

# The CFR Revisions

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Much ado is being made about updating the Code of Federal Regulations that currently govern all production from the Osage Mineral Estate. We all **should** be concerned. Many Shareholders depend entirely on their royalty income for their living. The rest of us sure find our royalty income handy to sustain our various lifestyles. The problem is, NONE OF US have been concerned nearly enough. We sat back and let the good times roll, while the BIA took care of our business for us. We are now seeing that the BIA was doing a terrible job of taking care of our business. When they offered us \$380,000,000 as a settlement, they were admitting that they had done a poor job. It was much worse than \$380M, but that was all we could prove. The reason that was all we could prove,----**we had to use BIA records to substantiate our claims.** We had no records of our own, and we had miserably failed to monitor BIA's activities. Simply put, **no one was watching the hen house.**

It seems that BIA is currently starting the process of correcting their errors of the past. Many good things have happened over there in the last several months, but they still have a long way to go. I think that once a permanent Superintendent is in place, things will begin to change much more rapidly.

As a part of their admission of wrongdoing, the BIA agreed to update the CFR's to get them into the 21<sup>st</sup> century. No major revisions have been made since 1991. It is true that BIA has historically failed to enforce many regulations already in the books, but that doesn't mean that they currently have all the tools they will need, either.

For instance, there is **nothing in the old CFR's concerning H<sub>2</sub>S** (hydrogen sulfide). This gas kills everything it comes in contact with, including human beings. There has been a small problem with H<sub>2</sub>S up around Hulah lake for years. Now, it is produced in much larger quantities, along with the gas, from many of the Mississippi Lime H<sub>2</sub> wells on the west side of the County. But still, there are no existing regulations that deal with this deadly stuff. The Bureau of Land Management has dealt with production of this sour gas for over 30 years in other areas of the U.S. and they have developed a comprehensive set of regs concerning H<sub>2</sub>S. The NRC has recommended that these regs (BLM Onshore order no.5) be adopted. The Producers don't like that idea.

Also, BLM Onshore Order no. 6 concerning the measurement of gas was recommended to be used. There is very little in the current CFR's pertaining to measurement of gas produced. There will be now! Apparently, they don't like that idea, either.

I really doubt that we have been paid our royalty due on half of the natural gas produced here in the last 100 years. Bypasses around meters have been reported, no regularly scheduled service has ever been required on meters, and no records are required on any service. Where even a small amount of sand is present in the gas flow, the orifice plates wear out very quickly, allowing much more gas to pass without being measured. Onshore Order no. 6 will give the BIA a tool to change this practice plus, it will afford BIA a way to digitally monitor the gas production.

These **two items** are what is being adopted from the BLM regulations. Each will probably consist of maybe 15 pages, certainly no more than 20, yet the Producers and their followers are waving around the entire 338 page set of BLM regulations, claiming that this is what is being adopted. **This is simply not true.** As a matter of fact, the proposed changes state that anything found in these two Onshore Orders not applicable to Osage production will not be used at all, and they also state that Onshore Order no. 5 will apply only where there is evidence that H<sub>2</sub>S has historically been a problem or only where there is reason to believe it could become a problem (and nowhere else.) One Producer who deals with this sour gas, voluntarily went to the Texas Railroad Commission to get their rules on this issue. That doesn't mean that the next producer that comes along will be inclined to follow ANY rules if rules don't even exist here. If you think that following a few common sense rules now is a problem, think what would happen if some people got killed because of an operator not following proper procedures when handling H<sub>2</sub>S. It only takes about 2 breaths of strong, H<sub>2</sub>S laden gas to be deadly, and that assumes that you will have time to take the second breath. Besides the unnecessary sickness and possible deaths, if an accident ever happened in the Osage involving H<sub>2</sub>S, the Federal EPA would be in here before dark, and they would **shut down all production** within 20 miles in all directions until the problem was fixed to their satisfaction. And they can be very hard to please. Can you just see a picture of that on your headright check? We must get it right, and we must do it right now! **What are these people thinking?**

As for the many other updates, every one of them is there for the benefit and the protection of the Shareholders, the public, and our Mineral Estate. Most should have been there long ago. This is going to cost the Producers a little money, but if the

CFR's had been updated on an annual basis over the last 22 years like they should have been, it wouldn't be nearly so painful.

Twenty two years ago, the annual average price of oil was \$20.51 per barrel, and a gallon of milk was about \$2.60. Today, milk is \$4.50 but oil was \$103.75 on 8/16/2013. If that increase in milk had happened all at once, we would all be screaming, but we would still be buying it. That's the situation the Producers are in right now. The small Producers can make money today with \$40 oil. Hz Producers need about \$60. Oil in the Osage was \$103.27 today. We have high gravity oil, easy salt water disposal, 1.5 million contiguous acres with one lessor to deal with, dramatically fewer regulations even after the revisions are in place, and most of the service companies are located right here in the County. A better place than the Osage to be an Oil Producer would be hard to find.

Only 1 Producer, Encana, has stated their intent to leave, and 3 Minerals Council members tell me that Encana's manager never once mentioned the proposed regulations as a reason for that decision. They only stated that they were not making the production they anticipated when they came here, and they wanted to either sell or find a partner to handle the operations. Remember, these were exploratory wells. They drilled 7 wells, scattered about their concession, to test the production potential. They didn't find what they were looking for, so they are leaving. Encana deals with these same regulations everywhere they have production, and they don't have a problem. It's hard to believe they had problems here either. They did get very poor service from the BIA during the first several months they were here, but that pretty much smoothed out after Jan. 7, 2013. The fact that they would consider a partnership tells me they are in no big hurry to leave. They have invested over \$30M here, and 4 or 5 million of that was paid to the Osages as concession fees and bonus's. Additionally, one of their agents told me last week that the Osages have probably received near \$1 million in royalties so far from the production they did find, and 6 of those wells are still pumping. They didn't start production until after the first of the year.

Then there's Chaparral. Chaparral isn't going anywhere at all. They are only backing off from their Mississippi Hz program. They were having the same problems as Encana. The production just didn't justify the expense. In fact, they took down 10 or 12 new leases in a different area just last month.

Leases have been bought and sold here for over 100 years now. There are all kinds of reasons for this, but the primary reason is to make money. This “mass exodus” rhetoric is just that---rhetoric. Naturally, no Producer is going to simply volunteer to spend even one nickel he doesn’t have to spend, so they are squawking about it. That’s their job. That doesn’t mean that they should be allowed to finance junkets to Washington for our Minerals Council members to promote their cause. The only regulatory controls against this should have been the conscience of these 4 Council Members who bit into this deal. But, that doesn’t seem to have worked. They went anyway.

We are told that Councilman Red Eagle was invited to go on Monday, August 5, 2013 by Cynthia Boone. She also told him that full expenses would be paid by the Producers. Much to his credit, he declined. This was at least 48 hours before the plane left. A Special Meeting for travel approval only requires a 24 hour notice, and an Emergency Meeting has no time constraints at all on a notice, as long as a reasonable effort is made to contact all of the Council.

Then, there is the “instant phone poll” that Cynthia got passed just last month. This could have been used. It was a simple issue. But no. They decided to sneak out of town without breathing a word to anyone. This is how Cynthia Boone tells her constituents what’s going on. She won’t even tell her fellow Councilmen what’s going on.

I believe this little trip must have been planned at least 2 weeks prior to D-day. The meeting was scheduled for noon, August 8, 2013. It is even possible that the Producers used our Minerals Council’s creditability to get this meeting set up. I’m pretty sure that the “average Joe” just can’t call and get an appointment with ANYBODY at the Department of Interior, much less the assistant Secretary of the DOI, on a 3 day notice. We’ll probably never know for sure just how they did it, but it’s for sure that somebody just didn’t happen to think of it Monday morning and start making phone calls.

Ray McClain, Osage Shareholder