



Fact Sheet - 43 CFR 3173: SITE SECURITY

October 17, 2016

43 CFR 3173 (the rule updating and replacing Order 3) establishes minimum standards for oil and gas facility site security. It includes provisions intended to ensure that oil and gas produced from Federal and Indian (except Osage Tribe) oil and gas leases are properly and securely handled, so as to ensure accurate measurement, production accountability and royalty payments and to prevent theft and loss.

Overview of Final Rule

Like the proposed rule, the final rule addresses Facility Measurement Points (FMPs), site facility diagrams, the use of seals, bypasses around meters, documentation, recordkeeping, commingling, off-lease measurement, and the reporting of incidents of unauthorized removal or mishandling. Specifically, the final rule:

- Establishes uniform procedures for designating official points for oil and gas measurement for royalty accounting purposes, known as facility measurement points, that are applicable to new and existing leases;
- Establishes uniform national standards governing the review and approval of commingling requests (i.e., requests to combine production from multiple leases, unit Participating Areas (PA), Communitized Areas, or fee or State properties before the point of royalty measurement).
- Establishes uniform national standards governing the review and approval of off-lease oil and gas measurement;
- Updates requirements related to the use of valve and drain seals, prohibitions on the use of meter by-passes, and reporting requirements;
- Requires operators of new and existing oil and gas facilities to provide new site facility diagrams designed to help BLM meet its oversight responsibilities; and
- Ensures that purchasers and transporters are required to comply with the same standards as operators with respect to records consistent with statutory requirements.

By updating its minimum standards for site security, the final rule strengthens the BLM's production accountability program to reflect the considerable changes in technology and industry practices that have occurred in the 25 years since the current Order 3 was issued.

Principal Changes Between the Proposed and Final Rules

Based on comments, data received, and additional internal reviews, the BLM made a number of revisions to the proposed rule. The four key areas receiving the most feedback were:

- 1) The proposed commingling standards and the limited exemptions from those standards;
- 2) The amount of information that must be submitted and approval process for an FMP;
- 3) The level of details and submission timelines associated with site facility diagrams requirements; and,
- 4) End-of-month recordkeeping requirements.

Based on the comments received, the BLM made the final changes to the rule in each of these areas (other changes are addressed in the preamble to the final rule):

Commingling Standards (43 CFR 3173.11 to 3173.22)

- Grandfathers all: (1) existing downhole commingling approvals; and, (2) existing surface commingling approvals where the average production over the previous 12 months for each covered lease, unit PA, and communitization agreement (CA) is less than 1,000 thousand cubic feet (Mcf) of gas/month or 100 barrels (bbls)/month (43 CFR 3173.16(a)).
- Adds exemptions for new downhole and surface commingling proposals to recognize:
 - Commingling authorized by tribal law or otherwise approved by a tribe (43 CFR 3173.14(b)(3));
 - Basins where the BLM has determined that downhole commingling is necessary to achieve maximum economic recovery and/or resource conservation (43 CFR 3173.14(b)(4)); or
 - Surface commingling proposals where production falls under thresholds above (43 CFR 3173.14(b)(2)).

Application and approval of FMPs

- Adjusts FMP application deadlines into three tiers with compliance timeframes spread over 3 years instead of 27 months to disperse the workload evenly across facilities/industry and the BLM, as a whole, for all BLM-administered leases (43 CFR 3173.12(e)(1), (2), and (3)).
- Allows operators of existing measurement facilities to continue to produce oil and gas while their FMP applications are pending BLM approval, provided that those applications are submitted within the deadlines specified by the rule. (43 CFR 3173.12(e)(6)). In the interim period an operator may continue to use the lease, unit PA, or CA number for reporting production to ONRR while its FMP application is pending.
- Reduces the amount of information required in an FMP application, such as component names, manufacturer, model, serial number, and range limits for various types of equipment as originally suggested in the proposed rule (43 CFR 3173.13(b)(2)).
- Exempts leases, unit PAs, and CAs that have not produced any oil or gas within the past 12 months. Operators will have to apply when they resume operations (43 CFR 3173.12(e)(4)).

Submission of site facility diagrams

- Revises the time frame for existing facilities to submit updated site facility diagrams. As long as such facilities have a diagram on file that meets the requirements of prior Order 3, they will only need to provide a new diagram when their facility is modified, a non-Federal facility located on a Federal lease or federally approved unit or communitized area is constructed or modified, or there is a change in ownership (43 CFR 3173.11 (d)(2) & 43 CFR 3173.11(e)(2)).
- Reduces the amount of information that must be submitted for all facilities – e.g., operators are no longer required to provide equipment serial numbers, and manufacturer information for equipment (43 CFR 3173.11(c)(11)).
- Operators are no longer required to provide signed certification statements (43 CFR 3173.11(c)) because operators are already responsible by statute for the accuracy of any information they submit to the BLM and the BLM is moving towards full electronic submission of information.

End-of-month inventories of oil in storage

- Allows operators to perform an end-of-month inventory by either doing one within 3 days of the end of the month or by mathematically estimating the inventory based on production and sales data using a BLM-provided formula (43 CFR 3173.9(a)).
- Affirmatively authorizes operators to use automatic tank gauging systems for end-of-month inventories, which is consistent with Order 4's recognition of those systems for oil measurement generally (43 CFR 3173.6(e)(g) and 43 CFR 3173.7(a) (5)(7)).

Compliance Costs

In total, the BLM estimates this rule will result in on going compliance costs of about \$11.7 million annually, or approximately \$3,200 per regulated entity. In addition there will be one-time costs of about \$31.2 million or approximately \$8,400 per regulated entity, however, these costs will be spread over 3 years, which translates to roughly \$10.4 million per year, or approximately \$2,800 per regulated entity.

The BLM estimates that the changes it made from the proposed rule to the final resulted in an approximately ~\$90 million reduction in potential one-time compliance costs. This decrease is largely attributable to modifications in the site facility diagram requirements. In addition, another \$1.8 million in potential ongoing annual compliance costs were eliminated based on changes between draft and final.

Procedural History

- The Proposed Rule to Replace Onshore Order 3 was available for public comment for a total of 76 days.
 - Published July 13, 2015 -- 60 day comment period (closed September 11, 2015).
 - Comment Period Reopened Nov. 20, 2015, to Dec. 14, 2015.
- BLM held 3 public meetings (Dec. 1st, 3rd, and 8th) in 2015.
- The BLM received a total of 90 unique and detailed comment letters.