

204.212 What if I took relief for which I was ineligible?

204.213 May I obtain relief for a property that benefits from other Federal or State incentive programs?

204.214 Are the information collection requirements in this subpart approved by the Office of Management and Budget?

Authority: 30 U.S.C. 1701 *et seq.*

Subpart A—General Provisions

§ 204.1 What is the purpose of this part?

This part explains how you as a lessee or lessee's designee of a Federal onshore or Outer Continental Shelf (OCS) oil and gas lease may obtain prepayment or accounting and auditing relief for certain marginal properties.

§ 204.2 What definitions apply to this part?

Agreement means a federally approved communitization Agreement or unit participating area.

Barrels of oil equivalent (BOE) means the combined equivalent production of oil and gas stated in barrels of oil. Each barrel of oil production is equal to one BOE. Also, each 6,000 cubic feet of gas production is equal to one BOE.

Base period means the 12-month period from July 1 through June 30

immediately preceding the calendar year in which you take or request marginal property relief. For example, if you request relief in January 2006, your base period will be July 1, 2004 through June 30, 2005.

Combined equivalent production means the total of all oil and gas production for the marginal property, stated in BOE.

Designee means the person designated by a lessee under § 218.52 of this chapter to make all or part of the royalty or other payments due on a lease on the lessee's behalf.

Producing wells means only those producing oil or gas wells that contribute to the sum of BOE used in the calculation under § 204.4(c). Producing wells do not include injection or water wells.

State concerned (State) means the State that receives a statutorily-prescribed portion of the royalties from a Federal onshore or OCS lease.

§ 204.3 What alternatives are available for marginal properties?

If you have production from a marginal property, MMS and the State may allow you the following options:

(a) *Prepay royalty.* MMS and the State may allow you to make a lump-sum advance payment of royalties instead of monthly royalty payments for the remainder of the lease term.

(b) *Take accounting and auditing relief.* MMS and the State may allow various accounting and auditing relief options to encourage you to continue to produce and develop your marginal property. See subpart C for accounting and auditing relief requirements.

§ 204.4 What is a marginal property under this part?

To qualify as a marginal property eligible for royalty prepayment or accounting and auditing relief under this part, your property must meet the following requirements:

(a) Production must be from, or attributable to, a Federal onshore or OCS lease or Agreement. Indian leases are not eligible for the marginal property alternatives under this part, even though production from a qualifying marginal property may be attributable to an Indian lease. You must also meet the criteria shown in the following table:

If your lease is * * *	Then * * *	And * * *
(1) Not in an Agreement	The entire lease must qualify as a marginal property under paragraph (b) of this section..	
(2) Entirely or partly committed to one Agreement.	The entire Agreement must qualify as a marginal property under paragraph (b) of this section.	Agreement production allocable to your lease may be eligible for relief under this part. Any production from your lease that is not committed to the Agreement also may be eligible for separate relief under (a)(4) of this table.
(3) Entirely or partly committed to more than one Agreement.	The Agreement must qualify separately as a marginal property under paragraph (b) of this section.	Only the qualifying Agreement's production allocable to your lease may be eligible for separate relief under this part.
(4) Partly committed to an Agreement and you have production from the part of the lease that is not committed to the Agreement.	The part of the lease that is not committed to the Agreement must qualify separately as a marginal property under paragraph (b) of this section..	

(b) To qualify as a marginal property for a calendar year, the combined equivalent production of the property during the base period must equal an average daily well production of less than 15 barrels of oil equivalent (BOE) per well per day calculated under paragraph (c) of this section.

(c) To determine the average daily well production on or attributable to your property, divide the sum of the BOE for all producing wells on the property by the sum of the number of days that each of those wells actually produced during the base period. If your property is in an Agreement, your calculation under this section must include all wells included in the

Agreement, even if they are not on a Federal onshore or OCS lease.

§ 204.5 What statutory requirements must I meet to obtain royalty prepayment or accounting and auditing relief?

(a) MMS and the State may allow royalty prepayment or accounting and auditing relief for your marginal property if MMS and the State jointly determine that the prepayment or relief is in the best interests of the Federal Government and the State to:

- (1) Promote production;
- (2) Reduce the administrative costs of MMS and the State; and
- (3) Increase net receipts to the Federal Government and the State.

(b) MMS and the State may discontinue any prepayment or accounting and auditing relief options granted for your marginal property if MMS and the State jointly determine that the prepayment or relief no longer meets the criteria in paragraph (a) of this section.

§ 204.6 May I appeal if MMS denies my request for prepayment or accounting and auditing relief?

If MMS denies your request for prepayment or accounting and auditing relief under this part, you may appeal under part 290 of this chapter.