

Bureau of Land Management, Interior

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AUTHORITY: 25 U.S.C. 396d and 2107; 30 U.S.C. 189, 306, 359, and 1751; and 43 U.S.C. 1732(b), 1733, and 1740.

SOURCE: 81 FR 81421, Nov. 17, 2016, unless otherwise noted.

Subpart 3170—Onshore Oil and Gas Production: General

§ 3170.1 Authority.

The authorities for promulgating the regulations in this part are the Mineral Leasing Act, 30 U.S.C. 181 *et seq.*; the Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351 *et seq.*; the Federal Oil and Gas Royalty Management Act, 30 U.S.C. 1701 *et seq.*; the Indian Mineral Leasing Act, 25 U.S.C. 396a *et seq.*; the Act of March 3, 1909, 25 U.S.C. 396; the Indian Mineral Development Act, 25 U.S.C. 2101 *et seq.*; and the Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.* Each of these statutes gives the Secretary the authority to promulgate necessary and appropriate rules and regulations governing Federal and Indian (except Osage Tribe) oil and gas leases. See 30 U.S.C. 189; 30 U.S.C. 359; 25 U.S.C. 396d; 25 U.S.C. 396; 25 U.S.C. 2107; and 43 U.S.C. 1740. Under Secretarial Order Number 3087, dated December 3, 1982, as amended on February 7, 1983 (48 FR 8983), and the Departmental Manual (235 DM 1.1), the Secretary has delegated regulatory authority over onshore oil and gas development on Federal and Indian (except Osage Tribe) lands to the BLM. For Indian leases, the delegation of au-

thority to the BLM is reflected in 25 CFR parts 211, 212, 213, 225, and 227. In addition, as authorized by 43 U.S.C. 1731(a), the Secretary has delegated to the BLM regulatory responsibility for oil and gas operations on Indian lands. 235 DM 1.1.K.

§ 3170.2 Scope.

The regulations in this part apply to:

(a) All Federal onshore and Indian oil and gas leases (other than those of the Osage Tribe);

(b) Indian Mineral Development Act (IMDA) agreements for oil and gas, unless specifically excluded in the agreement or unless the relevant provisions of the rule are inconsistent with the agreement;

(c) Leases and other business agreements 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;

(d) State or private tracts committed to a federally approved unit or communitization agreement (CA) as defined by or established under 43 CFR subpart 3105 or 43 CFR part 3180; and

(e) All onshore facility measurement points where oil or gas produced from the leases or agreements identified earlier in this section is measured.

§ 3170.3 Definitions and acronyms.

(a) As used in this part, the term:

Allocated or allocation means a method or process by which production is measured at a central point and apportioned to the individual lease, or unit Participating Area (PA), or CA from which the production originated.

API (followed by a number) means the American Petroleum Institute Manual of Petroleum Measurement Standards, with the number referring to the Chapter and Section in that manual.

Audit trail means all source records necessary to verify and recalculate the volume and quality of oil or gas production measured at a facility measurement point (FMP) and reported to the Office of Natural Resources Revenue (ONRR).

Authorized officer (AO) has the same meaning as defined in 43 CFR 3000.0-5.

Averaging period means the previous 12 months or the life of the meter, whichever is shorter. For FMPs that measure production from a newly drilled well, the averaging period excludes production from that well that occurred in or before the first full month of production. (For example, if an oil FMP and a gas FMP were installed to measure only the production from a new well that first produced on April 10, the averaging period for this FMP would not include the production that occurred in April (partial month) and May (full month) of that year.)

Bias means a shift in the mean value of a set of measurements away from the true value of what is being measured.

By-pass means any piping or other arrangement around or avoiding a meter or other measuring device or method (or component thereof) at an FMP that allows oil or gas to flow without measurement. Equipment that permits the changing of the orifice plate of a gas meter without bleeding the pressure off the gas meter run (*e.g.*, senior fitting) is not considered to be a by-pass.

Commingling, for production accounting and reporting purposes, means combining, before the point of royalty measurement, production from more than one lease, unit PA, or CA, or production from one or more leases, unit PAs, or CAs with production from State, local governmental, or private properties that are outside the boundaries of those leases, unit PAs, or CAs. Combining production from multiple wells within a single lease, unit PA, or CA, or combining production downhole from different geologic formations within the same lease, unit PA, or CA, is not considered commingling for production accounting purposes.

Communitized area means the area committed to a BLM approved communitization agreement.

Communitization agreement (CA) means an agreement to combine a lease or a portion of a lease that cannot otherwise be independently developed and operated in conformity with an established well spacing or well development program, with other tracts for purposes of cooperative development and operations.

Condition of Approval (COA) means a site-specific requirement included in the approval of an application that may limit or modify the specific actions covered by the application. Conditions of approval may minimize, mitigate, or prevent impacts to public lands or resources.

Days means consecutive calendar days, unless otherwise indicated.

Facility means:

(i) A site and associated equipment used to process, treat, store, or measure production from or allocated to a Federal or Indian lease, unit PA, or CA that is located upstream of or at (and including) the approved point of royalty measurement; and

(ii) A site and associated equipment used to store, measure, or dispose of produced water that is located on a lease, unit, or communitized area.

Facility measurement point (FMP) means a BLM-approved point where oil or gas produced from a Federal or Indian lease, unit PA, or CA is measured and the measurement affects the calculation of the volume or quality of production on which royalty is owed. FMP includes, but is not limited to, the approved point of royalty measurement and measurement points relevant to determining the allocation of production to Federal or Indian leases, unit PAs, or CAs. However, allocation facilities that are part of a commingling and allocation approval under §3173.15 or that are part of a commingling and allocation approval approved after July 9, 2013, are not FMPs. An FMP also includes a meter or measurement facility used in the determination of the volume or quality of royalty-bearing oil or gas produced before BLM approval of an FMP under §3173.12. An FMP must be located on the lease, unit, or communitized area unless the BLM approves measurement off the lease, unit, or CA. The BLM will not approve a gas processing plant tailgate meter located off the lease, unit, or CA, as an FMP.

Gas means any fluid, either combustible or noncombustible, hydrocarbon or non-hydrocarbon, that has neither independent shape nor volume, but tends to expand indefinitely and exists in a gaseous state under metered temperature and pressure conditions.

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Incident of Noncompliance (INC) means documentation that the BLM issues that identifies violations and notifies the recipient of the notice of required corrective actions.

Lease has the same meaning as defined in 43 CFR 3160.0-5.

Lessee has the same meaning as defined in 43 CFR 3160.0-5.

NIST traceable means an unbroken and documented chain of comparisons relating measurements from field or laboratory instruments to a known standard maintained by the National Institute of Standards and Technology (NIST).

Notice to lessees and operators (NTL) has the same meaning as defined in 43 CFR 3160.0-5.

Off-lease measurement means measurement at an FMP that is not located on the lease, unit, or communitized area from which the production came.

Oil means a mixture of hydrocarbons that exists in the liquid phase at the temperature and pressure at which it is measured. Condensate is considered to be oil for purposes of this part. Gas liquids extracted from a gas stream upstream of the approved point of royalty measurement are considered to be oil for purposes of this part.

(i) *Clean oil or Pipeline oil* means oil that is of such quality that it is acceptable to normal purchasers.

(ii) *Slop oil* means oil that is of such quality that it is not acceptable to normal purchasers and is usually sold to oil reclaimers. Oil that can be made acceptable to normal purchasers through special treatment that can be economically provided at existing or modified facilities or using portable equipment at or upstream of the FMP is not slop oil.

(iii) *Waste oil* means oil that has been determined by the AO or authorized representative to be of such quality that it cannot be treated economically and put in a marketable condition with existing or modified lease facilities or portable equipment, cannot be sold to reclaimers, and has been determined by the AO to have no economic value.

Operator has the same meaning as defined in 43 CFR 3160.0-5.

Participating area (PA) has the same meaning as defined in 43 CFR 3180.0-5.

Point of royalty measurement means a BLM-approved FMP at which the volume and quality of oil or gas which is subject to royalty is measured. The point of royalty measurement is to be distinguished from meters that determine only the allocation of production to particular leases, unit PAs, CAs, or non-Federal and non-Indian properties. The point of royalty measurement is also known as the point of royalty settlement.

Production means oil or gas removed from a well bore and any products derived therefrom.

Production Measurement Team (PMT) means a panel of members from the BLM (which may include BLM-contracted experts) that reviews changes in industry measurement technology, methods, and standards to determine whether regulations should be updated, and provides guidance on measurement technologies and methods not addressed in current regulation. The purpose of the PMT is to act as a central advisory body to ensure that oil and gas produced from Federal and Indian leases is accurately measured and properly reported.

Purchaser means any person or entity who legally takes ownership of oil or gas in exchange for financial or other consideration.

Source record means any unedited and original record, document, or data that is used to determine volume and quality of production, regardless of format or how it was created or stored (*e.g.*, paper or electronic). It includes, but is not limited to, raw and unprocessed data (*e.g.*, instantaneous and continuous information used by flow computers to calculate volumes); gas charts; measurement tickets; calibration, verification, prover, and configuration reports; pumper and gauger field logs; volume statements; event logs; seal records; and gas analyses.

Statistically significant describes a difference between two data sets that exceeds the threshold of significance.

Tampering means any deliberate adjustment or alteration to a meter or measurement device, appropriate valve, or measurement process that could introduce bias into the measurement or affect the BLM's ability to

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independently verify volumes or qualities reported.

Threshold of significance means the maximum difference between two data

sets (a and b) that can be attributed to uncertainty effects. The threshold of significance is determined as follows:

$$T_s = \sqrt{U_a^2 + U_b^2}$$

Where:

T_s = Threshold of significance, in percent

U_a = Uncertainty (95 percent confidence) of data set a, in percent

U_b = Uncertainty (95 percent confidence) of data set b, in percent

Total observed volume (TOV) means the total measured volume of all oil, sludges, sediment and water, and free water at the measured or observed temperature and pressure.

Transporter means any person or entity who legally moves or transports oil or gas from an FMP.

Uncertainty means the statistical range of error that can be expected between a measured value and the true value of what is being measured. Uncertainty is determined at a 95 percent confidence level for the purposes of this part.

Unit means the land within a unit area as defined in 43 CFR 3180.0–5.

Unit PA means the unit participating area, if one is in effect, the exploratory unit if there is no associated participating area, or an enhanced recovery unit.

Variance means an approved alternative to a provision or standard of a regulation, Onshore Oil and Gas Order, or NTL.

(b) As used in this part, the following additional acronyms apply:

API means American Petroleum Institute.

BLM means the Bureau of Land Management.

Btu means British thermal unit.

CMS means Coriolis Measurement System.

LACT means lease automatic custody transfer.

OGOR means Oil and Gas Operations Report (Form ONRR–4054 or any successor report).

ONRR means the Office of Natural Resources Revenue, U.S. Department

of the Interior, and includes any successor agency.

S&W means sediment and water.

WIS means Well Information System or any successor electronic filing system.

§ 3170.4 Prohibitions against by-pass and tampering.

(a) All by-passes are prohibited.

(b) Tampering with any measurement device, component of a measurement device, or measurement process is prohibited.

(c) Any by-pass or tampering with a measurement device, component of a measurement device, or measurement process may, together with any other remedies provided by law, result in an assessment of civil penalties for knowingly or willfully:

(1) Taking, removing, transporting, using, or diverting oil or gas from a lease site without valid legal authority under 30 U.S.C. 1719(d)(2) and 43 CFR 3163.2(f)(2); or

(2) Preparing, maintaining, or submitting false, inaccurate, or misleading reports, records, or information under 30 U.S.C. 1719(d)(1) and 43 CFR 3163.2(f)(1).

§ 3170.5 [Reserved]

§ 3170.6 Variances.

(a) Any party subject to a requirement of a regulation in this part may request a variance from that requirement.

(1) A request for a variance must include the following:

(i) Identification of the specific requirement from which the variance is requested;

(ii) Identification of the length of time for which the variance is requested, if applicable;

(iii) An explanation of the need for the variance;