Frequently Asked Questions (FAQ)
43 CFR 3170/3173

§3170.4
Question: What about existing variance approvals for by-passes around FMPs?

Answer: For existing approved variances no immediate assessment will be issued, however the approval will be rescinded at the earliest possible time (i.e. when identified by BLM or the operator requests re-evaluation). The operator must be given not less than a 20 day time frame to either re-apply for the variance under 43 CFR 3170.6 or remove the by-pass.

§3170.6
Question: What about existing variance approvals issued under Onshore Order 3, 4, 5, NTL 4A?

Answer: If the variance was approved and is no longer required under 43 CFR 3170, §3173, §3174, §3175, §3178, or §3179 no letter to rescind is issued instead operators must comply with 43 CFR 3170, §3173, §3174, §3175, §3178, or §3179 as appropriate.

As of January 17, 2017, PD meters and Coriolis meters are the only approved meter types. The PMT will develop a specific list of approved meters, including manufacturers and models. Once the approved list is published, then all meters in use must be from the PMT published, approved list of equipment. Operators may use any API 3.1B compliant Automatic Tank Gauge equipment (ATG) until the PMT publishes a list of approved ATG equipment. Once the approved list is published, then all ATGs in use must be from the PMT published, approved list of equipment.

§3175.60(d) specifically states that Order 5, NTLs, variance approvals, and written orders (relating to measurement) are rescinded when the phase-in period ends. Variances to Order 5, the statewide NTLs for EFCs and variances remain in effect until the phase-in periods end. For low and very-low-volume FMPs (2-year and 3-year phase in period respectively), the PMT's list of approved equipment will be available by the time the phase-in periods end. For high- and very-high-volume FMPs, (1 year phase-in), we may need to re-issue temporary variances until the PMT list is posted

For other existing approvals no immediate assessment (if applicable) will be issued, however the approval will be rescinded at the earliest possible time the (when identified by BLM or the operator requests re-evaluation). The operator must be given not less than a 20 day time frame to either re-apply for the variance under 43 CFR 3170.6 or come into compliance with 43 CFR 3170, §3173, §3174, §3175, §3178, or §3179 as appropriate.

§3173.4
Question: Will the BLM inspector change or alter the position (open or close) of a valve or component before placing a Federal seal?

Answer: No, BLM policy is that inspectors must not alter or change the position of valves, seals

are placed in the as found condition.

Question: Who can remove a federal seal and when?

Answer: Any person may remove the seal after receiving verbal or written approval from the inspector that placed the seal, attached to the seal is the inspector's name and contact information; the federal seal number becomes part of the required operators seal records. The inspector may issue specific verbal instructions for removal of the seal. For example, return the used seal to the BLM and include the date, time, name of person that removed the seal, and the replacement seal number.

§3173.6
Question: Does this provision apply to oil, condensate, and water tanks.

Answer: Water draining from a tank used for only water would not apply. For storage tanks that contain oil or condensate, the regulation does apply.

Question: Does water-draining operations include recirculating operations.

Answer: Where the recirculation system is a closed loop and no access to remove production except through the production equipment is not considered water draining.

Question: What information is submitted to the BLM and when?

Answer: The operator retains the records/information unless the BLM requires the operator by written order to submit.

§3173.7
Question: What information is submitted to the BLM and when?

Answer: The operator retains the records/information unless the BLM requires the operator by written order to submit.

§3173.11
Question: For co-located facilities §3173.11(c)(6), operated by secondary operator the FMP number may not be available, is the FMP number required?

Answer: No, the primary operator is not required to provide the FMP number for the facility belonging to the secondary operator.

Question: Is an amended diagram required from the primary operator when a change of operator occurs on co-located facilities §3173.11(c)(6)?

Answer: No and an Incident of Noncompliance (INC) will not be issued to the primary operator may not be aware of the change to secondary operator. *Does it matter if it's the primary operator or the secondary operator that has changed ownership?

§3173.12
Question: What is the applicable Measurement Type Code in WIS §3173.12 (f)(2)?

Answer: A measurement type code is a two digit code that identifies oil or gas and on lease or off-lease and commingling. Operators select the code from a drop down list during the electronic filing process.

Question: If an operator applies for and subsequently receives an assigned FMP#, does that constitute a Site Facility Drawing change or modification, triggering a 30 day requirement to submit an updated diagram reflecting the new FMP# and other updated requirements on the diagram?

Answer: No, obtaining the FMP number does not trigger the 30 day requirement to submit updated diagrams.

Question: The Company is considering rebranding after emergence. The rebranding will strictly be an entity name change and not a change of operator. Ownership of the company will remain the same. Will this entity name change trigger new site security diagrams?

Answer: No, a change of operator has not occurred when an operator changes name and actual ownership remains the same.

§3173.13
Question: Will BLM grandfather previous CAAs that were identified as "economically marginal properties" under WO IM 2013-152 until the operator applies for the FMP as per new Reg §3173.16?

Answer: There are a couple of different questions here. First, the BLM will take no action on existing commingling approvals until the operator applies for an FMP number. When the BLM receives an FMP request, it will then determine if the FMP includes commingled production. If it does, then it will review the existing commingling approval (assuming one exists) under §3173.16.

Second, there is no specific grandfathering of existing commingling approved under IM 2013-152 in §3173. However, under the §3173.16, the vast majority of commingling approved in accordance with IM 2013-152 will be grandfathered. §3173.16(a)(1) will grandfather all existing downhole commingling approvals, regardless of how or when they were approved. In addition, §3173.16(a)(2) will grandfather any existing surface commingling approval where the average production rate over the previous 12 months is less than 1,000 Mcf/month (gas) or less than 100 bbl/month (oil), regardless of how or when commingling was approved. If an existing commingling approval does not meet either of these criteria, then it must meet the requirements of §3173.14 to be grandfathered (actually re-issued). §3173.14 includes 5 situations where the BLM can approve commingling: 1) no royalty impacts due to allocation; 2) low-volume (economically marginal) properties; 3) includes tribal leases that have been authorized for commingling by the tribe; 4) downhole commingling where the BLM has determined it is

acceptable to achieve maximum ultimate economic recovery; and, 5) overriding considerations such as environmental impacts. This list includes two additional situations that were not included in IM 2013-152 (tribal leases and downhole commingling). Therefore, any situation that resulted in a commingling approval under IM 2013-152 is covered under §3173.14. Finally, the definition of an "economically marginal property" in §3173.14 is less stringent than the definition of a "low-volume property" in IM 2013-152; therefore, any property qualifying as a low-volume property in IM 2013-152 should qualify as an economically marginal property in §3173.14.

§3173.14
Question: BLM has not defined "revenue distribution." What does it mean by this?

Answer: It is how the royalty is distributed (see Attachment 1). There are different types of leases issued under different authorities, and each type typically has a unique allocation of how the royalty is distributed. For example, the typical lease issued in the lower 48 states under the Mineral Leasing Act has a royalty distribution of 40% to the Federal Land and Water Conservation Fund, 10% to the General Treasury, and 50% to the State in which the lease resides. On the other hand, a lease acquired by the U.S. Forest Service has a royalty distribution of 75% to the General Treasury and 25% to the state in which the lease resides. In the rare instance where an operator wants to commingle two Federal leases that were issued under different authorities, as described in the examples, the leases would not qualify for commingling under § §3173.14(a) (1)(i) even if they both had the same royalty rate.

Attachment 1 – Royalty Distribution

The distribution of royalty generated from Federal leases depends on the type of lease. If a request for approval commingling is received that proposes to commingle production from leases with different royalty distributions, the request should be considered the same way as if the leases had different royalty factors—*i.e.*, approval should not be granted under Category 1, even if commingling would have no effect on the royalty revenue initially flowing to the Federal government. In other words, leases, CAs, and unit PAs with different royalty distributions should not be commingled unless the request involves low-volume properties or overriding considerations.

Royalties are distributed as shown in the following table:

Type of Lease		Royalty Distribution (%)			
	Reclam. Fund	General Treasury	State	Tribe/ Allottees	County
Public Land – not Alaska (30 U.S.C. 191(a))	40	10	50		
Public Land – Alaska (30 U.S.C. 191(a))		10	90		

Public Land – Alaska NPR-A (42 U.S.C. 6506a)		50	50		
Public Land – State Selected Land (Utah) (43 U.S.C. 852)		10	90		
Public Land – State Selected Land (Alaska) (43 U.S.C. 1635(k)(2))		10	90[1]		
Public Land – Red River, Oklahoma (65 Stat. 252)			37.5	62.5[2]	
Acquired Land – National Forest (30 U.S.C. 355/16 U.S.C. 499-500)		75	25		
Acquired Land – National Grassland (30 U.S.C. 355/7 U.S.C. 1012))		75			25
Acquired Land – Army Corps of Engineers (30 U.S.C.		25	75		

1 When selection tentatively approved

2 Kiowa, Comanche, and Apache Indians

355/33 U.S.C. 701c-3)					
Acquired Land – National Wildlife Refuge (30 U.S.C. 355/16 U.S.C. 715s)		[3]			[4]
Acquired Land – Bureau of Reclamation (30 U.S.C. 355/43 U.S.C. 392a)	100				
Acquired Land –Other (no statutory disposition) (31 U.S.C. 3302(b))		100			
Acquired Military Land – Lease issued Pre-1981 (31 U.S.C. 3302(b))		100			
Acquired Military Land – Lease issued in 1981 and after (30 U.S.C. 355)	40	10	50		
GSA Excess/Surplus, Public or Acquired		100			

[3] Remaining percentage not paid to county

[4] Based on 1 of 3 formulae

Land (40 U.S.C. 483(b) and 484(c))					
Indian Land				100	