

may be sold at not less than the market price to any Federal agency.

**(2) Offshore royalty**

Any royalty oil or gas taken in-kind from a Federal oil or gas lease on the outer Continental Shelf may be disposed of only under section 1353 of title 43.

**(i) Federal low-income energy assistance programs**

**(1) Preference**

In disposing of royalty oil or gas taken in-kind under this section, the Secretary may grant a preference to any person, including any Federal or State agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

**(2) Report**

Not later than 3 years after August 8, 2005, the Secretary shall submit a report to Congress—

(A) assessing the effectiveness of granting preferences specified in paragraph (1); and

(B) providing a specific recommendation on the continuation of authority to grant preferences.

(Pub. L. 109-58, title III, §342, Aug. 8, 2005, 119 Stat. 697; Pub. L. 113-188, title XI, §1101, Nov. 26, 2014, 128 Stat. 2023.)

REFERENCES IN TEXT

This part, referred to in subsec. (f)(1), was in the original “this subtitle”, meaning subtitle E (§§341-357) of title III of Pub. L. 109-58, Aug. 8, 2005, 119 Stat. 697, which enacted this part, amended sections 6504, 6506a, 6507, and 6508 of this title, sections 184 and 226 of Title 30, Mineral Lands and Mining, and section 1337 of Title 43, Public Lands, and enacted provisions set out as a note under section 226 of Title 30. For complete classification of subtitle E to the Code, see Tables.

AMENDMENTS

2014—Subsecs. (e) to (j). Pub. L. 113-188 redesignated subsecs. (f) to (j) as (e) to (i), respectively, and struck out former subsec. (e) which required various reports on oil and gas royalties in-kind.

**§ 15903. Marginal property production incentives**

**(a) Definition of marginal property**

Until such time as the Secretary issues regulations under subsection (e) that prescribe a different definition, in this section, the term “marginal property” means an onshore unit, communitization agreement, or lease not within a unit or communitization agreement, that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90,000,000 British thermal units of gas per well per day calculated based on the average over the 3 most recent production months, including only wells that produce on more than half of the days during those 3 production months.

**(b) Conditions for reduction of royalty rate**

Until such time as the Secretary issues regulations under subsection (e) that prescribe different standards or requirements, the Secretary shall reduce the royalty rate on—

(1) oil production from marginal properties as prescribed in subsection (c) if the spot price

of West Texas Intermediate crude oil at Cushing, Oklahoma, is, on average, less than \$15 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; and

(2) gas production from marginal properties as prescribed in subsection (c) if the spot price of natural gas delivered at Henry Hub, Louisiana, is, on average, less than \$2.00 per million British thermal units (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days.

**(c) Reduced royalty rate**

**(1) In general**

When a marginal property meets the conditions specified in subsection (b), the royalty rate shall be the lesser of—

(A) 5 percent; or

(B) the applicable rate under any other statutory or regulatory royalty relief provision that applies to the affected production.

**(2) Period of effectiveness**

The reduced royalty rate under this subsection shall be effective beginning on the first day of the production month following the date on which the applicable condition specified in subsection (b) is met.

**(d) Termination of reduced royalty rate**

A royalty rate prescribed in subsection (c)(1) shall terminate—

(1) with respect to oil production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, on average, exceeds \$15 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property; and

(2) with respect to gas production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of natural gas delivered at Henry Hub, Louisiana, on average, exceeds \$2.00 per million British thermal units (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property.

**(e) Regulations prescribing different relief**

**(1) Discretionary regulations**

The Secretary may by regulation prescribe different parameters, standards, and requirements for, and a different degree or extent of, royalty relief for marginal properties in lieu of those prescribed in subsections (a) through (d).

**(2) Mandatory regulations**

Unless a determination is made under paragraph (3), not later than 18 months after August 8, 2005, the Secretary shall by regulation—

(A) prescribe standards and requirements for, and the extent of royalty relief for, marginal properties for oil and gas leases on the outer Continental Shelf; and

(B) define what constitutes a marginal property on the outer Continental Shelf for purposes of this section.

**(3) Report**

To the extent the Secretary determines that it is not practicable to issue the regulations referred to in paragraph (2), the Secretary shall provide a report to Congress explaining such determination by not later than 18 months after August 8, 2005.

**(4) Considerations**

In issuing regulations under this subsection, the Secretary may consider—

- (A) oil and gas prices and market trends;
- (B) production costs;
- (C) abandonment costs;
- (D) Federal and State tax provisions and the effects of those provisions on production economics;
- (E) other royalty relief programs;
- (F) regional differences in average well-head prices;
- (G) national energy security issues; and
- (H) other relevant matters, as determined by the Secretary.

**(f) Savings provision**

Nothing in this section prevents a lessee from receiving royalty relief or a royalty reduction pursuant to any other law (including a regulation) that provides more relief than the amounts provided by this section.

(Pub. L. 109–58, title III, §343, Aug. 8, 2005, 119 Stat. 700.)

**§ 15904. Incentives for natural gas production from deep wells in the shallow waters of the Gulf of Mexico****(a) Royalty incentive regulations for ultra deep gas wells****(1) In general**

Not later than 180 days after August 8, 2005, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes of not less than 35 billion cubic feet with respect to the production of natural gas from ultra deep wells on leases issued in shallow waters less than 400 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes west longitude. Regulations issued under this subsection shall be retroactive to the date that the notice of proposed rulemaking is published in the Federal Register.

**(2) Suspension volumes**

The Secretary may grant suspension volumes of not less than 35 billion cubic feet in any case in which—

(A) the ultra deep well is a sidetrack; or

(B) the lease has previously produced from wells with a perforated interval the top of which is at least 15,000 feet true vertical depth below the datum at mean sea level.

**(3) Definitions**

In this subsection:

**(A) Ultra deep well**

The term “ultra deep well” means a well drilled with a perforated interval, the top of which is at least 20,000 true vertical depth below the datum at mean sea level.

**(B) Sidetrack****(i) In general**

The term “sidetrack” means a well resulting from drilling an additional hole to a new objective bottom-hole location by leaving a previously drilled hole.

**(ii) Inclusion**

The term “sidetrack” includes—

(I) drilling a well from a platform slot reclaimed from a previously drilled well;

(II) re-entering and deepening a previously drilled well; and

(III) a bypass from a sidetrack, including drilling around material blocking a hole or drilling to straighten a crooked hole.

**(b) Royalty incentive regulations for deep gas wells**

Not later than 180 days after August 8, 2005, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes with respect to production of natural gas from deep wells on leases issued in waters more than 200 meters but less than 400 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes west longitude. The suspension volumes for deep wells within 200 to 400 meters of water depth shall be calculated using the same methodology used to calculate the suspension volumes for deep wells in the shallower waters of the Gulf of Mexico, and in no case shall the suspension volumes for deep wells within 200 to 400 meters of water depth be lower than those for deep wells in shallower waters. Regulations issued under this subsection shall be retroactive to the date that the notice of proposed rulemaking is published in the Federal Register.

**(c) Limitations**

The Secretary may place limitations on the royalty relief granted under this section based on market price. The royalty relief granted under this section shall not apply to a lease for which deep water royalty relief is available.

(Pub. L. 109–58, title III, §344, Aug. 8, 2005, 119 Stat. 702.)