

### **Declaration of Public Policy; Legislative Findings**

(a) It is hereby declared to be the public policy of this state and in the public interest to:

1. Foster, encourage, and promote transparency in reporting standards in regards to production, taxes, fees, and deductions.
2. Foster, encourage, and promote transparency in identifying the location and ownership of wells or units.
3. Safeguard, protect, and enforce accurate, consistent and transparent reporting practices to owners and state agencies.
4. Safeguard, protect and enforce the correlative rights of Interest Owners in a well, pool or unconventional reservoir of Oil or Gas to the end that each Interest Owner may obtain his just and equitable share of production from such well, pool or unconventional reservoir of Oil or Gas.

(b) The Legislature hereby determines and finds that Interest Owners have had limited access to accounting records kept by Producers and other third party companies; Interest Owners have not been accurately notified of location and or ownership in well, pool or unconventional reservoir of Oil or Gas; there has been no ability to confirm communications between Producers, Interest Owners and state agencies to whom reporting is required; it is in the public interest to enact statutory provisions establishing procedures and principles to be applied to the reporting delivered to Interest Owner and agencies of the Commonwealth of Pennsylvania.

## **Definitions**

1. "API Number" means a permanent, numeric identifier as established by the American Petroleum Institute for drilled Oil and Gas in the United States of America.
2. "Contracted Associates" means any company or person engaged to assist any party in the enforcement of its rights under this article.
3. "Declaration of Unitization" means the order recorded in the Clerk's office of the county(ies) in which a unit is situate, combining two or more leasehold tracts or mineral interests to more efficiently extract the Oil or Gas.
4. "Division Order" means an authorization to one who has a fund for distribution from persons entitled to the fund directing how the fund is to be distributed. A Division Order is entered into between working interest owners and royalty owners to give instructions for payments under a lease.
5. "Gas" means all natural gas produced from any strata.
6. "Interest Owner" means any person owning a royalty interest, overriding royalty interest, or working interest in a lease and/or well.
7. "Lessee" means any person or company, who has obtained from a lease, the right to explore, drill, stimulate, produce, market and sell the Oil, Gas and NGL, or any portion thereof, by means of a properly executed lease.
8. "Lessor" means any owner of the Oil and Gas in place; who controls the Oil and Gas rights and has executed a lease.
9. "Marketing Agreements" means any agreement that establishes the price prior to production.
10. "Meter Calibration" means the act of checking or adjusting (by comparison with a standard) the accuracy of a meter.
11. "MMBtu" means a thermal unit of energy equal to 1,000,000 Btus (being the equivalent of 1,000 cubic feet of gas having a heating content of 1,000 Btus per cubic foot, as provided by contract measurement terms).
12. "NGL" means natural gas liquids, which are heavier gaseous hydrocarbons, including: ethane, propane, butane, isobutene, pentanes and other higher molecular weight hydrocarbons.
13. "Oil" means natural crude oil or petroleum, regardless of gravity, which is produced from a well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir.
14. "Overriding Royalty Owner" is any individual or entity which has been assigned an interest in and to a lease or well or both; who may otherwise not have a vested interest in such lease or well or both as a royalty owner or working interest owner.
15. "Pipeline Maintenance" means maintenance of Oil and Gas pipelines and pipeline facilities, such as pumping units, compressor stations, tank farms, and right-of-ways.
16. "Producer" means a person or company who has the contracted right to extract, produce and market Oil or Gas.

17. "Purchase Agreements" means any contractual agreement made and entered into between a producer of Oil and Gas and a marketers of said Oil and Gas, which details the purchase price and conditions under which Oil and Gas is sold from a well or a lease.
18. "Qualified Escrow account" means an escrow account administered by a non-interested party, which must be a financial institution licensed by the \_\_\_\_\_ Division of Banking.
19. "Royalty Owner" as it applies to this statute, any individual or entity who owns the mineral estate under a tract or parcel of land and who has the right to receive payments for said ownership upon development of the mineral estate or any portion thereof and who does not share in the risk or expense of the development and production of the mineral estate.
20. "Tax Map and Parcel ID" means a pictorial and numeric representation of the properties within a county showing dimensions and location of each property for tax purposes as designated by the County Assessor.
21. "Transportation Contracts" means any contractual agreement for the transportation of Gas, Oil or NGL between points for a fee.
22. "Well Tender" is an employee or contracted representative of the operator, who shall have firsthand knowledge of the well pipeline, meter and associated equipment in question.
23. "Working Interest Owner" – is any individual or entity who has a vested interest in a lease or a well or both who has the right to receive revenue payments from production; subject however to the expenses and risks associated with the development and production from said lease or well or both.

### **Information required to be included with Oil and Gas payments to Interest Owners**

- Notwithstanding any other applicable terms or arrangements, every payment of proceeds derived from the sale of Oil, Gas or NGL shall be accompanied by a statement setting forth the following:
  - The name of the Lessor;
  - The Lessor's identification number (being the account number or payee number utilized by Producer);
  - The lease number, property name, well name and API Number used to identify the lease, and well,
  - The month and year during which the sale occurred for which payment is being made;
  - The total volume of Oil represented by the payment, measured in barrels;
  - The total volume of Gas represented by the payment, measured in MMBtu;
  - The total volume of NGL represented by the payment, measured in gallons or barrels;
  - The price per barrel of Oil sold or MMBtu of Gas sold or the price per barrel (or price by gallon, if applicable) of NGL sold, as applicable;
  - Total amount of the state severance and production taxes;
  - Lessor's interest in the sale expressed as a decimal;
  - Lessor's share of the sale before any deductions or adjustments;
  - Lessor's share of the sale after deductions or adjustments;
  - Specific deduction code to account for any deduction shown (including, without limitation, transportation, tax, line loss, compression, processing, treatment, marketing, gathering, third party charges)
  - An address and telephone number for which additional information may be obtained and questions answered
- Any escrow account(s) established by the Lessee to accumulate funds payable to Lessors shall be a Qualified Escrow Account. Administrators of Qualified Escrow Accounts shall deliver to the Lessor or potential owner (s) or if ownership is in dispute, an annual statement with the same information as if a proceeds check had been issued, as well as the rate of interest for said account.
- Unless otherwise prohibited by applicable law, (i) payments of proceeds derived from the sale of Oil, Gas, or NGL shall be paid by a Lessee to a Lessor commencing no later than 120 days after the end of the month in which production is first sold, (ii) payments thereafter shall be made on a monthly basis no later than sixty days for Oil and sixty days for Gas and NGL following the end of the calendar month in which subsequent production is sold and (iii) payments may be made annually if the aggregate sum due a Lessor for twelve consecutive months is one hundred dollars or less. The Lessee and Lessor may provide, in a valid lease or other written agreement, for terms or arrangements for payment that differ from those set forth herein.
- Following the first payment, if there is any month in which a payment is not made, the Lessee shall provide Lessor with a statement explaining why such payment was not made.
- Any delay in determining whether or not a Lessor is entitled to an interest in proceeds shall not delay payments to all other Lessors so entitled.

- Upon written request by the Lessor, submitted to the Lessee by certified mail (or other means producing a receipt confirming that the correspondence was received), the Lessee shall provide to Lessor within sixty days a written explanation of those deductions or adjustments, whether or not identified with the payment, and, if requested by the Lessor, such meter calibration testing and production reporting records that are required to be maintained by the Lessee.
- If a Lessee does not make payment to Lessor within the time frames specified in this section, the Lessee shall pay to the Lessor an amount of damages equal to double the aggregate amount of the royalties due plus interest on that sum from the date due and reasonable attorney's fees incurred by Lessor in attempting to collect any past due payment(s). Lessee shall pay the damages to Lessor set forth herein regardless of the cause for the original failure to pay royalties.
- Any circuit court of this state shall have jurisdiction to determine the following:
  - The date on which payment of proceeds is due a Lessor
  - The existence or nonexistence of an occurrence which would justifiably cause delay in payment
  - The amount of the proceeds plus interest, if any, due a Lessor by a Lessee
  - Whether the prevailing party is awarded reasonable attorney's fees and costs
- As a prerequisite to seeking relief under this section for the failure of a Lessee to make timely payment, a Lessor shall give the Lessee written notice by certified mail (or other means producing a receipt confirming that the correspondence was received) of such failure and the Lessee shall have twenty days after receipt of the written notice in which to pay the proceeds, plus any interest due thereon, in accordance with the provisions of this section or to respond in writing explaining the reason for nonpayment.

### **Division order; precedence of lease; penalties for failure to pay royalties due.**

- If there is any conflict between a Division Order and an oil and gas lease, the terms and conditions of the oil and gas lease shall control. A Division Order may not amend or supplement the terms and conditions of an oil and gas lease.
- The execution of a Division Order is not a condition precedent to Lessee's making payment to Lessor. The Lessee shall not withhold royalty payments because Lessor has not executed a Division Order.
- If the Lessee fails to pay royalties solely because his Lessor has not executed a Division Order, Lessee shall pay to Lessor, as damages, an amount equal to double the aggregate amount of royalties due plus interest on that sum from the date due, and reasonable attorney's fees incurred by Lessor in attempting to collect any past due payment. However, if the Lessor fails to supply an address for payment delivery or Lessor's tax identification number following written request by the Lessee, such failure to deliver requested information shall exempt Lessee from the payment of damages as set forth herein only for such time as Lessor does not deliver the required information.
- A Division Order must be accompanied by a copy of the Declaration of Unitization if any portion of the premises subject to the Oil and Gas lease is subject to the Declaration of Unitization. The Declaration of Unitization shall include the following:
  - The rights and responsibilities of the Lessee.
  - A list of Lessors subject to the Declaration of Unitization, including the lease number, the date of lease, the recording information, the district, the Tax Map and Parcel ID for the surface, the total acreage in each tract, and the net acres in the unit, and must be recorded in the Office of the Clerk of the County Commission of each county in which the lands subject to the Declaration of Unitization are situate.
  - A county assessor's tax map outlining the unit described, and identifying on the map each Tax Map and Parcel ID included in the unit.
- In the event a unit is adjusted in accordance with the Declaration of Unitization, a new Division Order must be sent to Lessee, along with a new Declaration of Unitization.

## Inspection of Records

- Any Lessor or its contracted associates may inspect the records of a Lessee to verify proper payments,
  - Lessor can make a written request for inspection with regards to one or all of the properties for which Lessor is being paid for the previous five years.
    - If there is found to be a history of inconsistency and or reporting errors Lessor may continue the audit beyond the five year time period.
  - Lessee, upon receipt of formal request has thirty days to respond with the location at which the necessary records are maintained proposed dates, which shall be sufficient to permit Lessor to complete an inspection of the requested records. Unless otherwise mutually agreed, the proposed dates must be within sixty days following the date of Lessee's receipt of notice from Lessor.
  - Lessee shall provide copies of not less than the following for all requested periods:
    - Statements from sale of Gas, Oil and NGL
    - Transportation Contracts
    - Purchase Agreements and Marketing Agreements
    - Master meter(s) and well head charts
    - Meter Calibration reports
  - If any items to be produced by Lessee are not in the possession of Lessee, it shall be the responsibility of Lessee to acquire copies of such items, at the sole cost and expense of Lessee, prior to the commencement of Lessor's inspection.
  - Lessee shall make available a knowledgeable person who is able to answer any questions pertaining to accounting issues regarding a well (s) that are the subject of the Lessor's request for inspection.
  - Lessee shall make available the current Well Tender for the well(s) that are the subject of Lessor's request for inspection to assist the Lessor or his contracted associates in making a physical inspection of the well(s), including but not limited to the well site, pipelines, metering equipment and any other equipment necessary for production of the well. The Lessee shall cause the Well Tender to be able to respond to inquiries regarding the production and maintenance of well(s), included but not limited to:
    - Meter Calibration
    - Gas flow rates
    - NGL processing
    - Pipeline Maintenance
  - Except as otherwise provided herein, all information provided to Lessor will be confidential in nature and cannot be disclosed to any other persons.
  - If an error is found during the inspection performed by the Lessor and or its contracted associates, Lessee shall pay to Lessor as damages an amount equal to double the amount of royalties due but unpaid plus 18 % interest on that sum from the date due, plus reasonable attorney's fees incurred by Lessor in attempting to collect, plus any fees and expenses of third parties engaged to assist in the inspection. On petition of the Lessor, a court may dissolve the lease.

- The Lessor shall notify the Pennsylvania Department of Revenue of any inconsistencies and or reporting errors and provide such additional records as requested by the Pennsylvania Department of Revenue.
- Nothing set forth herein shall limit the powers of the Pennsylvania Department of Revenue to inspect the tax returns of any Lessee. If, following any inspection or audit of a Lessee by the Pennsylvania Department of Revenue t, it is determined that a Lessee did not accurately report the production of any well(s), the Pennsylvania Department of Revenue shall notify the Lessor(s) whose payments are affected by the inaccurate reporting.