Royalty Suspension Provisions
Eastern Gulf of Mexico Oil and Gas Lease Sale 189
(Proposed Notice of Sale)

The following Royalty Suspension Provisions apply to Deepwater Oil and Gas Production. In addition to these provisions, refer to 30 CFR 218.151 and applicable parts of 260.120-260.124 for regulations on how royalty suspensions relate to field assignment, product types, rental obligations, and supplemental royalty relief.*

1. A lease in water depths of 1,600 meters and deeper will receive a royalty suspension of 12 million barrels of oil equivalent.

2. The lessee must pay royalty on production that would otherwise receive royalty suspension from automatic relief (in 30 CFR 260) or supplemental relief (in 30 CFR 203) and such production will count towards the royalty suspension volume, in any calendar year during which the arithmetic average of the closing prices for the nearby delivery month on the New York Mercantile Exchange (NYMEX) for the applicable product exceeds the adjusted product price threshold.

a) The base level price threshold for light sweet crude oil is set at $28 per barrel in 1994. The adjusted oil price threshold in any subsequent calendar year is computed by changing the base price by the percentage by which the implicit price deflator for the gross domestic product has changed.

b) The base level price threshold for natural gas is set at $3.50 per million British thermal units (MMBTU) in 1994. The adjusted gas price threshold in any subsequent calendar year is computed by changing the base price by the percentage by which the implicit price deflator for the gross domestic product has changed.

c) As an example, suppose the computation for the deflator from 1994 through 2002 indicates that inflation totaled 18 percent. Then the adjusted price thresholds in calendar year 2003 would become $33.04 per barrel for oil and $4.13 per MMBTU for natural gas. Royalty on all oil production in calendar year 2003 would be due if the 2003 average NYMEX oil price exceeded $33.04 per barrel. Royalty on all natural gas production in calendar year 2003 would be due if the 2003 average NYMEX natural gas price exceeded $4.13 per MMBTU.

d) MMS will provide notice when adjusted price thresholds are exceeded. Also, information on price thresholds is available at the MMS website (www.mms.gov/econ).

e) In cases where the actual average price for the product exceeds the adjusted price threshold in any calendar year, royalties must be paid in the following calendar year. (See 30 CFR 260.122 (c) for more detail.)

3. There are no circumstances under which a single lease could receive a royalty suspension both for deep gas production and for deepwater production.

*The recent federal district court decision in a case **SantaFe, Snyder, et al. v. Norton** (U.S.D.C., W.D. La, Docket No.2:00-CV-1641) declared the regulations at 30 CFR 260.112 – 260.117 invalid. These regulations deal only with deep water leases issued in the 1996-2000 period (Eligible leases). This court decision has no effect on the royalty relief for deep water leases that will be issued in this lease sale because each lease gets its own royalty suspension volume regardless of the field to which it is eventually assigned. One provision, not mentioned in but affected by this decision, 30 CFR 260.124(b), deals with the sharing of relief on fields consisting of leases issued in the 1996-2000 period and leases issued in subsequent sales, including this one. If the district court's decision continues in force, production from leases issued in this sale may not have any bearing on the royalty suspension volume that Eligible leases may ultimately use on a field, contrary to provisions now in 30 CFR 260.124(b)(1). Moreover, your lease acquired in this sale may not produce royalty-free in excess of the suspension volume with which we issued it except as provided in 30 CFR 260.124(c).