April 21, 2020

Bureau of Land Management (BLM)

Interim guidance for Royalty Rate Reduction requests for Oil and Gas Leases during the COVID-19 national emergency.

Purpose:
The Department of the Interior (DOI) and BLM recognize the unprecedented times that the Nation and its businesses are currently experiencing as a result of the COVID-19 pandemic. On March 16, 2020, the President declared a COVID-19 national emergency and many state governors have supported the effort to curb the spread of COVID-19 by imposing shelter in-place mandates, curtailing travel, promoting social distancing, etc.

Because of the COVID-19 pandemic, there has been a recent sharp decline in the domestic oil price. In addition, because of the pandemic, operators are not able to maintain sufficient employees at drilling sites to allow for continuing drilling operations. As a result of these considerations, many operators are not able to operate wells economically or as a practical matter and may find it necessary to simply plug and abandon a significant number of producing wells unless they receive financial relief. The BLM shares operators' concerns that premature abandonment of a substantial number of these wells on Federal leases will mean the immediate loss of the oil, which these wells now produce, and the potential loss of their remaining recoverable reserves. The BLM has authority to grant royalty relief when it is in the interest of conservation to do so or would encourage the greatest ultimate recovery of oil and gas. Without royalty relief, the abandonment of oil and gas wells would reduce the ultimate recovery of petroleum resources from Federal leases and result in the loss of the associated future royalty revenue to the U.S. Treasury. To avoid these well abandonments, operators may show that it would be in the interest of conservation and encourage the greatest ultimate recovery of oil and gas to reduce royalties for leases that would otherwise be prematurely abandoned due to the COVID-19 pandemic.

Interim Policy and Guidance:
Due to the COVID-19 national emergency and the sharp decline in domestic oil prices, Federal oil and gas leases may qualify for a royalty rate reduction.

The regulations at 43 CFR Subpart 3103.4-1, implementing the Mineral Leasing Act at 30 U.S.C. 209, allow for the granting of oil and gas royalty rate reductions. The current operating environment under the national emergency presents an extreme situation due to the pandemic. The BLM State Office (SO) Authorized Officer (AO) will process requests for temporary royalty rate reductions in accordance with the procedures outlined below.

Steps for Operator to Apply for Temporary Royalty Rate Reduction due to COVID-19

- An operator/payor must submit an application for a temporary royalty rate reduction to the appropriate BLM State Office that complies with the requirements of 43 CFR 3103.4-1(b)(1)-(3). To support a finding that a temporary royalty rate reduction is necessary to promote development, or that the lease cannot be successfully operated under its terms because of the COVID-19 pandemic, the operator or payor must include the following (as required by the regulations):

  - A self-certification statement with supporting documentation from the operator that the lease(s) would be capable of production in paying quantities were it not for the extreme circumstances presented due to the COVID-19 pandemic.
  - A simple economic analysis table that shows the lease(s) that are uneconomic at the current royalty rate, but that would be economic with the royalty rate reduction. This table needs to include the relevant market oil price (i.e., West Texas Intermediate spot price or basin level price), the royalty rate, the production capability, and the operating costs (summarized for the lease).
  - The requested temporary royalty rate. For example, a lessee might request BLM to reduce a 12 ½ percent royalty rate to 0.5 percent royalty rate.

- Leases within an approved unit agreement or cooperative plan of development and operations may be granted royalty rate reductions in the same manner.

- The operator or payor should mark trade secrets or other proprietary data as "confidential/proprietary" as provided in 43 CFR 2.26. Such information would typically include operating costs and related data.

- Operators or payors may also apply for temporary royalty rate reductions for Class II reinstated leases, as provided for in 43 CFR 3103.4-1(c) and 3108.2-3(f). To demonstrate economic hardship, or that production would be prematurely terminated, the operator or payor must submit an application complying with 43 CFR 3103.4-1(b)(1)-(3), as described above.

Termination of Royalty Relief

In the absence of any action by the BLM to extend this temporary royalty rate relief, the relief will terminate one year from the date that BLM approves an application for temporary royalty rate reduction and the lease will thereafter revert to the original royalty rate stipulated in the lease instrument. For example, if the approved temporary royalty rate of 0.5% is approved on May 1, 2020, then the royalty relief will end on May 1, 2021, and will revert back to 12.5%.

Steps for BLM Approval for Temporary Royalty Rate Reduction due to COVID-19

- For those complete applications timely filed, the BLM SO AO will review and evaluate the documentation in the royalty relief application and verify the application information within five business days.
- If the application is approved, then the BLM SO AO will notify the operator in writing about the date on which the royalty rate reduction is effective and the sunset date of the temporary royalty rate.

- Copies of the approval letter must be sent to the Office of Natural Resources Revenue (ONRR) within five business days after approval.
- If an application is not approved, then the applicant has the right to request a review and appeal, in accordance with 43 CFR 3165.
- The BLM SO AO will notify the operator and the ONRR about the date on which the temporary royalty rate will end, including if the relief timeframe is extended.

Effective Date. Once approved, a royalty rate reduction will be effective on the first day of the month in which the completed application was filed or the date specified by the AO.

Monitoring of Oil and Gas Lease Suspensions.
The AOs will maintain data entries in LR2000 to provide the capability for Headquarters (WO-310) to generate reports identifying the number of leases that have been granted temporary royalty rate relief described in this IM. The LR2000 action codes pertinent to royalty rate reductions will be entered, as detailed in BLM Handbook H-3103-1, *Fees, Rentals and Royalties*, for each lease included in an application received and processed. Since this royalty rate reduction is temporary, LR2000 Action Code 247 - Future Action Suspense should be used to flag the one-year termination date.

Other.
This interim guidance will remain in effect until instructed otherwise. In general, approved temporary royalty rate reductions due to COVID-19 national emergency will sunset one-year from the date the royalty relief application is approved.

The BLM will coordinate with ONRR as needed.

This guidance does not apply to Indian oil and gas leases. The Bureau of Indian Affairs is the jurisdictional agency for Indian oil and gas leases and any royalty rate reduction would be approved by that agency.