

sets forth specific measurement performance requirements with respect to uncertainty, bias, and verifiability that apply to all measurement methods under subpart 3174. Additional requirements specific to measurement by a CMS are detailed in §§ 3174.9 and 3174.10.

Subpart 3174 defines a “Coriolis measurement system (CMS)” as “a metering system using a Coriolis meter in conjunction with a tertiary device, pressure transducer, and temperature transducer in order to derive and report gross standard oil volume. A CMS system provides real-time, on-line measurement of oil.”⁵

Section 3174.9 sets forth a number of “general requirements” for a CMS: The CMS must meet the performance requirements of § 3174.4; the specific make, model, and size of the Coriolis meter and associated software must have been reviewed and approved by the BLM’s Production Measurement Team (PMT); the CMS must be “proven” in accordance with § 3174.11; measurement tickets must be completed under § 3174.12(b); the CMS must be composed of specific components meeting specified requirements; API oil gravity must be reported using a specified method; and, net standard volume must be calculated in accordance with certain API guidelines. Section 3174.10 contains CMS operating requirements pertaining to minimum electronic pulse levels, meter specifications, totalizers, meter zero value verification, required on-site information, audit trails, and data protection.

The subpart 3174 regulations do not specifically address the use of TMC meters. However, the preamble to the final rule did address TMC meters as follows:

One commenter said the final rule should allow operators to use truck-mounted CMS and submitted summarized data to support their view. The summarized data indicates significant differences between manual-gauged volumes and truck-mounted Coriolis-metered volumes. A summary of these volume differences indicated that the truck-mounted Coriolis meter measured as much as 22.44 bbl less than [sic] the manual gauge measured. Missing from the data is the volume of the entire load. The BLM needs this information to understand how significant these variations are. The data also indicates significant differences in measured oil temperature (as much as 23 °F) and gravity (as much as 5 degrees) when compared to manual methods. The commenter did not explain these differences or explain or justify the data submitted. The

BLM decided not to include the use of truck-mounted Coriolis metering in the final rule. Operators may seek approval to use the truck-mounted option through the PMT approval process, which is outlined in § 3174.13. The rule was not changed based on this comment.

81 FR 81485.

Thus, in the preamble, the BLM expressed an intent not to authorize the use of TMC meters as a CMS, and implicitly categorized TMC meters as a “method of oil measurement other than tank gauging, LACT system, or CMS” that requires prior BLM approval.⁶

Discussion

The BLM is revising the position it took regarding TMC meters, as described in the final rule preamble language described earlier, because it believes that the text of subpart 3174 supports an interpretation that allows for the use of TMC meters. Because TMC meters involve the use of “a Coriolis meter in conjunction with a tertiary device, pressure transducer, and temperature transducer in order to derive and report gross standard volume of oil,” and “provides real-time, on-line measurement of oil,” they meet the definition of a CMS in § 3174.1. And, TMC meters can comply with subpart 3174’s requirements for a CMS. In particular, TMC meters are capable of meeting the specific performance requirements for uncertainty, bias, and verifiability set forth in § 3174.4 (as required by § 3174.9(a)). The BLM also believes that TMC meters are capable of complying with § 3179.9, which prescribes “general requirements and components” for a CMS, and § 3179.10, which sets forth the “operating requirements” for a CMS. Therefore, after considering TMC meters in light of the plain text of subpart 3174, the BLM has concluded that TMC meters are a type of a CMS and thus are an acceptable method of oil measurement as long as the TMC meters meet the requirements of subpart 3174.

The BLM acknowledges that the preamble to the 3174 regulations stated that the BLM was not including TMC meters in the final rule and that operators could seek BLM approval of TMC meters through the PMT approval process. The BLM no longer agrees with that interpretation of subpart 3174. In the first instance, while the preamble to a rule may be used to inform the proper interpretation of ambiguous regulation text, it cannot override the regulation’s plain meaning. *See Wyoming Outdoor*

Council v. U.S. Forest Service, 165 F.3d 43, 53 (D.C. Cir. 1999) (noting that “[l]anguage in the preamble of a regulation is not controlling over the language of the regulation itself”); *BHP Minerals International, Inc. et al*, 139 IBLA 269, 310 (1997) (“Where there is a conflict between ‘intent’ as expressed in a preamble and as ultimately explicated in the actual language of the regulation, it is the language of the regulation which is determinative.”). As explained earlier, the plain text of subpart 3174 indicates that TMC meters are a type of a CMS, and the text of the regulation should control. In addition, the BLM has reconsidered the rationale underlying the interpretation espoused in the preamble. The view of TMC meters expressed in that preamble passage appears to be inconsistent with the view expressed by the BLM in the 2008 IM stating that “the use of truck mounted meters for measuring oil from tanks in lieu of tank gauging is a Best Management Practice (BMP) for oil measurement.” With respect to the measurement data analyzed, the preamble passage does not address the possibility that the difference in results might be attributable to TMC meters’ measuring capacity being more accurate than manual tank gauging. It would seem incongruous to conclude that measurement by a truck-mounted Coriolis meter would be unacceptably inaccurate where the BLM would accept measurement by the same Coriolis meter in a stationary CMS. For the foregoing reasons, the BLM is now clarifying that it interprets subpart 3174 as allowing for the use of TMC meters, as long as such use is conducted in accordance with the subpart 3174 requirements for a CMS.

(Authority: 30 U.S.C. 189; 30 U.S.C. 1751(a), 43 CFR 3170.1)

Rebecca Good,

Acting Chief, Division of Fluid Minerals.

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[21X.LLAZ921000.L1440000.BJ0000.
LXSSA2250000.241A]

Notice of Filing of Plats of Survey; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed 30 days after the

⁵ 43 CFR 3174.1(a). “Tertiary device” means, “for a CMS, the flow computer and associated memory, calculation, and display functions.” *Id.*

⁶ Subpart 3174 allows for a “method of oil measurement other than tank gauging, LACT system, or CMS” to be used where it has been approved by the BLM. 43 CFR 3174.13.

date of this publication in the Bureau of Land Management (BLM), Arizona State Office, Phoenix, Arizona. The surveys announced in this notice are necessary for the management of lands administered by the agency indicated.

ADDRESSES: These plats will be available for inspection in the Arizona State Office, Bureau of Land Management, One North Central Avenue, Suite 800, Phoenix, Arizona, 85004-4427. Protests of any of these surveys should be sent to the Arizona State Director at this address.

FOR FURTHER INFORMATION CONTACT: Mark D. Morberg, Chief Cadastral Surveyor of Arizona; (602) 417-9558; mmorberg@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

The Gila and Salt River Meridian, Arizona

The plat, in one sheet, representing a metes-and-bounds survey in section 6, Township 20 North, Range 7 East, accepted July 22, 2021, for Group 1204, Arizona. This plat was prepared at the request of the United States Air Force.

The plat, in three sheets, representing the dependent resurvey of portions of the south, and east boundaries and a portion of the subdivisional lines, the subdivision of sections 33 and 34, the survey of the boundary of the Glen Canyon National Recreation Area, the establishment of the dividing line which crosses the Colorado river between the Grand Canyon National Park and Glen Canyon National Recreation Area and the Metes-and-bounds survey of a portion of the right-of-way of U. S. Highway No. 89A, Township 40 North, Range 7 East, accepted August 17, 2021, for Group 1205, Arizona. This plat was prepared at the request of Glen Canyon National Recreation Area.

The plat, two sheets, representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of section 11, and the photogrammetric survey of a portion of the Colorado River left bank meanders along the Glen Canyon National Recreation Area boundary, partially surveyed Township 40 North, Range 8 East, accepted August 17, 2021, for Group 1205, Arizona. This plat was prepared at the request of Glen Canyon National Recreation Area.

The plat, in one sheet, representing the dependent resurvey of a portion of the south and west boundaries and a portion of the subdivisional lines, the subdivision of section 31, and a metes-and-bounds survey in section 7, Township 18 North, Range 24 East, accepted August 17, 2021, for Group 1211, Arizona. This plat was prepared at the request of the Petrified National Park.

The plat, in one sheet, representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of section 7, Township 4 North, Range 2 West, accepted April 14, 2021, for Group 1199, Arizona. This plat was prepared at the request of United States Air Force.

The plat, in one sheet, representing the dependent resurvey of a portion of the north boundary of Township 12 North, Range 2 West, a portion of the subdivisional lines and the boundary of Mineral Survey Nos. 1690, 1691, 2348 and 2420, Township 12 North, Range 2 West, accepted August 17, 2021, for Group 1206, Arizona. This plat was prepared at the request of the United States Forest Service.

The plat, in two sheets, represents the dependent resurvey of a portion of the First Standard Parallel North, a portion of the east boundary, and a portion of the subdivisional lines, the subdivision of sections 1, 2 and 12, and a metes-and-bounds survey in section 2, Township 4 North, Range 3 West, accepted April 14, 2021, for Group 1199, Arizona. This plat was prepared at the request of the United States Air Force.

The plat, in one sheet, representing the dependent resurvey of a portion of the west boundary, and portions of the subdivisional lines, and the subdivision of sections 18, 19 and 30, Township 6 South, Range 4 West, accepted April 14, 2021, for Group 1210, Arizona. This plat was prepared at the request of the United States Air Force.

The plat, in two sheets, representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of certain sections and the metes-and-bounds survey of the administrative boundary of Gila Bend Air Force Auxiliary Field, Township 6 South, Range 5 West, accepted April 14, 2021, for Group 1210, Arizona. This plat was prepared at the request of United States Air Force.

The plat, in one sheet, representing the dependent resurvey of a portion of the Marine Corps Air Station Yuma Martinez Lake Recreation Area boundary from Angle Point 12 to Angle Point 13, fractional Township 5 South, Range 22 West, accepted July 22, 2021, for Group 1175, Arizona. This plat was

prepared at the request of the United States Marine Corps.

The plat, in one sheet, representing the dependent resurvey of a portion of the east boundary and portions of the subdivisional lines, the subdivision of sections 23 and 24 and metes-and-bounds surveys, Township 6 South, Range 19 East, accepted August 17, 2021, for Group 1208, Arizona. This plat was prepared at the request of the Bureau of Land Management.

The plat, in one sheet, representing the dependent resurvey of a portion of the west boundary and a portion of the subdivisional lines, and the subdivision of section 30, Township 6 South, Range 26 East, accepted August 17, 2021, for Group 1215, Arizona. This plat was prepared at the request of the Bureau of Land Management.

A person or party who wishes to protest against any of these surveys must file a written notice of protest within 30 calendar days from the date of this publication with the Arizona State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within 30 days after the protest is filed. Before including your address, or other personal information in your protest, please be aware that your entire protest, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 U.S.C. Chap. 3.)

Mark Morberg,

Chief Cadastral Surveyor of Arizona.

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