

DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION  
BOARD OF OIL AND GAS CONSERVATION

STEVE BULLOCK, GOVERNOR

OIL AND GAS CONSERVATION DIVISION



STATE OF MONTANA

April 20, 2016

Neil Kornze  
Director, Bureau of Land Management  
U.S. Department of the Interior  
Mail Stop 2134 LM  
1849 C Street N.W.  
Washington, D.C. 20240

**Re: RIN 1004-AE14: Waste Prevention, Production Subject to Royalties, and Resource Conservation, proposed rule published in the Federal Register on February 8, 2016 (81 Fed. Reg. 6616)**

Dear Director Kornze,

Please accept the following comments on the proposed rule referenced above.

**GENERAL COMMENTS ON RULE PROPOSAL**

The proposed rules to reduce methane emissions and wasted gas on public and tribal lands will have an impact on the development of state and private minerals as a result of increased reporting and gas flaring or waste limitations imposed when the lands are subject to a federal unit or communitization agreement (CA). In many areas of Montana, federal minerals consist of small tracts within a proposed or established spacing unit, and federal interests could be minority interests within federally approved units or CA's. Increased regulatory requirements and costs due to the presence of federal mineral interests will directly impact private and state lands within units and CA's, as well as lands located in proximity to federal minerals.

Exploration programs may be designed to avoid federal minerals, impacting not only federal interests but also any excluded private or state interests. Increased cost of operation will also negatively impact the economic life of existing wells, especially low-volume or stripper wells.

Montana statutes require efficient and orderly development of oil and gas resources. Orderly development also allows consideration and minimization of the environmental impacts from oil

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and gas resource extraction. Regulations that favor or hinder development based upon mineral ownership are not conducive to orderly development.

Subpart 3179 of the proposed rules applies to wells located on private or state owned mineral interests on the basis of inclusion in a federally approved unit or CA. § 3179.401 states that variances to the subpart must be requested by the state, and that the BLM State Director will decide whether or not the variance is granted. The inclusion of wells under state jurisdiction and requiring that variances be approved by the State Director establishes a conflict between state and federal regulations and cedes state authority on lands with private and state minerals, which could be the majority interest with the CA or unit. We would request that the proposed rules be amended to specifically exclude wells under state regulation.

## **COMMENTS WITH RESPECT TO SPECIFIC RULE SECTIONS**

### **Part 3160-Onshore Oil and Gas Operations**

Federal drilling permits may be required when federal acreage comprises only a small portion of spacing unit if federal minerals are penetrated at some point along a horizontal wellbore. The additional submission requirements of a waste minimization plan will be a burden to operators that develop primarily private or state owned mineral interests. Extended permit approval times, especially during periods of active development by multiple operators and continuing infrastructure expansion, will result in a plan that is meaningless when the well is drilled. Subsequent sections of the proposed rules apply limits to flaring and venting of gas or gas waste and would preclude the need for additional information to accompany the APD.

As proposed, § 3162.3-1(j) does not appear to limit the inclusion of a waste minimization plan to development oil wells as indicated in the discussion (81 Fed. Reg. 6663).

### **Part 3170-Onshore Oil and Gas Production**

The scope for this section includes fee and state tracts that are committed to a federally approved unit or CA. Increased regulatory burden due to the inclusion of federal minerals in a spacing or drilling unit may hinder exploration and development on fee lands and a negative economic impact will also occur to wells currently subject to a unit or CA.

### **Subpart 3179-Waste Preventions and Resource Conservation**

The State of Montana has flaring requirements that require periodic review of wells which flare in excess of a 100 mcf per day. State regulations require continued monitoring of the economic environment and changes in the gas gathering infrastructure. Production may be curtailed

when it is determined that an actual economic benefit is gained by requiring that gas be captured and marketed. Fixed flaring limitations do not accommodate rapid changes in the economics of production and of gas gathering, and can be difficult to apply during the early stages of oil field development.

§ 3179.11 directs case-by-case coordination with the state regulatory agency responsible for non-federal interests when federal limitations impact non-federal or non-Indian interests. In Montana, flaring exceptions are not an administrative action but are reviewed and approved or denied by the Board of Oil and Gas Conservation at a scheduled meeting. Coordination does not avoid a duplicative process, nor does it define how the coordination will occur. We request that the federal flaring limitations not be applied to wells under state regulation or that the section be modified to establish a more specific framework for coordination between BLM and the states.

The remainder of Subpart 3179 addresses emissions from pneumatic controllers and pumps, storage vessels, and direct specific action with respect to leak detection and reporting. These regulations also apply to state regulated facilities where lands are subject to a federal unit or CA. On March 10, 2016, the Environmental Protection Agency (EPA) announced an effort to reduce emissions of methane from the oil and natural gas industry and to regulate emissions from existing sources. It is our belief that the authority for the Bureau of Land Management to develop emissions-based regulations is questionable, the announced EPA action to address methane emissions is a more correct solution, and proposed Sections 3179.201 - 3179.204, 3179.301 – 3179.303 should not be adopted.

Sincerely,



James W. Halvorson  
Administrator,  
Montana Board of Oil and Gas Conservation

Via e-filing.