



U.S. Department of Interior

Office of Natural Resources Revenue (ONRR)

Takes vs. Entitlements Update

Presented by:

Roman Geissel, Deputy Program Director
Audit and Compliance Management

Petroleum Accountants Society of Oklahoma
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Takes vs. Entitlements: Why is it an Issue?

- Disputes over responsibility for reporting and paying on volumes when lessees don't take the volume to which they are entitled (imbalances)



Takes vs. Entitlements: Definitions

- Entitlement volume is the volume that is the lessee's entitled share based on its ownership interest in a lease or its leases in an agreement
- Takes volume is the actual volume of production removed or sold by or on behalf of the lessee, which could be more or less than their entitled share



FOGRMA Issue

- Congress enacted FOGPMA section 111(k)(1) through (5) to clarify and resolve the long-standing issues regarding so-called “takes versus entitlements.” Those issues arose primarily where the amount of natural gas taken and sold from Federal leases in a unit or communitization agreement was not equal to the lessee’s entitled share based on its ownership interest in its leases in the unit or communitization agreement. These imbalances led to numerous questions about who should report and pay on what volumes and for what leases.



RSFA Amendment

- On August 13, 1996, the President signed into law the Federal Oil and Gas Royalty Simplification and Fairness Act (RSFA)
 - Section 6(d) of RSFA, entitled “Volume Allocations of Oil and Gas Production,” amended section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1721. Section 6(d) specifically addressed the issue of takes and entitlements on Federal oil and gas mineral leases



What Section 6(d) of RSFA Addresses

- Identifies the reporting and payment requirements for Federal leases and agreements
- Provides a mechanism for lessees of 100 percent Federal units and communitization agreements to request alternatives to the RSFA reporting requirements
- Describes a reporting exception for lessees in mixed agreements for properties producing less than 15 BOE per well-day. Allows takes reporting during the year with a true-up the following year (interest free if true-up made by January 2 of the next year)



What Section 6(d) of RSFA Does Not Address

- Tracing for valuation of oil and gas production
- The effect of commingling approvals on reporting and payment of royalties
- The effect of overlapping agreements on reporting and payment of royalties
- The effect of down-hole commingling on reporting and payment of royalties



Commingled Production Impact on Reporting and Paying

- The commingling approval specifies the methodology used to determine the volume of production removed or sold from the properties (leases, units, or communitization agreements) subject to the commingling approval
- Commingling can create imbalances between lessees of the properties subject to the approval which can complicate reporting



Proposed Rule

- Draft Rule published 8/8/2013
- Comments received 10/17/2013



Comments on Proposed Rule

General comments on the proposed rule fell into 7 categories:

1. Standards for reporting and paying royalties on gas
2. Reporting and paying royalties on 100 percent Federal agreements
3. Reporting and paying royalties on offshore commingling situations
4. Reporting and paying royalties on non-consent wells
5. Reporting and paying royalties on down-hole commingled wells
6. Filing fee for alternative reporting and payment
7. Basis for determination of 100 percent Federal agreements



PASO Questions

1. What is the status of the Proposed/Final Rule?
2. What has changed as a result of the new rule?
3. What are the current major reporting issues involving Takes vs. Entitlements?
4. When a communitization agreement is 100 percent Federal (2 Federal Leases 50/50), but one of the Federal leases has now been overlapped by a mixed Participating Area within a Federal unit, how should each agreement be paid (Takes or Entitlements)?
5. Is ONRR going to require companies to report royalties on all Federal leases in a 100 percent Federal agreement versus only those leases they have an interest in?



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Contact Us:

Roman Geissel

Deputy Program Director, Audit and Compliance Management

Roman.Geissel@onrr.gov

(303) 231-3226