

(C) Otherwise used for Federal lease operations related to commercial production or generation of electricity, as approved by BLM.

(iii) For Class II and Class III leases where the lessee uses the geothermal resources for a direct use or in a direct use facility, as defined in 30 CFR 206.351, resources that are used to generate electricity for Federal lease operations or that are otherwise used for Federal lease operations are subject to direct use fees, except for geothermal resources that are unavoidably lost or reinjected before use on or off the lease, as determined by BLM.

(3) Royalties on byproducts are due at the time the recovered byproduct is used, sold, or otherwise finally disposed of. Byproducts produced and added to stockpiles or inventory do not require payment of royalty until the byproducts are sold, utilized, or otherwise finally disposed of. The MMS may ask BLM to increase the lease bond to protect the lessor's interest when BLM determines that stockpiles or inventories become excessive.

(c) If BLM determines that geothermal resources (including byproducts) were avoidably lost or wasted from the lease, or that geothermal resources (including byproducts) were drained from the lease for which compensatory royalty (or compensatory fees in lieu of compensatory royalty) are due, the value of those geothermal resources, or the royalty or fees owed, will be determined under 30 CFR part 206, subpart H.

(d) If a lessee receives insurance or other compensation for unavoidably lost geothermal resources (including byproducts), royalties at the rates specified in the lease (or fees in lieu of royalties) are due on the amount of, or as a result of, that compensation. This paragraph will not apply to compensation through self-insurance.

[72 FR 24458, May 2, 2007]

**§ 202.352 Minimum royalty.**

In no event shall the lessee's annual royalty payments for any producing lease be less than the minimum royalty established by the lease.

**§ 202.353 Measurement standards for reporting and paying royalties and direct use fees.**

(a) For geothermal resources used to generate electricity, you must report the quantity on which royalty is due on Form MMS-2014 (Report of Sales and Royalty Remittance) as follows:

(1) For geothermal resources for which royalty is calculated under § 206.352(a), you must report quantities in:

(i) Thousands of pounds to the nearest whole thousand pounds if the contract for the geothermal resources specifies delivery in terms of weight; or

(ii) Millions of Btu to the nearest whole million Btu if the sales contract for the geothermal resources specifies delivery in terms of heat or thermal energy.

(2) For geothermal resources for which royalty is calculated under § 206.352(b), you must report the quantities in kilowatt-hours to the nearest whole kilowatt-hour.

(b) For geothermal resources used in direct use processes, you must report the quantity on which a royalty or direct use fee is due on Form MMS-2014 in:

(1) Millions of Btu to the nearest whole million Btu if valuation is in terms of heat or thermal energy used or displaced;

(2) Millions of gallons to the nearest million gallons of geothermal fluid produced if valuation or fee calculation is in terms of volume;

(3) Millions of pounds to the nearest million pounds of geothermal fluid produced if valuation or fee calculation is in terms of mass; or

(4) Any other measurement unit MMS approves for valuation and reporting purposes.

(c) For byproducts, you must report the quantity on which royalty is due on Form MMS-2014 consistent with MMS-established reporting standards.

(d) For commercially demineralized water, you must report the quantity on which royalty is due on Form MMS-2014 in hundreds of gallons to the nearest hundred gallons.

(e) You need not report the quality of geothermal resources, including byproducts, to MMS. However, you must maintain quality measurements for