**

This Dear Operator letter replaces Notice to Lessees and Operators Number 2002-N07 dated July 19, 2002.

Under Section (b)(7) of 43 U.S.C 1337 (Section 8(b)(7) of the OCS Lands Act, as amended), each offshore lease issued after September 18, 1978, has a 20 percent small refiner offer provision. Under this provision, lessees must offer small or independent refiners 20 percent of the crude oil, condensate, and natural gas liquids produced on each lease, at the market value and point of delivery applicable to Federal royalty oil. This 20 percent set aside is in addition to the amounts available under the small refiner royalty-in-kind program.

Section (b) (7) of 43 U.S.C. 1337 refers to definitions from the former Emergency Petroleum Allocation Act (EPAA) of 1973. The EPAA defined an independent refiner as a refiner who (a) obtained directly or indirectly in the calendar quarter which ended immediately prior to the date of enactment of this Act (November 27, 1973), more than 70 percent of his refinery input of domestic crude oil (or 70 percent of his refinery input of domestic and imported crude oil) from producers who do not control, are not controlled by, and are not under common control with, such refiner; and (b) marketed or distributed in such quarter and continues to market or distribute a substantial volume of gasoline refined by him through branded independent marketers or non-branded independent marketers. The former EPAA defined a small refiner as a refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with such refiner) does not exceed 175,000 barrels per day.

The Minerals Revenue Management of the Minerals Management Service (MMS) will now oversee the 20 percent Set-Aside provision. The MMS incorporated the EPAA definition of an eligible refiner in 30 CFR 208.2(1) (2007). The MMS expects operators to cooperate with eligible refiners in supplying them with crude oil.

**Information for small refiners**

Small refiners who are seeking to obtain the 20 percent set aside from offshore leases should submit a request to the operator for the lease from which you are seeking the seeking the set-aside certifying that you comply with the above requirements. The following is a satisfactory certification:

> ___*(Small Refiner Name)*___ certifies that it meets the conditions specified at 30 CFR 208.2 Definitions, Eligible refiner (1).

An Operator or an Eligible refiner may contact the following for further information:

**Mailing Address:**
Minerals Management Service
Royalty In Kind
P.O. Box 25165, MS 330B2
Denver, CO 80225-0165

Fax Number: 303-231-3846

**Overnight Delivery:**
Minerals Management Service
Royalty In Kind
6th & Kipling
Denver Federal Center, Building 85
MS 330B2
Denver, CO 80225

If an eligible refiner encounters difficulty in obtaining a set aside from an operator, it can call the Front Office Oil Manager, Minerals Revenue Management, at 303-231-3510, or send information to the Royalty In Kind Program at the above address. The MMS will enforce the set aside provision of the OCS Lands Act but expects operators and small refiners to try and come to agreement without involving MMS.

Sincerely,

Gregory J. Gould
Associate Director for
Minerals Revenue Management