APPENDIX

U.S. DEPARTMENT OF THE INTERIOR

STRIPPER ROYALTY RATE REDUCTION NOTIFICATION

NOTE: Reduced Royalty Rate is not effective until the month after this notification is received by the Minerals Management Service. See 43 CFR Part 3100 for complete instructions.

OPERATOR NAME: _____ DATE SUBMITTED _____

OPERATOR NUMBER: _____

PERSON TO CONTACT _____ _____ _____ _____

AREA CODE | TELEPHONE NUMBER | EXTEN.

LEASE NUMBER(S)	AGREEMENT NUMBER \1	QUALIFYING OR CURRENT PERIOD \2	QUALIFYING ROYALTY RATE	CURRENT ROYALTY RATE \3	EFFECTIVE DATES

NOTE: THIS NOTIFICATION MUST BE SUBMITTED TO MMS AND ALL PAYORS ON THE LEASES.

\1 Include agreement number for any lease located in an agreement. All leases in the agreement must be listed separately.

\2 Initial qualifying period August 1, 1990, through July 31, 1991, or current period. If the property does not initially qualify, subsequent qualifying period would be the latest 12-month period before the property qualifies (i.e., a 12-month rolling average).

\3 Current period royalty rate must be compared to qualifying period royalty rate and the lower of the two rates will be the royalty rate for the subsequent year, when notification is received by MMS.

FORM MMS-4377 (5/92)

[48 FR 33662, July 22, 1983; 48 FR 39225, Aug. 30, 1983, as amended at 49 FR 30448, July 30, 1984; 53 FR 17354, May 16, 1988; 57 FR 35973, Aug. 11, 1992. Redesignated at 61 FR 4750, Feb. 8, 1996]

§ 3103.4–3 Heavy oil royalty reductions.

(a)(1) A heavy oil well property is any Federal lease or portion thereof segregated for royalty purposes, a communitization area, or a unit participating area, operated by the same operator, that produces crude oil with a weighted average gravity of less than 20 degrees as measured on the American Petroleum Institute (API) scale.

(2) An oil completion is a completion from which the energy equivalent of the oil produced exceeds the energy equivalent of the gas produced (including the entrained liquefiable hydrocarbons) or any completion producing oil and less than 60 MCF of gas per day.

(b) Heavy oil well property royalty rate reductions will be administered according to the following requirements and procedures:

(1) The Bureau of Land Management requires no specific application form for the benefits under paragraph (a) of this section for heavy oil well properties. However, the operator/payor must notify, in writing, the proper BLM office that it is seeking a heavy oil royalty rate reduction. The letter must contain the serial number of the affected leases (or, as appropriate, the communitization agreement number or the unit agreement name); the names of the operators for each lease; the calculated new royalty rate as determined under paragraph (b)(2) of this section; and copies of the Purchaser's Statements (sales receipts) to document the weighted average API gravity for a property.

(2) The operator must determine the weighted average API gravity for a property by averaging (adjusted to rate of production) the API gravities reported on the operator's Purchaser's Statement for the last 3 calendar months preceding the operator's written notice of intent to seek a royalty rate reduction, during each of which at least one sale was held. This is shown in the following 3 illustrations:

(i) If a property has oil sales every month prior to requesting the royalty rate reduction in October of 1996, the operator must submit Purchaser's Statements for July, August, and September of 1996;

(ii) If a property has sales only every 6 months, during the months of March and September, prior to requesting the rate reduction in October of 1996, the operator must submit Purchaser's Statements for the months of September 1995, and March and September 1996; and

(iii) If a property has multiple sales each month, the operator must submit Purchaser's Statements for every sale for the 3 entire calendar months immediately preceding the request for a rate reduction.

(3) The following equation must be used by the operator/payor for calculating the weighted average API gravity for a heavy oil well property:

$$\frac{(V_1 \times G_1) + (V_2 \times G_2) + (V_n \times G_n)}{V_1 + V_2 + V_n} = \text{Weighted Average API gravity for a property}$$

Where:

V_1=Average Production (bbls) of Well #1 over the last 3 calendar months of sales

V_2=Average Production (bbls) of Well #2 over the last 3 calendar months of sales

V_n=Average Production (bbls) of each additional well (V_3, V_4, etc.) over the last 3 calendar months of sales

G_1=Average Gravity (degrees) of oil produced from Well #1 over the last 3 calendar months of sales

G_2=Average Gravity (degrees) of oil produced from Well #2 over the last 3 calendar months of sales

G_n=Average Gravity (degrees) of each additional well (G_3, G_4, etc.) over the last 3 calendar months of sales

Example: Lease ''A'' has 3 wells producing at the following average rates over 3 sales months with the following associated average gravities: Well #1, 4,000 bbls, 13° API; Well #2, 6000 bbls, 21° API; Well #3, 2,000 bbls, 14° API. Using the equation above—

$$\frac{(4{,}000 \times 13) + (6{,}000 \times 21) + (2{,}000 \times 14)}{(4{,}000 + 6{,}000 + 2{,}000)} = 17.2 \text{ Weighted Average API gravity for property}$$

(4) For those properties subject to a communitization agreement or a unit participating area, the weighted average API oil gravity for the lands dedicated to that specific communitization agreement or unit participating area must be determined in the manner prescribed in paragraph (b)(3) of this section and assigned to all property subject to Federal royalties in the communitization agreement or unit participating area.

(5) The operator/payor must use the following procedures in order to obtain a royalty rate reduction under this section:

(i) *Qualifying royalty rate determination.*

(A) The operator/payor must calculate the weighted average API gravity for the property proposed for the royalty rate reduction in order to verify that the property qualifies as a heavy oil well property.

(B) Properties that have removed or sold oil less than 3 times in their productive life may still qualify for this royalty rate reduction. However, no additional royalty reductions will be granted until the property has a sales history of at least 3 production months (see paragraph (b)(2) of this section).

(ii) *Calculating the qualifying royalty rate.* If the Federal leases or portions thereof (e.g., communitization or unit agreements) qualify as heavy oil property, the operator/payor must use the weighted average API gravity rounded down to the next whole degree (e.g., 11.7 degrees API becomes 11 degrees), and determine the appropriate royalty rate from the following table:

ROYALTY RATE REDUCTION FOR HEAVY OIL

Weighted average API gravity (degrees)	Royalty Rate (percent)
6	0.5
7	1.4
8	2.2
9	3.1
10	3.9
11	4.8
12	5.6
13	6.5
14	7.4
15	8.2
16	9.1
17	9.9
18	10.8
19	11.6
20	12.5

(iii) *New royalty rate effective date.* The new royalty rate will be effective on the first day of production 2 months after BLM receives notification by the operator/payor. The rate will apply to all oil production from the property for the next 12 months (plus the 2 calendar month grace period during which the next 12 months' royalty rate is determined in the next year). If the API oil gravity is 20 degrees or greater, the royalty rate will be the rate in the lease terms.

Example: BLM receives notification from an operator on June 8, 1996. There is a two month period before new royalty rate is effective—July and August. New royalty rate is effective September 1, 1996.

(iv) *Royalty rate determinations in subsequent years.*

(A) At the end of each 12-month period, beginning on the first day of the calendar month the royalty rate reduction went into effect, the operator/payor must determine the weighted average API oil gravity for the property for that period. The operator/payor must then determine the royalty rate for the following year using the table in paragraph (b)(5)(ii) of this section.

(B) The operator/payor must notify BLM of its determinations under this paragraph and paragraph (b)(5)(iv)(A) of this section. The new royalty rate (effective for the next 12 month period) will become effective the first day of the third month after the prior 12 month period comes to a close, and will remain effective for 12 calendar months (plus the 2 calendar month grace period during which the next 12 months' royalty rate is determined in the next year). Notification must include copies

of the Purchaser's Statements (sales receipts) and be mailed to the proper BLM office. If the operator does not notify the BLM of the new royalty rate within 60 days after the end of the subject 12-month period, the royalty rate for the heavy oil well property will return to the rate in the lease terms.

Example: On September 30, 1997, at the end of a 12-month royalty reduction period, the operator/payor determines what the weighted average API oil gravity for the property for that period has been. The operator/payor then determines the new royalty rate for the next 12 month using the table in paragraph (b)(5)(ii) of this section. Given that there is a 2-month delay period for the operator/payor to calculate the new royalty rate, the new royalty rate would be effective December 1, 1997 through November 30, 1998 (plus the 2 calendar month grace period during which the next 12 months' royalty rate is determined—December 1, 1998 through January 31, 1999).

(v) *Prohibition*. Any heavy oil property reporting an API average oil gravity determined by BLM to have resulted from any manipulation of normal production or adulteration of oil sold from the property will not receive the benefit of a royalty rate reduction under this paragraph (b).

(vi) *Certification*. The operator/payor must use the applicable royalty rate when submitting the required royalty reports/payments to the Minerals Management Service (MMS). In submitting royalty reports/payments using a royalty rate reduction authorized by this paragraph (b), the operator/payor must certify that the API oil gravity for the initial and subsequent 12-month periods was not subject to manipulation or adulteration and the royalty rate was determined in accordance with the requirements and procedures of this paragraph (b).

(vii) *Agency action*. If an operator/payor incorrectly calculates the royalty rate, the BLM will determine the correct rate and notify the operator/payor in writing. Any additional royalties due are payable to MMS immediately upon receipt of this notice. Late payment or underpayment charges will be assessed in accordance with 30 CFR 218.102. The BLM will terminate a royalty rate reduction for a property if BLM determines that the API oil gravity was manipulated or adulterated by the operator/payor. Terminations of royalty rate reductions for individual properties will be effective on the effective date of the royalty rate reduction resulting from a manipulated or adulterated API oil gravity so that the termination will be retroactive to the effective date of the improper reduction. The operator/payor must pay the difference in royalty resulting from the retroactive application of the non-manipulated rate. The late payment or underpayment charges will assessed in accordance with 30 CFR 218.102.

(6) The BLM may suspend or terminate all royalty reductions granted under this paragraph (b) and terminate the availability of further heavy oil royalty relief under this section—

(i) Upon 6 month's notice in the FEDERAL REGISTER when BLM determines that the average oil price has remained above $24 per barrel over a period of 6 consecutive months (based on the WTI Crude average posted prices and adjusted for inflation using the implicit price deflator for gross national product with 1991 as the base year), or

(ii) After September 10, 1999, if the Secretary determines the royalty rate reductions authorized by this paragraph (b) have not been effective in reducing the loss of otherwise recoverable reserves. This will be determined by evaluating the expected versus the actual abandonment rate, the number of enhanced recovery projects, and the amount of operator reinvestment in heavy oil production that can be attributed to this rule.

(7) The heavy oil well property royalty rate reduction applies to all Federal oil produced from a heavy oil property.

(8) If the lease royalty rate is lower than the benefits provided in this heavy oil well property royalty rate reduction program, the lease rate prevails.

(9) If the property qualifies for a stripper well property royalty rate reduction, as well as a heavy oil well property reduction, the lower of the two rates applies.

(10) The operator/payor must separately calculate the royalty for gas production (including condensate produced in association with gas) from oil

completions using the lease royalty rate.

(11) The minimum royalty provisions of § 3103.3–2 will continue to apply.

[61 FR 4750, Feb. 8, 1996]

§ 3103.4–4 Suspension of operations and/or production.

(a) A suspension of all operations and production may be directed or consented to by the authorized officer only in the interest of conservation of natural resources. A suspension of operations only or a suspension of production only may be directed or consented to by the authorized officer in cases where the lessee is prevented from operating on the lease or producing from the lease, despite the exercise of due care and diligence, by reason of *force majeure*, that is, by matters beyond the reasonable control of the lessee. Applications for any suspension shall be filed in the proper BLM office. Complete information showing the necessity of such relief shall be furnished.

(b) The term of any lease shall be extended by adding thereto the period of the suspension, and no lease shall be deemed to expire during any suspension.

(c) A suspension shall take effect as of the time specified in the direction or assent of the authorized officer, in accordance with the provisions of § 3165.1 of this title.

(d) Rental and minimum royalty payments shall be suspended during any period of suspension of all operations and production directed or assented to by the authorized officer beginning with the first day of the lease month in which the suspension of all operations and production becomes effective, or if the suspension of all operations and production becomes effective on any date other than the first day of a lease month, beginning with the first day of the lease month following such effective date. Rental and minimum royalty payments shall resume on the first day of the lease month in which the suspension of all operations and production is terminated. Where rentals are creditable against royalties and have been paid in advance, proper credit shall be allowed on the next rental or royalty due under the terms of the lease. Rental and minimum royalty payments shall not be suspended during any period of suspension of operations only or suspension of production only.

(e) Where all operations and production are suspended on a lease on which there is a well capable of producing in paying quantities and the authorized officer approves resumption of operations and production, such resumption shall be regarded as terminating the suspension, including the suspension of rental and minimum royalty payments, as provided in paragraph (d) of this section.

(f) The relief authorized under this section also may be obtained for any Federal lease included within an approved unit or cooperative plan of development and operation. Unit or cooperative plan obligations shall not be suspended by relief obtained under this section but shall be suspended only in accordance with the terms and conditions of the specific unit or cooperative plan.

[53 FR 17354, May 16, 1988. Redesignated at 61 FR 4750, Feb. 8, 1996]

Subpart 3104—Bonds

§ 3104.1 Bond obligations.

(a) Prior to the commencement of surface disturbing activities related to drilling operations, the lessee, operating rights owner (sublessee), or operator shall submit a surety or a personal bond, conditioned upon compliance with all of the terms and conditions of the entire leasehold(s) covered by the bond, as described in this subpart. The bond amounts shall be not less than the minimum amounts described in this subpart in order to ensure compliance with the act, including complete and timely plugging of the well(s), reclamation of the lease area(s), and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease(s) in accordance with, but not limited to, the standards and requirements set forth in §§ 3162.3 and 3162.5 of this title and orders issued by the authorized officer.

(b) Surety bonds shall be issued by qualified surety companies approved by the Department of the Treasury (see

Department of the Treasury Circular No. 570).

(c) Personal bonds shall be accompanied by:

(1) Certificate of deposit issued by a financial institution, the deposits of which are Federally insured, explicitly granting the Secretary full authority to demand immediate payment in case of default in the performance of the terms and conditions of the lease. The certificate shall explicitly indicate on its face that Secretarial approval is required prior to redemption of the certificate of deposit by any party;

(2) Cashier's check;

(3) Certified check;

(4) Negotiable Treasury securities of the United States of a value equal to the amount specified in the bond. Negotiable Treasury securities shall be accompanied by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the terms and conditions of a lease; or

(5) Irrevocable letter of credit issued by a financial institution, the deposits of which are Federally insured, for a specific term, identifying the Secretary as sole payee with full authority to demand immediate payment in the case of default in the performance of the terms and conditions of a lease.

Letters of credit shall be subject to the following conditions:

(i) The letter of credit shall be issued only by a financial institution organized or authorized to do business in the United States;

(ii) The letter of credit shall be irrevocable during its term. A letter of credit used as security for any lease upon which drilling has taken place and final approval of all abandonment has not been given, or as security for a statewide or nationwide lease bond, shall be forfeited and shall be collected by the authorized officer if not replaced by other suitable bond or letter of credit at least 30 days before its expiration date;

(iii) The letter of credit shall be payable to the Bureau of Land Management upon demand, in part or in full, upon receipt from the authorized officer of a notice of attachment stating the basis therefor, e.g., default in compliance with the lease terms and conditions or failure to file a replacement in accordance with paragraph (c)(5)(ii) of this section;

(iv) The initial expiration date of the letter of credit shall be at least 1 year following the date it is filed in the proper BLM office; and

(v) The letter of credit shall contain a provision for automatic renewal for periods of not less than 1 year in the absence of notice to the proper BLM office at least 90 days prior to the originally stated or any extended expiration date.

[53 FR 22838, June 17, 1988]

§ 3104.2 Lease bond.

A lease bond may be posted by a lessee, owner of operating rights (sublessee), or operator in an amount of not less than $10,000 for each lease conditioned upon compliance with all of the terms of the lease. Where 2 or more principals have interests in different formations or portions of the lease, separate bonds may be posted. The operator on the ground shall be covered by a bond in his/her own name as principal, or a bond in the name of the lessee or sublessee, provided that a consent of the surety, or the obligor in the case of a personal bond, to include the operator under the coverage of the bond is furnished to the Bureau office maintaining the bond.

[53 FR 22839, June 17, 1988]

§ 3104.3 Statewide and nationwide bonds.

(a) In lieu of lease bonds, lessees, owners of operating rights (sublessees), or operators may furnish a bond in an amount of not less than $25,000 covering all leases and operations in any one State.

(b) In lieu of lease bonds or statewide bonds, lessees, owners of operating rights (sublessees), or operators may furnish a bond in an amount of not less than $150,000 covering all leases and operations nationwide.

[53 FR 22839, June 17, 1988; 53 FR 31958, Aug. 22, 1988]