

Procedure for Surface Commingling of State of Texas Leases and Units

Procedure Revision April 15, 2023

Overview

The Texas General Land Office (GLO) administers a surface commingling program that is designed to ensure that the Permanent School Fund (PSF) receives all revenue due it from royalties payable on State oil and gas leases. Review and administration of commingling applications is a part of the fiduciary duty owed by the GLO to the State as the manager of PSF lands and minerals. GLO surface commingling requirements are in addition to, and distinct from, the requirements of any other state and/or federal entity, including the Railroad Commission of Texas (RRC).

The GLO surface commingling program and requirements apply to all state lands described in 31 Texas Administrative Code (TAC) §9.21(1) – (5) and §9.31(a)(1) and is described in 31 TAC §9.35. It is the responsibility of each Lessee to:

- I. Request and obtain written permission from the GLO (a) before surface commingling oil or gas production from a state lease or pooled unit with either private lease production or production from another state lease or pooled state unit or (b) pursuant to the terms of the state's lease, the Lessee recycles gas on a lease or unit or utilizes off-lease gas for (1) secondary recovery or enhanced recovery operations or (2) for artificial lift (gas lift). **These procedures implement GLO rules: they comprise the criteria which will be used by GLO staff to determine whether permission per 31 TAC §9.35(a)(3) or to recycle gas or utilize gas lift shall be granted.** Note that certain exemptions exist to the GLO surface commingling review procedure if all Commingled Properties meet one or more of the conditions specified per 31 TAC §9.35(a)(4). If any of those exemptions are met, then the Lessee is only required to provide written certification with supporting documentation to the GLO that confirms the necessary conditions with respect to obtaining permission have been met as required under 31 TAC §9.35(a)(3). The minimum requirements for supporting documentation are on page 4.
- II. Accurately represent the surface commingling of the state lease or pooled unit production from the mouth(s) of the well(s) to the point(s) of sale, title transfer, and/or custody transfer to a non-affiliated third party of all crude oil and/or condensate, natural gas, natural gas liquids, and any other gaseous substance or product made from gas produced from a state lease.

Variances from provisions contained in these procedures must be granted, if at all, in writing by the Deputy Director of Energy Resources (Director). Any variance should be accompanied by a statement from the Lessee explaining to the Director why approval of the application is in the best financial interest of the State of Texas. **In no case will any provision in a GLO commingling permit modify, amend, supersede, or otherwise alter an existing State Mineral Lease.**

NOTES:

1. The RRC requires a Form P-17/P-17A commingling permit application to be filed in cases where multiple gas wells/RRC leases produce from a single lease tract or GLO pooled unit and assigns a unique Gas ID to each gas well. Consistent with 31 TAC §9.35(a)(3), production from a single state lease or a single state pooled unit that comprises multiple RRC Gas IDs does not necessarily represent surface commingling under 31 TAC §9.35.
2. Pursuant to the terms of state leases, the Lessee must request and obtain permission in writing from the GLO (a) before the installation and/or use of any full well stream/wet gas/multiphase meters that measure the production on or from a state lease or (b) when the Lessee recycles gas on a lease or unit or utilizes off-lease gas for (1) secondary recovery or enhanced recovery operations or (2) for artificial lift (gas lift).

GLO Definition of Commingling

Crude oil and/or Condensate

All hydrocarbons produced in a liquid form at the mouth of a well, plus all other liquid hydrocarbons recovered from oil or gas run through separation equipment, that are combined with the production from any other lease and/or unit into (a) a common manifold and/or separator, (b) common storage, or (c) a common gathering system or pipeline. The scope of commingling extends from the wellhead up to and including the point(s) of final title or custody transfer to a non-affiliated third party.

Natural Gas

All hydrocarbons and other gaseous substances produced at the mouth of a well that are not defined as crude oil and/or condensate, that are combined with the production from any other lease and/or unit into (a) a common manifold and/or separator, (b) common storage, (c) a common gathering system or pipeline, (d) a common gas treatment plant/facility, or (e) a common natural gas processing plant. The scope of commingling extends from the wellhead up to and including the point(s) of final title or custody transfer to a non-affiliated third party.

Applying for Permission from the GLO to Surface Commingle State Leases

A GLO surface commingling application consists of four documents: (1) the GLO application form, (2) the GLO Lease List, (3) the RRC Form P-17/P-17A, and (4) a process flow diagram (PFD), all of which should be submitted by electronic mail to the email address included with the following contact information:

Texas General Land Office
Energy Resources
Attn: Matthew Scott, P.E.
1700 N. Congress Ave. Austin, TX 78701
512-463-5296
matthew.scott@glo.texas.gov

A brief description of the information requirements for each application document is provided below.

1. Application Form

The application form submitted for review must be the latest revision of the GLO form available on the GLO website and must include all wells associated with the Commingled Properties to be commingled. All certifications (check boxes) must be completed (checked), unless not applicable for situations where (a) an application is submitted to request permission to recycle gas and/or utilize gas lift only with no commingling reported on Form P-17/P-17A, such as a single lease or pooled unit, or (b) an application is submitted for commingling only on Form P-17/P17A and (i) does not include a request to recycle gas and/or utilize gas lift or (ii) does not currently recycle gas or use gas lift on state leases, pooled units, or Production Sharing Agreement (PSA) wells in the scope of a commingling permit.

2. GLO Lease List

Provide a table that lists each well in the scope of the RRC commingling permit and (a) the RRC designated field name and reservoir, (b) the RRC lease name and well number, (c) the RRC lease number or drilling permit number, (d) the well API number, (e) the RRC Form P-17 action status, (f) the RRC lease type, (g) then, depending on the controlling document applicable to each well, either (i) the applicable state mineral lease number, (ii) the GLO pooled unit name and pooled unit number, (iii) the GLO base mineral lease number and Production Sharing Agreement (PSA) number, (iv) the GLO base mineral lease number, PSA number, and iNut number that are used for royalty reports, or (v) PRIVATE or PVT for a private lease, and (h) the net royalty interest (NRI) of the state mineral lease, pooled unit, PSA, PSA and iNut, or N/A for a private lease. The GLO web site provides an example of the GLO Lease List.

3. Copy of RRC Form P-17/P-17A surface commingling permit application

The RRC application does not have to be approved before you apply to the GLO. You may submit the draft application you sent to the RRC pending approval, and then submit the final permit within ten days after its approval by the RRC. The RRC has a slightly different definition of surface commingling than the GLO. Therefore, you may not be required by the RRC to submit a Form P-17 or P-17A. One example is an application to utilize gas lift on a single state lease or unit that includes a single RRC oil lease. In any case that a RRC Form P-17 or P-17A is not required, then leave the application check box blank that refers to the Form P-17 and P-17A.

4. Process Flow Diagram

The process flow diagram (PFD), process mechanical flowsheet, or piping and instrumentation diagram (P&ID) submitted with the application must show all wells and include all major equipment (i.e., separators, meters, heaters, heat exchangers, heater-treaters, filters, filter separators, equipment packages/process skids, tanks, compressors, pumps, fired equipment, flares, and all other surface oil and gas treatment vessels and equipment) for each commingled lease from the wellhead(s) to point(s) of custody transfer. Label each meter and piece of equipment with the actual unique vessel/equipment tag and meter identification number used by field and accounting staff that will allow GLO inspectors and auditors to locate and identify the same equipment in the field. Include continuation line labels for all flowlines that extend across multiple sheets/pages. Also, include meters for all non-sales hydrocarbon dispositions (e.g., fuel, flare, flash, instrument, and lift gas). Color code the phase(s) (oil, gas, multiphase, and water) flowing through each line.

Gas Lift

The commingle application form is also used to obtain the initial approval for using either gas recycled on a lease or unit or off-lease gas that is used for (1) secondary recovery or enhanced recovery operations or (2) for artificial lift on State leases or State pooled units, since gas lift or gas injection represents a form of surface commingling. Please ensure that all gas injection and gas lift supply and distribution points are equipped with meters and marked with unique meter identification numbers on the process flow diagram. Permission to inject gas or to utilize gas lift on one or more state leases or pooled units is required pursuant to the terms of state leases. Gas injection and recycling applications are separate and unique from applications to utilize gas lift for artificial lift. If the Commingled Properties do not inject gas or use gas lift or a request to recycle gas or utilize gas lift is not being made, then leave the appropriate application check box(es) blank that refers to gas injection or gas lift.

New or Amended GLO Surface Commingling Application Submission

To obtain a new or amend an existing GLO commingling permit, please submit a complete, new set of application materials which include the updated number of wells and meters, and updated process flow diagrams. Submission by electronic mail to matthew.scott@glo.texas.gov is strongly preferred and will greatly expedite the review and approval process. Approved applications are stored digitally by the GLO and should also be retained by the Lessee for future reference. GLO mineral auditors may ask if you have obtained any required permits during an audit, and GLO field inspectors may compare their visual observations to previously approved permits. Please advise in your application transmittal or request if Lessee has obtained prior written permission from the GLO to surface commingle production or utilize gas lift.

Application Review Process

GLO staff will review all documents and other data submitted by the applicant for compliance with GLO rules, and to ensure that approval of the application would be in the best interest of the PSF. GLO staff may, at their discretion, request additional documents or other information as required to reach a final decision on the application. All written GLO requests, whether by email or letter, must receive an adequate response within sixty (60) days of the request per 31 TAC §9.32(c)(3)(B)(i). If the 60th day lies on a weekend or GLO holiday, then the

deadline for the response will be the next business day thereafter. Failure to respond by the deadline can subject the application to administrative denial. The final decision reached on an application will be transmitted to the applicant via electronic mail.

Note Regarding Gas Valuation

For purposes of any audit conducted by GLO staff pursuant to Tex. Nat. Res. Code, §52.135, non-processed gas and processed gas will be valued by molecular (mass-energy) balance. The term processed gas is defined in your lease, which is the controlling document. Under most GLO lease forms in effect, wherever produced gas is unsuitable for direct transfer into a transmission pipeline (e.g., too high in energy content), then it is deemed to be processed gas. Such gas may first need to be treated either on or off lease and may thereafter be processed in a plant for separation into liquid (NGL) products plus residue gas. Residue gas from a processing plant must be allocated as non-processed gas (see below). If you have an old lease, processed gas may refer to gas “used or sold for the manufacture of gasoline”.

Non-processed gas will be valued by energy content (MMBtus). The term non-processed gas is defined in your lease, which is the controlling document. Under most GLO lease forms in effect, wherever produced gas may be vented, flared, used as fuel gas, or sold directly from the lease as dry, “pipeline quality” gas, it will be deemed to be non-processed gas. Each contributing lease will be allocated by molecular balance at a commingled facility based on the volume and composition of each contributing lease or well. In addition, residue gas from a processing plant must also be allocated by molecular/energy balance. If you have an old lease, non-processed gas may refer to all gas that is not defined as “used or sold for the manufacture of gasoline”.

GLO staff strongly encourage commingling applicants to contact the GLO if they have any questions regarding reporting of and payment of royalty on processed gas. Please be advised that GLO auditors evaluate gas allocation and royalty payments using agency-developed software to perform molecular balance calculations based on the best data available to the auditors, including compositional analyses of production required per 31 TAC § 9.35.

31 TAC § 9.35(a)(4) Supporting Documentation

The minimum documentation required for Commingled Properties meeting one or more of the conditions of 31 TAC § 9.35(a)(4) are as follows:

- 1) Provide a certification letter listing the conditions met as specified per 31 TAC §9.35(a)(4).
- 2) Provide a copy of the RRC Form P-17 or P-17A that includes the Commingled Properties.
- 3) Provide a table that lists each well in the scope of the RRC commingling permit and (a) the RRC lease name and well number, (b) the RRC lease number or drilling permit number, (c) the well API number, (d) then, depending on the controlling document applicable to each well, either (i) the state mineral lease number, (ii) the GLO pooled unit number, (iii) the GLO base mineral lease number and PSA number, (iv) the GLO base mineral lease number, PSA number, and iNut number that are used for royalty reports, or (v) PRIVATE for a private lease, and (e) the net royalty interest (NRI) of the state mineral lease, pooled unit, PSA, PSA and iNut, or N/A for a private lease. The GLO Lease List provides an example of the requested data.

GLO staff will (a) verify that the NRI of the state lease, unit, PSA, or PSA and i-Nut(s) meets the exemption criteria, (b) acknowledge receipt of the exemption letter to the Lessee/Operator by email, and (c) file the certification letter and attachments.

However, note that the exemptions to the GLO surface commingling review procedure per 31 TAC § 9.35(a)(4) do not apply to the review requirements of the state’s lease when the Lessee (a) recycles gas on a lease or unit or utilizes off-lease gas for (1) secondary recovery or enhanced recovery operations or (2) for artificial lift (gas lift) or (b) utilizes full well stream, wet-gas, or multi-phase flow meters. Where permission to recycle gas on a lease or unit or to utilize off-lease gas is required pursuant to the terms of a state lease, then the Lessee applies to the GLO for review and approval of the proposed gas recycling or gas lift operation using the same documentation as required for an application to commingle a state lease before the installation or use of gas lift or gas recycling.