

**§ 3178.1**

**43 CFR Ch. II (10–1–17 Edition)**

3,600	12.89	7,600	11.09	11,600	9.50
3,700	12.84	7,700	11.05	11,700	9.47
3,800	12.79	7,800	11.01	11,800	9.43
3,900	12.74	7,900	10.97	11,900	9.39

ft msl = feet above mean sea level

Calculated as:  

$$P_{atm} = 14.696 \times (1 - 0.00000686E)^{5.25577}$$

Where:

$P_{atm}$  is atmospheric pressure, psi  
 $E$  is meter elevation, feet above mean sea level

From: U.S. Standard Atmosphere, 1976, U.S. Government Printing Office, Washington, D.C., 1976.

**Subpart 3178—Royalty-Free Use of Lease Production**

SOURCE: 81 FR 83078, Nov. 18, 2016, unless otherwise noted.

**§ 3178.1 Purpose.**

The purpose of this subpart is to address the circumstances under which oil or gas produced from Federal and Indian leases may be used royalty-free in operations on the lease, unit, or communitized area. This subpart supersedes those portions of Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases, Royalty or Compensation for Oil or Gas Lost (NTL-4A), pertaining to oil or gas used for beneficial purposes.

**§ 3178.2 Scope.**

- (a) This subpart applies to:
  - (1) All onshore Federal and Indian (other than Osage Tribe) oil and gas leases, units, and communitized areas, except as otherwise provided in this subpart;
  - (2) Indian Mineral Development Act (IMDA) oil and gas agreements, unless specifically excluded in the agreement or unless the relevant provisions of this subpart are inconsistent with the agreement;
  - (3) Leases and other business agreements and contracts for the development of tribal energy resources under a Tribal Energy Resource Agreement entered into with the Secretary, unless specifically excluded in the lease, other business agreement, or Tribal Energy Resource Agreement;

## Bureau of Land Management, Interior

## § 3178.5

(4) Committed State or private tracts in a federally approved unit or communitization agreement defined by or established under 43 CFR subpart 3105 or 43 CFR part 3180; and

(5) All onshore wells, and production equipment located on a Federal or Indian lease or a federally approved unit or communitized area, and compressors located on a Federal or Indian lease or a federally approved unit or communitized area and which compress production from the same Federal or Indian lease or federally approved unit or communitized area.

(b) For purposes of this subpart, the term "lease" also includes IMDA agreements.

### § 3178.3 Production on which royalty is not due.

(a) To the extent specified in §§ 3178.4 and 3178.5, royalty is not due on:

(1) Oil or gas that is produced from a lease or communitized area and used for operations and production purposes (including placing oil or gas in marketable condition) on the same lease or communitized area without being removed from the lease or communitized area; or

(2) Oil or gas that is produced from a unit PA and used for operations and production purposes (including placing oil or gas in marketable condition) on the unit, for the same unit PA, without being removed from the unit.

(b) For the uses described in § 3178.5, the operator must obtain prior written BLM approval for the volumes used for operational and production purposes to be royalty free.

### § 3178.4 Uses of oil or gas on a lease, unit, or communitized area that do not require prior written BLM approval for royalty-free treatment of volumes used.

(a) Oil or gas produced from a lease, unit, or communitized area may be used royalty-free for operations and production purposes on the lease, unit, or communitized area without prior written BLM approval in the following circumstances:

(1) Use of fuel to generate power or operate combined heat and power;

(2) Use of fuel to power equipment, including artificial lift equipment, equipment used for enhanced recovery,

drilling rigs, and completion and workover equipment;

(3) Use of gas to actuate pneumatic controllers or operate pneumatic pumps at production facilities;

(4) Use of fuel to heat, separate, or dehydrate production;

(5) Use of gas as a pilot fuel or as assist gas for a flare, combustor, thermal oxidizer, or other control device;

(6) Use of fuel to compress or treat gas to place it in marketable condition;

(7) Use of oil to clean the well and improve production, *e.g.*, hot oil treatments. The operator must document the removal of the oil from the tank or pipeline under Onshore Oil and Gas Order No. 3 (Site Security), or any successor regulation;

(8) Use of oil as a circulating medium in drilling operations, if the use is part of an approved Drilling Plan under Onshore Oil and Gas Order No. 1;

(9) Injection of gas for the purpose of conserving gas or increasing the recovery of oil or gas, if the BLM has approved the injection under applicable regulations in parts 3100, 3160, or 3180 of this title; and

(10) Injection of gas that is cycled in a contained gas-lift system.

(b) The volume to be treated as royalty free must not exceed the amount of fuel reasonably necessary to perform the operational function, using equipment of appropriate capacity.

### § 3178.5 Uses of oil or gas on a lease, unit, or communitized area that require prior written BLM approval for royalty-free treatment of volumes used.

(a) Oil or gas produced from a lease, unit, or communitized area may also be used royalty-free for the following operations and production purposes on the lease, unit, or communitized area, but prior written BLM approval is required to ensure that production accountability is maintained:

(1) Use of oil or gas that the operator removes from the pipeline at a location downstream of the Facility Measurement Point (FMP);

(2) Use of gas that has been removed from the lease, unit PA, or communitized area for treatment or

### §3178.6

processing because of particular physical characteristics of the gas that require the gas to be treated or processed prior to use, where the gas is returned to, and used on, the lease, unit PA, or communitized area from which it was produced; and

(3) Any other types of use of produced oil or gas for operations and production purposes, which are not identified in §3178.4.

(b)(1) The operator must obtain BLM approval to conduct activities under paragraph (a) of this section by submitting a Form 3160-5, Sundry Notices and Reports on Wells (Sundry Notice) containing the information required under §3178.9. If the BLM disapproves a request for royalty-free treatment for volumes used under this section, the operator must pay royalties on such volumes. If the BLM approves a request for royalty-free treatment for volumes used under this section, such approval will be deemed effective from the date the request was filed.

(2) With respect to uses under paragraph (a)(1) of this section, the operator must measure the volume of oil or gas used in accordance with Onshore Oil and Gas Orders No. 4 (oil) and 5 (gas) as applicable, or other successor regulations.

(3) With respect to removals under paragraph (a)(2) of this section, the operator must measure any gas returned to the lease, unit, or communitized area under such an approval in accordance with Onshore Oil and Gas Order No. 5 or other successor regulations.

### **§3178.6 Uses of oil or gas moved off the lease, unit, or communitized area that do not require prior written approval for royalty-free treatment of volumes used.**

Oil or gas used after being moved off the lease, unit, or communitized area may be treated as royalty free without prior written BLM approval only if the use meets the criteria under §3178.4 and when:

(a) The oil or gas is transported from one area of the lease, unit, or communitized area to another area of the same lease, unit, or communitized area where it is used, and no oil or gas is added to or removed from the pipeline while crossing lands that are not

### 43 CFR Ch. II (10-1-17 Edition)

part of the lease, unit, or communitized area; or

(b) A well is directionally drilled, the wellhead is not located on the producing lease, unit, or communitized area, and oil or gas is used on the same well pad for operations and production purposes for that well.

### **§3178.7 Uses of oil or gas moved off the lease, unit, or communitized area that require prior written approval for royalty-free treatment of volumes used.**

(a) Except as provided in §3178.6(b) and paragraph (b) of this section, royalty is owed on all oil or gas used in operations conducted off the lease, unit, or communitized area.

(b) The BLM may grant prior written approval to treat oil or gas used in operations conducted off the lease, unit, or communitized area as royalty free (referred to as off-lease royalty-free use) if the use is among those listed in §3178.4(a) and §3178.5(a) and if:

(1) The equipment or facility in which the operation is conducted is located off the lease, unit, or communitized area for engineering, economic, resource protection, or physical accessibility reasons; and

(2) The operations are conducted upstream of the FMP.

(c) The operator must obtain BLM approval under paragraph (b) of this section by submitting a Sundry Notice containing the information required under §3178.9. If the BLM disapproves a request for royalty-free treatment for volumes used under this section, the operator must pay royalties on such volumes. If the BLM approves a request for royalty-free treatment for volumes used under this section, such approval will be deemed effective from the date the request was filed.

(d) Approval of measurement or commingling off the lease, unit, or communitized area under other regulations does not constitute approval of off-lease royalty-free use. The operator or lessee must expressly request, and submit its justification for, approval of off-lease royalty-free use.

(e) If equipment or a facility located on a particular lease, unit, or communitized area treats oil or gas produced from properties that are not unitized or communitized with the

## Bureau of Land Management, Interior

## § 3179.2

property on which the equipment or facility is located, in addition to treating oil or gas produced from the lease, unit, or communitized area on which the equipment or facility is located, the operator may report as royalty free only that portion of the oil or gas used as fuel that is properly allocable to the share of production contributed by the lease, unit, or communitized area on which the equipment is located, unless otherwise authorized by the BLM under this section.

### § 3178.8 Measurement or estimation of volumes of oil or gas that are used royalty-free.

(a) The operator must measure or estimate the volumes of royalty-free gas used in operations upstream of the FMP.

(b) The operator must measure the volume of gas that is removed from the product stream downstream of the FMP and used royalty-free pursuant to sections 3178.4 through 3178.7.

(c) The operator must measure the volume of oil that is used royalty-free pursuant to sections 3178.4 through 3178.7. The operator must also document removal of such oil from the tank or pipeline.

(d) If the operator removes oil or gas downstream of the FMP and that oil or gas is used royalty-free pursuant to sections 3178.4 through 3178.7, the operator must apply for an FMP under section 3173.12 to measure the oil or gas that is removed for use.

(e) When estimating gas volumes, the operator must use the best available information to make a reasonable estimate.

(f) Each of the volumes required to be measured or estimated, as applicable, under this subpart, must be reported by the operator following applicable ONRR reporting requirements.

### § 3178.9 Requesting approval of royalty-free treatment when approval is required.

To request written approval of royalty-free use when required under § 3178.5 or § 3178.7, the operator must submit a Sundry Notice that includes the following information:

(a) A complete description of the operation to be conducted, including the

location of all facilities and equipment involved in the operation and the location of the FMP;

(b) The volume of oil or gas that the operator expects will be used in the operation, and the method of measuring or estimating that volume;

(c) If the volume of gas expected to be used will be estimated, the basis for the estimate (*e.g.*, equipment manufacturer's published consumption or usage rates); and

(d) The proposed disposition of the oil or gas used (*e.g.*, whether gas used would be consumed as fuel, vented through use of a gas-activated pneumatic controller, returned to the reservoir, or used in some other way).

### § 3178.10 Facility and equipment ownership.

The operator is not required to own or lease the equipment or facility that uses oil or gas royalty free. The operator is responsible for obtaining all authorizations, measuring production, reporting production, and all other applicable requirements.

## Subpart 3179—Waste Prevention and Resource Conservation

SOURCE: 81 FR 83078, Nov. 18, 2016, unless otherwise noted.

### § 3179.1 Purpose.

The purpose of this subpart is to implement and carry out the purposes of statutes relating to prevention of waste from Federal and Indian (other than Osage Tribe) leases, conservation of surface resources, and management of the public lands for multiple use and sustained yield. This subpart supersedes those portions of Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases, Royalty or Compensation for Oil and Gas Lost (NTL-4A), pertaining to, among other things, flaring and venting of produced gas, unavoidably and avoidably lost gas, and waste prevention.

### § 3179.2 Scope.

(a) This subpart applies to:

(1) All onshore Federal and Indian (other than Osage Tribe) oil and gas leases, units, and communitized areas,