



U.S. Department of the Interior
Bureau of Land Management

Waste Prevention, Production Subject to Royalties, and Resource Conservation; Rescission or Revision of Certain Requirements

February 20, 2019





Learning Objectives:

- History of BLM venting & flaring rule
- Which regulation governs your company's venting & flaring
- Current venting & flaring rule



Regulatory History

- The time in which the venting and/or flaring occurred dictates what regulations governs the venting and/or flaring event.
- NTL-4A – fully in effect from 1981 to January 2017
- 43 CFR 3179 (2016 Rule) – parts in effect from January 2017 to November 2018
- 43 CFR 3179 (Replacement Rule) – fully in effect from November 2018 to present



NTL-4A

- 1981 to November 2016 [NTL-4A](#) “Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases”
- Implementation guidance [CDM 644.5](#) “Geological Survey Conservation Division Manual”
- NTL-4A governed royalty-free use (“beneficial purposes”) as well as venting and flaring.



NTL-4A

Main Components

- II. Definitions
 - “Avoidably lost” production – royalty obligation
 - “Beneficial purposes” – no royalty obligation
 - “Unavoidably lost” production – no royalty obligation

- III. Authorized Venting and Flaring of Gas – no royalty obligation
 - A. Emergencies – limited to 24 hours per incident and to 144 hours cumulative for the lease during any calendar month
 - B. Well Purging and Evaluation Tests – limited to 24 hours
 - C. Initial Production Tests – limited to 30 days or the production of 50 MMcf of gas
 - D. Routine or Special Well Tests – covers well tests other than those cited above with BLM approval



NTL-4A

Main Components

- IV. Other Venting or Flaring

A. Gas Well Gas – Gas well gas may not be vented or flared except where the loss is defined as unavoidably lost production or considered “Authorized venting and flaring of gas” under Section III

B. Oil Well Gas – Oil well gas may not be vented or flared except where the loss is defined as unavoidably lost production, considered “Authorized venting and flaring of gas” under Section III, or approved by the BLM based on consideration of an evaluation report or action plan (Section IV.B)



NTL-4A

Regulatory Authority – Timeframe

- *NTL-4A regulated venting and flaring as well as royalty-free, on-lease use of oil and gas from 1981 to January 17, 2017.*



3179 (2016 Rule)

Regulatory History

- November 16, 2016, the BLM published the final rule, “Waste Prevention, Production Subject to Royalties, and Resource Conservation” ([82 FR 83008](#)) (“2016 Rule”).
- Effective on January 17, 2017, the majority of requirements in the rule were to phase-in starting January 17, 2018.



3179 (2016 Rule)

Main Components

- Waste Minimization Plans to be submitted with APDs
- Clarifying definitions of avoidable (royalty obligation) and unavoidably (no royalty obligation) losses
- Gas capture requirements
- Provisions targeting methane emissions (pneumatic equipment, storage vessels, leak detection and repair (LDAR))
- The 2016 Rule also revised BLM's royalty-rate provision (§ 3103.3-1) to conform to statutory authority and established new royalty-free use provisions (subpart 3178)



3179 (2016 Rule)

Regulatory History

- The rule was immediately challenged in the U.S. District Court of WY.
- December 8, 2017, the BLM published the Waste Prevention “Suspension” Final Rule ([82 FR 58050](#)).
- The delay final rule shifted the effective date for most requirements to phase-in starting January 2019.
- Challenged in court and a preliminary injunction was granted on February 22, 2018 (meaning, the 2016 Rule is in effect). The petitioners challenging the 2016 Rule restarted litigation in WY, obtaining a stay of most of the requirements in the 2016 Rule.



3179 (2016 Rule)

Implementation – Not Enforced

- 3179.7 (Gas capture requirement)
- 3179.9 (Measuring and reporting volumes of gas vented or flared)
- 3179.201 (Equipment requirements for pneumatic controllers)
- 3179.202 (Requirements for pneumatic diaphragm pumps)
- 3179.203 (Storage vessels)
- 3179.301 - 3179.305 (Leak detection and repair – LDAR)



3179 (2016 Rule)

Implementation – Enforced

- All sections that weren't listed in the previous slide
- Waste minimization plans with APDs
- Operators should not be submitting flaring sundries. No need to “approve” flaring or determine if loss is avoidable or unavoidable (§ 3179.4 Determining when the loss of oil or gas is avoidable or unavoidable & § 3179.5 When lost production is subject to royalty)
- Operator reports on OGORs using appropriate disposition codes (see ONRR Dear Reporter Letter – April 9, 2018)



3179 (2016 Rule)

Implementation – Noteworthy

- 3179.4 Determining when the loss of oil or gas is avoidable or unavoidable.
- Oil-well gas that flares intermittently is an avoidable loss only if it doesn't fall within one of the categories in 3179.4. Coded on OGOR as Disposition code 33.
- Oil-well gas never connected to sales and continually flaring is an unavoidable loss. Coded on OGOR as Disposition code 21.



3179 (2016 Rule)

Regulatory Authority – Timeframe

- *3179 (2016) regulated venting and flaring of gas on Federal and Indian trust mineral agreements from January 17, 2017 to November 26, 2018.*



3179 (Replacement Rule)

Regulatory History

- February 22, 2018, the BLM published the Waste Prevention “Replacement” Proposed Rule ([83 FR 7924](#)).
- The proposed rule rescinded/revised requirements of the 2016 Rule.
- September 28, 2018, the BLM published the Waste Prevention “Replacement” Final Rule ([83 FR 49184](#)).
- November 27, 2018 Waste Prevention, Production Subject to Royalties, and Resource Conservation; Rescission or Revision of Certain Requirements became effective
- 3179 “Replacement Rule” is the rule currently in effect.



3179 (Replacement Rule)

Main components

- 3179.4 Determining when the loss of oil or gas is avoidable or unavoidable
 - Avoidably lost production determination is like NTL-4A
 - Unavoidably lost production determination more defined than NTL-4A



3179 (Replacement Rule)

Main components

- 3179.6 Venting limitations
 - Gas-well gas may not be vented – requirement to flare
- **Authorized Flaring and Venting of Gas**
- 3179.101 Initial production testing
 - 30 days or 50,000 Mcf (50MMcft) or longer/more with BLM approval
- 3179.102 Subsequent well tests
 - Limited to 24 hours, unless BLM approves longer
- 3179.103 Emergencies
 - Limited to 24 hours
 - “temporary, infrequent and unavoidable situation”



3179 (Replacement Rule)

Main components

- **Authorized Flaring and Venting of Gas**
- 3179.103(c) The following do NOT constitute emergencies
 - failure to install appropriate equipment of a sufficient capacity to accommodate the production conditions
 - failure to limit production when the production rate exceeds the capacity of the related equipment, pipeline, or gas plant, or exceeds sales contract volumes of oil or gas
 - scheduled maintenance
 - operator negligence, repeated equipment failures
 - ≥ 3 emergencies within the past 30 days, unless BLM agrees emergencies could not have been anticipated or beyond operator's control



3179 (Replacement Rule)

Main components

- **Authorized Flaring and Venting of Gas**
- 3179.104 Downhole well maintenance and liquids unloading
 - (a) limited to 24 hours of venting or flaring provided the requirements in (b) through (d) are met:
 - minimize loss of gas
 - optimize plunger lift to minimize loss of gas
 - person on site for liquids unloading



3179 (Replacement Rule)

Main components

Other Venting or Flaring

- 3179.201 Oil-well gas
- 3179.201(a) vented or flared oil-well gas is royalty free if it is vented or flared pursuant to applicable rules, regulations, or orders of the appropriate State regulatory agency or tribe, except as provided in § 3179.101, 3179.102, 3179.103, and 3179.104
- except as provided in § 3179.101, 3179.102, 3179.103, and 3179.104



3179 (Replacement Rule)

Regulatory Authority – Timeframe

- *3179 (Replacement Rule) regulated venting and flaring of gas on Federal and Indian trust mineral agreements from November 27, 2018 to the present.*



Questions?



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