Frequently Asked Questions: Cotenancy Royalties

(W. Va. Code §37B-1-1 through §37B-1-7)

1: What is the "Cotenancy Modernization and Majority Protection Act"?

It is a West Virginia law that allows an oil and gas operator such as EQT to develop a mineral tract when it is owned by multiple co-owners (called "cotenants") as long as owners holding at least three-fourths of the royalty interest in that tract have consented to development. (W. Va. Code §37B-1-4(a)).

2: I never signed a lease. How can my interest be developed?

Under this law, if the three-fourths consent threshold is met after EQT makes reasonable efforts to negotiate with all royalty owners, development of the whole tract is treated as lawful, and is not considered waste or trespass against non-consenting or unlocated co-owners. (§37B-1-4(a)). The definitions governing who qualifies as a "consenting cotenant", "nonconsenting cotenant", and "royalty owner" are set forth in §37B-1-3.

3: What am I entitled to receive in royalties as a nonconsenting cotenant?

You may choose (elect) between two options (§37B-1-4(b)):

> **Option 1 – A production royalty:** your pro rata share of a royalty calculated at the highest royalty percentage paid to any consenting cotenant in the same mineral property under an arm's-length lease, paid on gross proceeds at first point of sale, free of post-production deductions; or
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> **Option 2 – Working-interest participation:** you may instead elect to participate in the well's costs and revenues in proportion to your interest (a "carried interest" arrangement), subject to a cost-recovery formula, rather than take a royalty.

4: What happens if I don't make an election?

You have 45 days after EQT delivers its written best-and-final offer to elect. If you don't respond in that window, the law treats you as having chosen Option 1 (the production royalty) by default. (§37B-1-4(c)).

5: Can I challenge the royalty rate used?

Yes. Within 30 days after you choose (or are deemed to have chosen) the production royalty option, you may appeal to the West Virginia Oil and Gas Conservation Commission to verify that the highest royalty rate was calculated correctly. Development may continue while that appeal is pending. (§37B-1-4(c)).

6: Am I liable for anything if I didn't consent to development?

No. Nonconsenting cotenants and unknown/unlocatable owners who take a production royalty are not liable for bodily injury, property damage, title-warranty, or environmental claims arising from the operations, except for their own intentional acts. (§37B-1-5).

7: Does this affect my rights to other stratigraphic formations under my tract?

No. Development under this statute is limited to the specifically targeted formation (plus 100 feet above and below it). You retain your rights to all other formations. (§37B-1-4(e)).

8: When and how often should I expect to receive a royalty check?

You will receive your first royalty check within 120 days of the first sale of natural gas or natural gas liquids. Following your first check, you can expect to receive your check within 60 days of each sale. EQT may withhold royalty checks until they reach a threshold level of $50.00.

9: How is my interest calculated?

Your revenue statement will include a decimal identified as your net revenue interest ("NRI"). Your NRI is calculated based upon your net acres in the unit divided by the total unit acres, multiplied by the royalty rate in your statutory lease. By way of example, if you own 10 net acres in a 700-acre unit and the royalty rate in your statutory lease is 15%, your NRI would be calculated as follows: (10/700)*.15 = 0.00214286.[1]

Disclaimer: This FAQ is provided by EQT Production Company as a general, plain-language summary of West Virginia Code §37B-1-1 et seq. for informational purposes only. It is not a substitute for the statutory text and it is not legal advice. If you have questions about your specific ownership interest, you may wish to consult your own attorney.

[1] In the event the unit contains an allocation well (i.e., a well that traverses more than one unit), your NRI will be reduced based on the productive lateral footage of the well located in your unit.