



“Special Case” Royalty Relief **30 CFR 203.80**

Overview

There are various types of royalty relief that BSEE may grant in order to promote development, increase production, or encourage production of marginal resources on certain leases or categories of leases (30 CFR 203.1(a) and (b)). If the specifics of a lease or project are such that none of the formal relief programs apply, applicants can request royalty relief under 30 CFR 203.80, which is often informally referred to as “Special Case” royalty relief. Note that such applications can be pursued for a lease or project when the drilling of a well is included but applications that do not involve the drilling of a well must be on a lease or unit basis (i.e., project is defined as “requiring at least a permit to drill”).

While past special case applications were for leases or projects that included the drilling of a well(s), BSEE envisions applications on a lease or unit basis will be pursued where no drilling will be included. Regardless of whether or not drilling is included, applicants must follow a process that begins with a “pre-application” as, by regulation, applicants must first demonstrate that at least two of the five regulatory characteristics set forth in 30 CFR 203.80(a)-(e) are met before a formal application can be submitted. If BSEE agrees that the lease or project has two or more of the five characteristics, it will send the applicant a confirmation letter with detailed instructions on how to submit the formal application. Such instructions will be tailored to fit each case, since “Special Case” royalty relief requests can vary widely. In addition, BSEE must collect a cost recovery fee with each formal “Special Case” royalty relief application (30 CFR 203.3), and the fee amount is determined on a case-by-case basis (see 80 Fed. Reg. 29,740-29,743 (May 22, 2015)) due to the wide variation in such requests and associated processing costs. BSEE will inform the applicant of the fee in the confirmation letter.

Formal applications that include the drilling of a well(s) will need to include the following supporting data:

- Engineering data;
- Geological and Geophysical (G&G) data and interpretations showing the targeted reservoirs;
- Forecast production volumes, revenues, and expenses;
- Economic model that demonstrates the proposed project is uneconomic, but would become economic with royalty relief (30 CFR 203.2(e)). Note that BOEM provides BSEE with the appropriate discount rate and price forecast to be used in the economic analysis; and
- Confirmation of payment of the cost recovery fee.

BSEE will analyze the supporting data, as well as perform independent engineering, G&G, and economic analyses, prior to making a final determination. Analysis of a formal application ensures relief is granted only when needed, and in the amount needed, consistent with regulation and to ensure the American public is protected. If BSEE determines that the formal application meets all regulatory requirements and that the lease or project is uneconomic, it may grant royalty relief in the amount that would make it economic. BSEE will communicate its determination, outlining the form and amount of relief (if any), and any conditions that may apply, including but not limited to, that the approval is subject to an accounting of capital expenditures and audit by the Department of the Interior.

For more information, please see:

<https://www.bsee.gov/sites/bsee.gov/files/technical-presentations//scrr-workshop.pptx>

Formal applications that do NOT include the drilling of a well(s), will need to contain the statements and supporting documentation specified in the confirmation letter which includes confirmation of payment of the cost recovery fee and signed statements as follows:

- i. “I hereby certify, under penalty of applicable laws that, in the absence of the requested royalty relief, the lessees I represent, as an authorized representative of the applicant that is designated operator of the lease, are at significant and imminent risk of failure to meet contractual requirements to the United States of America and other contractual counter-parties.”
- ii. Indicating how the requested royalty relief would “increase production,” as required under 30 CFR 203.1(b).
- iii. Attesting to the fact that the lease is currently uneconomic, but would become economic if royalty relief were granted.

BSEE will analyze the supporting data prior to making a final determination. Analysis of a formal application ensures relief is granted only when needed, and in the amount needed, consistent with regulation and to ensure the American public is protected. If BSEE determines that the formal application meets all regulatory requirements, it may approve the request. BSEE would issue an approval letter including, but not limited to, the following:

- i. Period for which the approval is valid (e.g., one year, beginning the month following the approval);
- ii. Condition that an executive officer must submit monthly summaries of revenues, allowable expenses, and payor allocations and attest that they are true, accurate, and correct and consistent with Generally Accepted Accounting Principles;
- iii. The Royalty Relief provided for each production month will not exceed the lesser of (a) the amount necessary to equate the total Allowable Expenses with the total Adjusted Revenue, or (b) the amount of total royalties due for that month. If total Adjusted Revenue exceeds Allowable Expenses for any production months during the approved period, no relief is to be claimed for those production months;
- iv. Condition that you provide, within 120 days after the end of each calendar year quarter during which relief was granted, a Post-Production True Up Report, prepared by an independent Certified Public Accountant that is consistent with Generally Accepted Accounting Principles;
- v. Condition that BSEE and ONRR will reevaluate the propriety of prior relief and, as appropriate, adjust the amount of relief accordingly; and
- vi. Notification that all submissions are subject to a Department of the Interior audit.