granting royalty relief under this section. You must pay royalties and late-payment interest determined under 30 U.S.C. 1721 and §218.54 of this chapter on all volumes for which you used the royalty suspension. You also may be subject to penalties under other provisions of law.


§ 203.77 May I voluntarily give up relief if conditions change?

Yes, you may voluntarily give up relief by sending a letter to that effect to the MMS Regional office for your region.

[73 FR 69516, Nov. 18, 2008]

§ 203.78 Do I keep relief approved by MMS under §§203.60–203.77 for my lease, unit or project if prices rise significantly?

If prices rise above a base price threshold for light sweet crude oil or natural gas, you must pay full royalties on production otherwise subject to royalty relief approved by MMS under §§203.60–203.77 for your lease, unit or project as prescribed in this section.

(a) The following table shows the base price threshold for various types of leases, subject to paragraph (b) of this section. Note that, for post-November 2000 deepwater leases in the GOM, price thresholds apply on a lease basis, so different leases on the same development project or expansion project approved for royalty relief may have different price thresholds.

<table>
<thead>
<tr>
<th>For . . .</th>
<th>The base price threshold is . . .</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Pre-Act leases in the GOM,</td>
<td>set by statute.</td>
</tr>
<tr>
<td>(2) Post-November 2000 deep water leases in the GOM or leases off-shore of Alaska for which the lease or Notice of Sale set a base price threshold,</td>
<td>indicated in your original lease agreement or, if none, those in the Notice of Sale under which your lease was issued.</td>
</tr>
<tr>
<td>(3) Post-November 2000 deep water leases in the GOM or leases off-shore of Alaska for which the lease or Notice of Sale did not set a base price threshold,</td>
<td>the threshold set by statute for pre-Act leases.</td>
</tr>
</tbody>
</table>

(b) An exception may occur if we determine that the price thresholds in paragraphs (a)(2) or (a)(3) mean the royalty suspension volume set under §203.69 and in lease terms would provide inadequate encouragement to increase production or development, in which circumstance we could specify a different set of price thresholds on a case-by-case basis.

(c) Suppose your base oil price threshold set under paragraph (a) is $28.00 per barrel, and the daily closing NYMEX light sweet crude oil prices for the previous calendar year exceeds $28.00 per barrel, as adjusted in paragraph (h) of this section. In this case, we retract the royalty relief authorized in this subpart and you must:

(1) Pay royalties on all oil production for the previous year at the lease stipulated royalty rate plus interest (under 30 U.S.C. 1721 and §218.54 of this chapter) by March 31 of the current calendar year, and

(2) Pay royalties on all your oil production in the current year.

(d) Suppose your base gas price threshold set under paragraph (a) is $3.50 per million British thermal units (Btu), and the daily closing NYMEX light sweet crude oil prices for the previous calendar year exceeds $3.50 per million Btu, as adjusted in paragraph (h) of this section. In this case, we retract the royalty relief authorized in this subpart and you must:

(1) Pay royalties on all gas production for the previous year at the lease stipulated royalty rate plus interest (under 30 U.S.C. 1721 and §218.54 of this chapter) by March 31 of the current calendar year, and

(2) Pay royalties on all your gas production in the current year.

(e) Production under both paragraphs (c) and (d) of this section counts as part of the royalty-suspension volume.

(f) You are entitled to a refund or credit, with interest, of royalties paid on any production (that counts as part of the royalty-suspension volume):

(1) Of oil if the arithmetic average of the closing prices for the current calendar year is $28.00 per barrel or less,
§ 203.79 How do I appeal MMS’s decisions related to royalty relief for a deepwater lease or a development or expansion project?

(a) Once we have designated your lease as part of a field and notified you and other affected operators of the designation, you can request reconsideration by sending the MMS Director a letter within 15 days that also states your reasons. The MMS Director’s response is the final agency action.

(b) Our decisions on your application for relief from paying royalty under § 203.67 and the royalty-suspension volumes under § 203.69 are final agency actions.

(c) If you cannot start construction by the deadline in § 203.76(b) for reasons beyond your control (e.g., strike at the fabrication yard), you may request an extension up to 1 year by writing the MMS Director and stating your reasons. The MMS Director’s response is the final agency action.

(d) We will notify you of all final agency actions by certified mail, return receipt requested. Final agency actions are not subject to appeal to the Interior Board of Land Appeals under 30 CFR part 290 and 43 CFR part 4. They are judicially reviewable under section 10(a) of the Administrative Procedure Act (5 U.S.C. 702) only if you file an action within 30 days of the date you receive our decision.

§ 203.80 When can I get royalty relief if I am not eligible for royalty relief under other sections in the subpart?

We may grant royalty relief when it serves the statutory purposes summarized in § 203.1 and our formal relief programs, including but not limited to the applicable levels of the royalty suspension volumes and price thresholds, provide inadequate encouragement to promote development or increase production. Unless your lease lies offshore of Alaska or wholly west of 87 degrees, 30 minutes West longitude in the GOM, your lease must be producing to qualify for relief. Before you may apply for royalty relief apart from our programs for end-of-life leases or for pre-Act deep water leases and development and expansion projects, we must agree that your lease or project has two or more of the following characteristics:

(a) The lease has produced for a substantial period and the lessee can recover significant additional resources. Significant additional resources means enough to allow production for at least a year more than would be profitable without royalty relief.

(b) Valuable facilities (e.g., a platform or pipeline that would be removed upon lease relinquishment) exist that we do not expect a successor lessee to use. If the facilities are located off the lease, their preservation must depend on continued production from the lease applying for royalty relief. We will only consider an allocable share of costs for off-lease facilities in the relief application.

(c) A substantial risk exists that no new lessee will recover the resources.

(d) The lessee made major efforts to reduce operating costs too recently to use the formal program for royalty relief (e.g., recent significant change in operations).

(e) Circumstances beyond the lessee’s control, other than water depth, preclude reliance on one of the existing royalty relief programs.

[67 FR 1879, Jan. 15, 2002, as amended at 73 FR 69516, Nov. 18, 2008]