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Re: Comment on Proposed Rule on Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform, 80 Fed. Reg. 608 (Jan. 6, 2015)

Dear Mr. Southall:

Thank you for the opportunity to comment on the proposed rule referenced above. DEPA requests that the Office of Natural Resources Revenues make a change to make the rules on transportation allowances reflect the reality of modern oil marketing.

In the more prolific oil-producing basins in the United States it is now common for a producer or the producer's affiliate to market in a given month a significant volume of oil to multiple buyers using multiple methods of transportation. The federal oil royalty valuation rules already recognize that, when marketing oil to multiple buyers, it is appropriate to report royalty on a volume weighted average sales price, with "sales" here referring to the lessee's "gross proceeds" from the sale. See 30 C.F.R. § 1206.101(b). What is currently missing from the valuation rules is express authorization to treat multiple transportation contracts similarly.

Although the word "pooling" serves more than one meaning in the oil and gas industry, the term is used in the marketing side as well as the upstream side. As it is used by marketers, Oil pooling is a commonly used mechanism in modern oil marketing for the purpose of marketing oil or arranging the transportation of oil to multiple downstream sales points. Pooling occurs when oil from more than one lease, unitization agreement, or communitization agreement is commingled at one or more shipping points and then sold to a number of purchasers, usually in the spot market.

When production from a lease or agreement can be traced physically and contractually to a point of sale, the value is based on the actual circumstances involved in the disposition of that production sale. When production cannot be traced physically and contractually to the point of sale, value is determined by assuming that the lease production is proportionately transported and sold to all outlets downstream of the last point at which the lease production has been commingled with production from other sources. The latter situation is considered "pooling." Value in this situation is then determined by computing a weighted average of the prices at all downstream sales outlets.

We request that ONRR recognize pooling of transportation in its valuation and reporting requirements. A weighted average of all transportation costs downstream of the pooling point should be used to determine and report the transportation allowance to be deducted from the weighted-average value reported on Form ONRR-2014. In support of this request, we suggest the regulatory text to the current regulation 30 C.F.R. § 1206.110(a) be changed, as stated below.

Current Rule	Proposed (Redlined) Rule
<p>(a) If you or your affiliate incur transportation costs under an arm’s-length transportation contract, you may claim a transportation allowance for the reasonable, actual costs incurred as more fully explained in paragraph (b) of this section, except as provided in paragraphs (a)(1) and (a)(2) of this section and subject to the limitation in § 1206.109(c). You must be able to demonstrate that your or your affiliate’s contract is at arm’s-length. You do not need ONRR approval before reporting a transportation allowance for costs incurred under an arm’s-length transportation contract.</p>	<p>(a) If you or your affiliate incur transportation costs under an arm’s-length transportation contract, you may claim a transportation allowance for the reasonable, actual costs incurred. as more fully explained in paragraph (b) of this section, except as provided in paragraphs (a)(1) and (a)(2) of this section and subject to the limitations in § 1206.109(c). If you have multiple arm’s-length contracts to sell oil produced from a field or lease that is valued under paragraph (a) of § 1206.102, you may claim a transportation allowance as a volume-weighted average of the reasonable, actual costs incurred for each contract for the sale of oil produced from that lease. Allowable transportation deductions under this paragraph are more fully explained in paragraph (b) of this section, except as provided in paragraphs (a)(1) and (a)(2) of this section and subject to the limitations in § 1206.109(c).</p>

Sincerely,



J. Roger Kelley
 Chair, Regulatory Committee
 Domestic Energy Producers Alliance