

# WYOMING OFFICE OF STATE LANDS AND INVESTMENTS

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## **POLICY**

**Effective Date**  
**March 1, 2014**

### **Natural Gas Flaring Policy**

Although the regulatory authority to vent or flare gas is addressed by Wyoming Oil and Gas Conservation Commission (WOGCC) Rules and Regulations, Chapter 3, Section 39, the Wyoming Board of Land Commissioners (Board), as trustee for the beneficiaries of Wyoming State Land production royalties, establishes the following policy and procedure regarding royalty-free disposition of the State's interest in vented or flared gas from State Oil and Gas Lease Lands:

A. After an Owner/Operator applies for venting or flaring authorization on state oil and gas lease lands from the WOGCC, the State Oil and Gas Supervisor (Supervisor) will forward a copy of the application to the Office of State Lands and Investments (OSLI) to provide notice.

B. The WOGCC staff will determine what venting or flaring to authorize within the authority they currently have pursuant to WOGCC Rules and Regulations, Chapter 3, Section 39, and the authority delegated to the Supervisor by the WOGCC.

- Under WOGCC Rules and Regulations, the WOGCC cannot authorize venting or flaring that constitutes waste (as defined in WYO. STAT. ANN. § 30-5-101(a)(i)).

C. If the venting or flaring application is approved, the Supervisor will forward a copy of the approval to the OSLI for review regarding royalty-free disposition of the State's interest in the vented or flared gas. Similarly, if an Owner/Operator files a subsequent application with the WOGCC for authorization of additional venting or flaring beyond that approved in the original application, that application, along with other notices and approvals, will be sent to the OSLI for its review.

D. After reviewing the approved venting or flaring request, the OSLI or the Board, may set the matter for a hearing and determination by the board as to whether or not it is appropriate to assess royalty on the vented or flared gas.

- The Board recognizes that although the WOGCC and the Board use the same statutory definition of waste, the determination made by each is intended for different purposes and is mutually exclusive in its application. The WOGCC venting or flaring determination does not preclude the Board's determination of waste in terms of an Owner/Operator's State of Wyoming Oil and Gas Lease.
- The Board retains the authority to determine whether royalty should be assessed, and if it should, the appropriate royalty rate on gas being vented or flared. However, deference will be given to the WOGCC determination that waste is not occurring. Venting or flaring authorizations are only granted when applicants are able to demonstrate the need through the WOGCC's robust quasi-judicial process as provided for in the Wyoming Conservation Act (WYO. STAT. ANN. §§ 30-5-101 through 30-5-126) and adopted by the WOGCC (WOGCC Rules and Regulations, Chapter 5, Section 1). This process establishes a high procedural standard that includes the production and investigation of records and data, presentation of arguments, and expert witness testimony subject to prosecution and punishment for perjury (WYO. STAT. ANN. § 30-5-112(a)). As such, the Board will grant deference to this determination, as it deems appropriate.
- When making a royalty determination, the Board will consider mitigating circumstances surrounding the venting or flaring. Mitigating factors that the petitioner may bring before the Board for consideration include, but are not limited to: volume and duration of venting or flaring, reasons for venting or flaring, current marketability of gas, efforts being made to bring gas to market, development of infrastructure, and value of associated oil production.
- The Board will only consider assessing a royalty on vented or flared gas that exceed de minimis thresholds provided by WOGCC Rules and Regulations, Chapter 3, Section 39(a) and (b).
- Documentary evidence deemed confidential by any party shall be marked "CONFIDENTIAL" by any party desiring to use the documentary evidence, segregated from the other documentary evidence and submitted in such a manner that the confidential nature of the documentary evidence is protected."

E. If the Board determines that assessing royalty on gas being vented or flared is warranted to protect the interest of State beneficiaries, a downward royalty rate adjustment may be made in consideration of the mitigating factors brought before the Board during the hearing. The adjusted royalty rate will be capped at the royalty rate of the underlying lease.

F. EFFECTIVE DATE: February 2, 2012

G. DOCUMENTATION: All information submitted to OSLI or the Board to justify any action pursuant to this policy shall be open to inspection by the public, including all records relating to any final determination by the Board or OSLI, subject to the limitations set forth in W.S. 16-4-201 through -205.

The criteria for review of the Office's recommendation of a royalty-free disposition follows and will become a part of the petitioners' requests for flaring directed initially to the OGCC and, as such, will be presumed as considered in the OGCC approval process unless otherwise noted by that agency. In such event, the criteria will be reviewed by the Office of State Lands and Investments prior to making any recommendation to this Board.

*OFFICE OF STATE LANDS AND INVESTMENTS FLARING POLICY APPROVAL CRITERIA FOR ROYALTY-FREE DISPOSITION OF STATE'S INTEREST VOLUMES*

In order for the Board of Land Commissioners to make an informed decision pursuant to the grant of royalty-free disposition of State's interest gas volumes as authorized by the Wyoming Oil and Gas Conservation Commission, the following information will be considered and should be provided with any petitioner's request for this action:

1. Copy of Oil and Gas Conservation Commission approval documentation regarding the allowance by that agency to flare or vent showing the days allowed/granted.
2. Initial well production on a per day basis; gas analysis for stream -GPM and MOL.%, including inert content, and calculation of Original Gas In Place (OGIP).
3. Indicate by distance and location, the nearest existing potential pipeline tie-in and the ownership of the pipeline. Indicate the time anticipated until a tie-in can be made with that pipeline.
4. Provide the number of gas wells within a three (3) mile radius of the well for which royalty-free disposition is requested.
5. Provide financial justification for delay in building a pipeline connection to the nearest pipeline capable of receiving the gas; provide documentation showing contact with gathering /transmission companies pursuant to establishing pipeline flow to market and provide documentation showing contact with adjacent producers pursuant to planning for gathering of area volumes.
6. Provide financial justification for delaying the installation of a facility to remove the liquid stream from the gas being flared.

<b><u>Effective Date:</u></b> March 1, 2014	<b><u>Revision/Review Date:</u></b> March 1, 2019
<b><u>Summary of Revision/Review:</u></b> To be completed in 2019	<b><u>Supersedes Existing Policy:</u></b> Any policy and/or documentation prior to March 1, 2014