# EIGHTY-EIGHT OIL COMPANY

**Law Department**
John J. Blomstrom, General Counsel
Manuel A. Lojo, Attorney
David W. Tiistola, Attorney

R. Stanley Lowe, Of Counsel

**Reply to:**
P.O. Drawer 2360
Casper, WY 82602
Phone: (307) 237-9301
Fax: (307) 266-0357
Writer's Phone:

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MINERALS MANAGEMENT SERVICE
Royalty Management Program
Rules and Publication Staff
P.O. Box 25165, MS 3021
Denver, CO 80225-0165

Re: Proposed Rule Establishing Oil Value for Royalty Due on Federal Leases

Gentlemen:

Eighty-Eight Oil Company is hereby submitting written comments on the proposed rule which was published in the February 6, 1998, ***FEDERAL REGISTER***, "Establishing Oil Value for Royalty Due on Federal Leases."

We appreciate both the opportunity to comment and the extension of time within which to file comments until April 7, 1998. We also wish to thank the Minerals Management Service for holding hearings on the proposed regulations in Casper, Wyoming.

Eighty-Eight Oil Company fully supports the comments to the proposed regulations submitted on behalf of the Independent Petroleum Association of America and the Domestic Petroleum Council. As the purchaser of crude oil production from leases, including federal leases, in the Northern Rocky Mountain area, with an affiliated company involved in the crude oil exploration and production business, we want to address portions of the proposed rule which deal only with our area of the country.

Because we do not have a refining affiliate, our crude oil producing affiliate has no option under the proposed regulations but to have royalty paid on the proceeds from the ultimate sale by Eighty-Eight Oil Company of the crude oil which we purchased from them traced back to the lease where the crude oil was produced. Please note for the record that we are the royalty payor on behalf of our exploration and production affiliate. The idea of tracing proceeds back to the lease may sound simple in concept, but in fact it will involve significant time and resources to perform the tracing, and because the specific market changes regularly for the crude oil we sell, it is an effort which must be undertaken on a frequent basis. The royalty Eighty-Eight Oil Company pays on behalf its exploration and production affiliate is to be based on the quality of oil produced at a lease. As oil is commingled and aggregated, then sold to different purchasers in arms-length sales at different sales prices and different locations, how are we to trace the proceeds? The simple answer is one cannot. Instead, some form of averaging is going to have to take place. That will undoubtedly lead to audit issues on whether the tracing/averaging was done "correctly." The audit burden in itself will be significant in such a case, and will not result in the MMS recovering the value of the federal government's oil at the lease where it was produced, but in also receiving the benefit of Eighty-Eight OIL Company's marketing efforts. Further, it says nothing of the extensive burden which will be faced by Eighty-Eight Oil Company in attempting to perform the tracing function.

IPAA and DPC have treated the issue of the duty to market in a manner we fully support. We object to the federal government receiving royalty on value which we, as a marketing affiliate, obtain through our efforts in the ultimate disposition of the oil purchased from our exploration and production affiliate. Our efforts in selling crude oil downstream from the lease, together with the risks we bear and the benefits we might provide, in our estimation, are not and should not be a part of the royalty equation as is being suggested in these proposed rules.

There is a workable answer to this quagmire, and that is to allow companies with affiliated marketing and production companies, such as ours, to use the provisions of proposed §206.103. We purchase significant volumes of oil in the Powder River Basin, an area where our E&P affiliate produces a significant volume of oil. The easy and fair way to value royalty for us is to use the weighted average gross proceeds we pay in our arms-length purchases from other entities in the area where our producing affiliate has its federal leases. The values are easy to verify through audit, and are much easier for us to use in paying our royalty bill. They truly represent the value of the crude oil at the lease.

The percentages included in proposed §206.103 are way too high, but the concepts in that proposed section are workable. Expand the group of companies which can use proposed §206.103, avoid the obvious discrimination against companies like our own, and adopt workable regulations.

As to the percentages in proposed §206.103, we fully adopt IPAA/DPC's comments.

Make the rule workable and avoid administrative nightmares which would be the natural consequence if you adopt the proposed rule. For our part, we would welcome an opportunity to discuss our comments further should that be your desire.

Very truly yours,

EIGHTY-EIGHT OIL COMPANY

John J. Blomstrom

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JJB/lsk