specified in the definition of a qualified well in §203.0, and the RSV earned by the ultra-
deep well would not be applied to production from this (unqualified) deep well.

Example 6: In 2008, you spud a qualified ultra-deep well that is a sidetrack with a
perforated interval the top of which is 21,000 feet TVD SS that becomes a qualified well and earns an RSV of 15 BCF under §203.41 when it begins producing. Then in 2011, you spud an ultra-deep well with a per-
forated interval the top of which is 25,000 feet TVD SS. Your 26,000-foot well becomes a
qualified ultra-deep well because it meets the date and depth conditions in this defini-
tion under §203.0 when it begins producing, but your lease earns no additional RSV un-
der this section or §203.41 because it is on a lease that already has production from a
deep well (see §203.30(b)). Both the qualified deep well and the qualified ultra-deep well
would share your lease’s total RSV of 15 BCF in the manner prescribed in §§203.33 and
203.43.

Example 7: Your lease was issued in June
2004 and expressly incorporates the provi-
sions of §§203.41 through 203.47 as they ex-
isted at that time. In January 2005, you spud
a deep well (well no. 1) with a perforated in-
terval the top of which is 16,800 feet TVD SS
that becomes a qualified well and earns an
RSV of 15 BCF under §203.41 when it begins producing. Then in February 2008, you spud
an ultra-deep well (well no. 2) with a per-
forated interval the top of which is 22,300
feet that begins producing in November 2008,
after well no. 1 has started production. Well
no. 2 earns your lease an additional RSV of
10 BCF under paragraph (b) of this section
because it begins production in time to be
classified as a phase 2 ultra-deep well. If, on
the other hand, well no. 2 had begun pro-
ducing in June 2009, it would earn no addi-
tional RSV for the lease because it would be
classified as a phase 3 ultra-deep well and
thus is not entitled to the exception under
paragraph (b) of this section.

§203.32 What other requirements or
restrictions apply to royalty relief
for a qualified phase 2 or phase 3
ultra-deep well?

(a) If a qualified ultra-deep well on
your lease is within a unitized portion
of your lease, the RSV earned by that
well under this section applies only to
your lease and not to other leases withi-
in the unit or to the unit as a whole.
(b) If your qualified ultra-deep well is
directional well (either an original
well or a sidetrack) drilled across a
lease line, then either:
   (1) The lease with the perforated in-
terval that initially produces earns the
RSV or
   (2) If the perforated interval crosses a
lease line, the lease where the surface
of the well is located earns the RSV.
(c) Any RSV earned under §203.31 is
in addition to any royalty suspension
supplement (RSS) for your lease under
§203.45 that results from a different
wellbore.
(d) If your lease earns an RSV under
§203.31 and later produces from a deep
well that is not a qualified well, the
RSV is not forfeited or terminated, but
you may not apply the RSV earned
under §203.31 to production from the
non-qualified well.
(e) You owe minimum royalties or
rentals in accordance with your lease
terms notwithstanding any RSVs al-
lowed under paragraphs (a) and (b) of
§203.31.
(f) Unused RSVs transfer to a suc-
cessor lessee and expire with the lease.

§203.33 To which production do I
apply the RSV earned by qualified
phase 2 and phase 3 ultra-deep
wells on my lease or in my unit?

(a) You must apply the RSV allowed
in §203.31(a) and (b) to gas volumes pro-
duced from qualified wells on or after
May 18, 2007, reported on the Oil and
Gas Operations Report, Part A (OGOR-
A) for your lease under 30 CFR 1210.102.
All gas production from qualified wells reported on the OGOR–A, including production not subject to royalty, counts toward the total lease RSV earned by both deep or ultra-deep wells on the lease.

(b) This paragraph applies to any lease with a qualified phase 2 or phase 3 ultra-deep well that is not within a BSEE-approved unit. Subject to the price conditions of §203.36, you must apply the RSV prescribed in §203.31 as required under the following paragraphs (b)(1) and (b)(2) of this section.

(1) You must apply the RSV to the earliest gas production occurring on and after the later of May 18, 2007, or the date the first qualified phase 2 or phase 3 ultra-deep well that earns your lease the RSV begins production (other than test production).

(2) You must apply the RSV to only gas production from qualified wells on your lease, regardless of their depth, for which you have met the requirements in §203.35 or §203.44.

(c) This paragraph applies to any lease with a qualified phase 2 or phase 3 ultra-deep well where all or part of the lease is within a BSEE-approved unit. Under the unit agreement, a share of the production from all the qualified wells in the unit participating area would be allocated to your lease each month according to the participating area percentages. Subject to the price conditions of §203.36, you must apply the RSV prescribed in §203.31 as follows:

(1) You must apply the RSV to the earliest gas production occurring on and after the later of May 18, 2007, or the date that the first qualified phase 2 or phase 3 ultra-deep well that earns your lease the RSV begins production (other than test production).

(2) You must apply the RSV to only gas production:

(i) From qualified wells on the non-unitized area of your lease, regardless of their depth, for which you have met the requirements in §203.35 or §203.44; and

(ii) Allocated to your lease under a BSEE-approved unit agreement from qualified wells on unitized areas of your lease and on other leases in participating areas of the unit, regardless of their depth, for which the requirements in §203.35 or §203.44 have been met. The allocated share under paragraph (a)(2)(ii) of this section does not increase the RSV for your lease.

Example: The east half of your lease A is unitized with all of lease B. There is one qualified phase 2 ultra-deep well on the non-unitized portion of lease A that earns lease A an RSV of 35 BCF under §203.31, one qualified deep well on the unitized portion of lease A (drilled after the ultra-deep well on the non-unitized portion of that lease) and a qualified phase 2 ultra-deep well on lease B that earns lease B a 35 BCP RSV under §203.31. The participating area percentages allocate 40 percent of production from both of the unit qualified wells to lease A and 60 percent to lease B. If the non-unitized qualified phase 2 ultra-deep well on lease A produces 12 BCF, and the unitized qualified well on lease A produces 18 BCF, and the qualified well on lease B produces 37 BCF, then the production volume from and allocated to lease A to which the lease A RSV applies is 34 BCF \[(12 + (18 + 37)(0.40))\]. The production volume allocated to lease B to which the lease B RSV applies is 33 BCF \[(18 + 37)(0.60))\]. None of the volumes produced from a well that is not within a unit participating area may be allocated to other leases in the unit.

(d) You must begin paying royalties when the cumulative production of gas from all qualified wells on your lease, or allocated to your lease under paragraph (b) of this section, reaches the applicable RSV allowed under §203.31 or §203.41. For the month in which cumulative production reaches this RSV, you owe royalties on the portion of gas production from or allocated to your lease that exceeds the RSV remaining at the beginning of that month.

§203.34 To which production may an RSV earned by qualified phase 2 and phase 3 ultra-deep wells on my lease not be applied?

You may not apply an RSV earned under §203.31:

(a) To production from completions less than 15,000 feet TVD SS, except in cases where the qualified well is re-perforated in the same reservoir previously perforated deeper than 15,000 feet TVD SS;

(b) To production from a deep well or ultra-deep well on any other lease, except as provided in paragraph (c) of §203.33;

(c) To any liquid hydrocarbon (oil and condensate) volumes; or