

(7) You may not deduct any costs that are not actual costs of transporting oil, including but not limited to the following:

- (i) Fees paid for long-term storage (more than 30 days).
- (ii) Administrative, handling, and accounting fees associated with terminalling.
- (iii) Title and terminal transfer fees.
- (iv) Fees paid to track and match receipts and deliveries at a market center or to avoid paying title transfer fees.
- (v) Fees paid to brokers.
- (vi) Fees paid to a scheduling service provider.
- (vii) Internal costs, including salaries and related costs, rent/space costs, office equipment costs, legal fees, and other costs to schedule, nominate, and account for sale or movement of production.
- (viii) Theoretical line losses.
- (ix) Gauging fees.

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9. Section 206.112 is revised to read as follows:

§ 206.112. What adjustments and transportation allowances apply when I value oil production from my lease using the NYMEX price?

This section applies when you use the NYMEX price to calculate the value of production under § 206.103. As specified in this section, adjust the NYMEX price to reflect the difference in value between your lease and Cushing, Oklahoma.

(a) If you transport or exchange (or both transport and exchange) all or a portion of the oil produced from your lease to a market center, adjust the NYMEX price for that oil under paragraph (a)(1) or (a)(2) of this section, or both, as applicable. If you further exchange your oil at arm's length from the market center to Cushing, Oklahoma, use paragraph (a)(3)(i) of this section to adjust the NYMEX price for that oil between the market center and Cushing, Oklahoma. Otherwise, use paragraph (a)(3)(ii) to determine that adjustment. Use paragraph (b) or (c) of this section to value the oil that you do not transport or exchange to a market center.

(1) For oil that you transport between your lease and the market center (or between any intermediate points between those locations), you may take an allowance for the cost of transporting that oil between the relevant points as determined under § 206.110 or § 206.111, as applicable.

(2)(i) For oil that you exchange at arm's length between your lease and the market center (or between any

intermediate points between those locations), you must adjust the NYMEX price by the applicable location and quality differentials derived from your arm's-length exchange agreement.

(ii) For oil that you exchange between your lease and the market center (or between any intermediate points between those locations) under an exchange agreement that is not at arm's length, you must obtain approval from MMS for a location and quality differential. Until you obtain such approval, you may use the location and quality differential derived from that exchange agreement. If MMS prescribes a different differential, you must apply MMS' differential to all periods for which you used your proposed differential. You must pay any additional royalties owed resulting from using MMS' differential plus late payment interest from the original royalty due date, or you may report a credit for any overpaid royalties plus interest under 30 U.S.C. 1721(h).

(3)(i) For oil that you exchange at arm's length between the market center and Cushing, Oklahoma, you must adjust the NYMEX price by the applicable location and quality differentials derived from your arm's-length exchange agreement.

(ii)(A) For oil that you do not exchange at arm's length between the market center and Cushing, Oklahoma, you must use the WTI differential published in an MMS-approved publication for the market center nearest your lease, for crude oil most similar in quality to your production, as your location and quality differential between the market center and Cushing, Oklahoma. (For example, for sweet crude oil produced in the Rocky Mountain Region, use the WTI differential for Wyoming Sweet crude oil at Guernsey, Wyoming.)

(B) After you select an MMS-approved publication to calculate the WTI differential under paragraph (a)(3)(i) of this section, you may not select a different publication more often than once every 2 years, unless the publication you use is no longer published or MMS revokes its approval of the publication. If you are required to change publications, you must begin a new 2-year period.

(4) You must determine the adjustments to the NYMEX price under paragraphs (a)(1) through (a)(3) of this section for each arrangement under which you dispose of production from your lease. For the oil disposed of under any one arrangement, you may not claim a transportation allowance between the same points between which you exchange that oil.

(5) *Example.* Assume that a Federal lessee produces crude oil from a lease near Artesia, New Mexico. Further assume that the lessee transports the oil to Roswell, New Mexico, and then exchanges the oil to Midland, Texas. Assume the lessee refines the oil received in exchange at Midland. Assume that the NYMEX price is \$30.00/bbl, adjusted for the roll; that the WTI differential (Cushing to Midland) is – \$.10/bbl; that the lessee's exchange agreement between Roswell and Midland results in a location and quality differential of – \$.08/bbl; and that the lessee's actual cost of transporting the oil from Artesia to Roswell is \$.40/bbl. In this example, the royalty value of the oil is $\$30.00 - \$.10 - \$.08 - \$.40 = \$29.42/\text{bbl}$.

(b) If you transport or exchange (or both transport and exchange) at least 20 percent, but not all, of your oil produced from the lease to a market center, determine the value of the portion of the oil produced from your lease that is valued using the NYMEX price under § 206.103 but that is not transported or exchanged (or both transported and exchanged) to or through a market center as follows:

(1) Determine the volume-weighted average of the adjusted NYMEX prices determined under paragraph (a) of this section for the oil that you do transport or exchange (or both transport and exchange) from your lease to a market center.

(2) Use that volume-weighted average NYMEX price as the value of the oil that you do not transport or exchange (or both transport and exchange) from your lease to a market center.

(3) *Example.* Assume the same facts as in the example in paragraph (a)(5) of this section, except that the lessee transports and exchanges to Midland 40 percent of the production from the lease near Artesia, and transports the remaining 60 percent directly to its own refinery in Ohio. In this example, the 40 percent of the production would be valued at \$29.42/bbl, as explained in the previous example. Under this paragraph (b), the other 60 percent also would be valued at \$29.42/bbl.

(c)(1) If you transport or exchange (or both transport and exchange) less than 20 percent of the crude oil produced from your lease between the lease and a market center, you must propose to MMS a differential between the lease and the market center for the portion of the oil that you do not transport or exchange (or both transport and exchange) to a market center. Use the WTI differential between the market center and Cushing, Oklahoma, to adjust