

2/22/2022 Draft 3 Proposed 47-3 Revisions Comments

Statute Title	Code Section	Comment	Response
Definitions	47-310	Draft Idaho Code (IC) 47-310 (38) defines “Arms-Length” in the first sentence which should be sufficient for a statutory definition if it is revised to be all inclusive. The remaining two sentences and subparts (a), (b) and (c) should be deleted. Draft IC 47-310 (38) should then read in its entirety: “‘Arms-Length’ means a contract, agreement or other transaction between independent, nonaffiliated and unrelated persons with the value of the contract, agreement or other transaction based solely on each person’s self interest. 2/21/2022	The added wording is included to provide detailed clarity regarding what a purchaser is. There has been significant confusion in Idaho regarding this definition. The wording was taken from existing federal guidance.
Oil and Gas Conservation Commission Created	47-314(1)(b)	Draft IC 47-314 (1)(b) in the second sentence should be revised so that the three Commission members established by that sentence reflect a more diverse, yet still informed, view for matters to be covered by the Commission. The most straightforward approach would be to delete the requirement for “a college degree in geosciences or engineering” and change “experience in the oil and gas industry” to “experience concerning the oil and gas industry.” If the Commission chooses not to delete the college degree requirement, the requirement for a college degree should be revised to read: “a college degree in geosciences, engineering, environmental sciences or the law.” 2/21/2022	The makeup of the Commission has been discussed by the Commission at two different meetings and is an ongoing topic. Some changes were made to this section to reflect the direction given.
Integration	47-320	Snake River suggests expressly providing for spacing and integration to be addressed simultaneously in a single hearing (or immediately sequentially without intervening delay), unless a proper, factually supported objection to that process is raised by a qualified stakeholder in the affected area – in other words, where spacing is not reasonably subject to objection, there should be no delay between addressing a spacing application and addressing an application to integrate the spaced unit. 2/22/2022	The ability to have a combined hearing is already in place. The operator has the ability to request a spacing and integration hearing.
	47-320(1)	Draft IC 47-320 (1) should be revised by deleting the terms “set forth herein” after “terms and conditions.” 2/21/2022	No need to remove.
	47-320(3)(c)(1)	Draft IC 47-320 (3)(c)(1) should be revised to state: “An owner integrated under this subsection shall receive a royalty of any gas, oil, or natural gas liquids produced, proportionate to the owner’s interest in the integrated unit with the amount of the royalty equal to the average royalty per acre paid to all other owners in the spacing unit prior to the filing of the integration application.” 2/21/2022	It is the intent to set a minimum royalty rate as a base entitlement.
	47-320(3)(c)(3)	Draft IC 47-320 (3)(c)(3) should be revised to state: “The operator of an integrated spacing unit shall pay an owner integrated under this subsection the average payment per acre of the bonus payments paid to all owners in the spacing unit prior to the filing of the integration application.” 2/21/2022	It is the intent to ensure that the highest bonus payment is provided for all owners.
	47-320(3)(c)(4)	Draft IC 47-320 (3)(c)(4) should be revised to delete the second sentence and revise the first sentence to read: “The operator shall avoid any use of surface or subsurface lands belonging to an owner integrated under this subsection.” 2/21/2022	Changing to this wording would potentially prevent the development of a resource and impede the correlative rights of the majority of owners in the unit.
	47-320(3)(6)	Draft IC 47-320 (3)(6) should be revised to read: “Nothing in an integration order shall be deemed to prevent the operator and owners from voluntarily agreeing to different lease terms before or after entry of an integration order.” The phrase “An integration order including the terms specified in this subsection fulfills the Department’s obligation to integrate mineral interests upon just and reasonable terms, provided, that” should be deleted.	This term is consistent with prior orders discussing the terms of integration.
Rules for Commission - Administrative Procedures	47-328	The process would be that Commission staff would cause hearings for whatever reason and generate a recommended order for the Commission’s review and final approval. The recommended order would be published at least 10 business days prior to any OGCC meeting. This will give only the requesting party and IDL staff the option to review any respective additional written comments made by them prior to the OGCC meeting. The requesting party and \or IDL staff will have the option of up to 5 minutes to summarize their positions and the Commission can ask questions of them if desired. The Commission then discusses the order and can approve same or remand same for more review or information input. The Commission decision cannot be appealed except through court procedures.	This topic may be discussed and acted on at a future meeting by the Commission.

Use of surface land by owner or operator	47-334	The proposed changes seem unwarranted. Again, maintaining the integrity of the Landowner Bill of Rights should be paramount. 2-22-2022	There have not been changes proposed for 47-334.
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