



Industrial Energy Consumers of America *The Voice of the Industrial Energy Consumers*

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June 20, 2012

U.S. Department of the Interior
Director (630)
Bureau of Land Management
Mail Stop 2134 LM
1849 C St. NW.
Washington, DC 20240
Attention: 1004-AE26

RE: Oil and Gas; Well Stimulation, Including Hydraulic Fracturing, on Federal and Indian Lands, Document Citation – 77 FR 27691

On behalf of the Industrial Energy Consumers of America (IECA), we urge you to refrain from imposition of duplicative hydraulic fracturing regulation, which is currently being provided by states, both efficiently and effectively, where the Bureau of Land Management (BLM) lands are located. Instead, we urge you to consult with the relevant states and their regulatory agencies, before advancing new hydraulic fracturing-related regulations. The manufacturing sector has directly benefited from greater use of hydraulic fracturing and low natural gas prices. BLM regulation of hydraulic fracturing raises significant concerns that drilling permitting will slow and that production rates will fall. It is of great concern that BLM provides no supporting scientific data on hydraulic fracturing, well stimulation incidents, or problems that justify new overarching regulation.

The Industrial Energy Consumers of America is a nonpartisan association of leading manufacturing companies with \$700 billion in annual sales and with more than 650,000 employees nationwide. Member companies are substantial consumers of natural gas as a fuel and feedstock, natural gas power generation and crude oil for refineries. IECA membership represents a diverse set of industries including: chemicals, plastics, cement, paper, food processing, brick, fertilizer, steel, glass, industrial gases, pharmaceutical and aluminum.

IECA member companies have good reason to be concerned about regulatory burdens on natural gas and oil production on federal lands. From 2000 to 2005, natural gas prices doubled and tripled because demand exceeded supply. We recall that BLM's permitting system (ADP), heavy with increased bureaucracy and inadequate staffing, resulted in thousands of drilling permit backlogs. As a result, wells were not drilled, natural gas and oil were not produced and the manufacturing sector and the economy as a whole suffered. There were plenty of natural gas reserves and the federal government was directly responsible for the failure to allow producers access to the natural gas in order to produce it for us, the consumer. The manufacturing sector lost 3.0 million jobs from 2000 to 2005 and a great number of these jobs were directly related to the high price of natural gas. Thousands of chemical, plastics, fertilizer, steel, paper, glass and aluminum manufacturing plants shut down. We cannot and should not let this happen again.

In our view, BLM lacks the knowledge, experience and judgment on cost-effective hydraulic fracturing or well stimulation best practices when compared with the states. In fact, existing BLM permitting processes already suffer from extraordinary delay. It will take unnecessary time and resources to bring the Federal bureaucracy up to current state levels of technical proficiency. The implementation of these unjustified, extraordinary and costly technical requirements by unqualified

personnel spells trouble for timely and cost-effective permitting processes and ultimately exploration, development and production of natural gas and oil on federal lands.

The proposed hydraulic fracturing rules simply raise costs of natural gas and oil to U.S. industrial consumers and others, consequently reducing manufacturing competitiveness and jobs, and retarding economic growth.

The following aspects of the rulemaking and the proposed rule must be addressed:

- 1. Continue the Dialogue** – We recognize that BLM rules were slightly modified to take into account some of the industry concerns. Nonetheless, a number of technical and operational details remain problematic. We urge further discussions between the oil and gas industry and the DOI/BLM during the comment period for a better understanding of how particular regulations will affect them and industrial consumers.
- 2. Management and Capacity Limitations** – There is concern over the capacity of BLM to deal with the volume of information requested without delaying drilling. BLM claims, that well stimulations would be approved without any associated delays, do not give us much confidence. The sheer breadth and number of technical concerns raised suggests BLM lacks capacity to regulate and process permits and approvals in a timely fashion. The proposed rule would be applied to all wells administered by BLM. The federal Application for Permit to Drill (APD) approval process is already slow – already taking more than a year under some circumstances – so an additional hydraulic fracturing approval will likely add bureaucracy and delays without any clear benefit.
- 3. Knowledge and Experience Limitations** – There are a number of technical concerns which (1) reveal that BLM lacks understanding of the how the industry operates in this area, and (2) raises questions of BLM’s ability or judgment to deal with the information requested. Standards and requirements must be based on: (1) accepted science and proven engineering practices, and (2) acknowledged differences between regions based on geography, geologic formations, hydrology and historic conditions of the areas.
- 4. Industry Could Avoid Drilling on Federal Lands- Loss of State and Federal Royalties** – The proposed rule will discourage exploration and production on federal lands, which would substantially reduce state and federal royalties when combined, are billions of dollars of revenue. Further, the proposal could give BLM authority to recommend completion design, encouraging production to move from federal lands to state and private lands. The states argue they can adequately regulate, and in fact are doing so. BLM needs to justify the need for the proposed rule.
- 5. Newly Required Plans and Reports are Excessive and Could Contribute to Delays** – BLM claims they will only require hydraulic fracturing fluid disclosure after the fact. However, the proposed rule requires operators to submit highly detailed plans (including Cement Bond Logs, and likely hydraulic fracturing fluids) for approval in advance of well stimulation. Deviations from the submitted well stimulation plan must be explained in the after-the-fact report. Thus, the process of getting a well stimulation plan approved could be tantamount to the creation of a new and extensive permitting process for hydraulic fracturing fluids, water sourcing, and waste water management.
- 6. No Deadline for BLM to Approve or Disapprove** – There is no time deadline for BLM’s approval or disapproval of well stimulation plans. Likewise, there is no information on deadlines for BLM responses to Cement Bond Logs (CBL), or process if a CBL is unacceptable.

Variances concerning CBLs and BLM's rights to rescind or modify any condition of approval, for practically any reason, simply drive uncertainty into the permitting process.

- 7. Data Overreach on Cement Bond Logs** – The proposed rule requires mandatory surface casing Cement Bond Logs (CBLs) on every well. This is a major concern. This represents a significant deviation from current practice. This would be operationally impractical, unnecessary and at odds with current, efficient practices, including pressure testing. Data without purpose or qualified and cost-effective interpretation is at best a waste of resources as it would result in significant drilling delays without providing any additional safety or effectiveness. At worst it is onerous and meant to discourage or end resource development.
- 8. Superfluous Post-Operation Micro-Seismic Testing** – BLM proposes that producers measure fracture length and height as a result of well stimulation. This proposal would require post-stimulation models or micro-seismic testing. Companies already design hydraulic fracturing jobs to stay in specific, targeted production zones. Producers are not interested in unproductive hydraulic fracturing; instead they look to avoid wasted effort or unproductive performance, and are already incentivized to operate efficiently within the target formation.
- 9. Unnecessary Post-Operation Reporting** – BLM requires the operator to submit post operation data following the completion of the stimulation activities to determine if the operations were conducted as approved. There are many scenarios and situations that may necessitate changes in the field during stimulation activities. Operators will be required to submit a deviation report to BLM with yet more data and information. BLM should consider ways to minimize the submittal of information by allowing operators to conduct stimulation operations within acceptable operating ranges and allow operators to use the standard completion reports.
- 10. Usable Water – Unexplained New Standard** – BLM proposes deleting the definition of “fresh” water to expand its regulation more broadly to regulate “usable” water. “Usable water” is defined as water that contains up to 10,000 ppm of total dissolved solids. BLM provides no justification for expanding its regulation. The costs and benefits of this change are not explained. Further the data required to determine location of the “usable water” may require monitor wells, but such water can occur in the oil and gas bearing zone itself and should be exempt. BLM should defer to state regulatory water boards and agencies concerning “usable water.”
- 11. Duplicative Water Information – Lack of Jurisdiction** – BLM's proposed rule requires operators to provide information about the water source to be used in the hydraulic fracturing operations. BLM states the information is needed to determine the impacts associated with operations and the need for any mitigation applicable to Federal and Indian Lands. BLM does not describe the range of mitigation processes or actions that may be required, or the associated costs. EPA and the states have direct or delegated jurisdiction under the Clean Water Act and the Safe Drinking Water Act for the protection of surface water and underground sources of drinking water. Additionally, states already manage and protect all their water resources (both surface and groundwater) to ensure clean, safe, and reliable water supplies and to maintain a strong economy, and a healthy environment for its citizens. This issue should not be included in BLM's final rule until BLM clearly provides more details of what this would include so that operators are allowed an opportunity to provide meaningful input.
- 12. Well Stimulations – Now Include “Acid Jobs”** – All stimulation operations are covered by the rule, including acid jobs. This is a change that could be potentially troublesome. Acid jobs

are routine and small volume, and are not of the same category as large volume hydraulic fracturing operations. Acid jobs are not reported into FracFocus. BLM does not provide justification for this requirement. We encourage the BLM to exclude acid jobs and small pump-in jobs from the rule. The proposed rule requires prior approval of well stimulations. Well stimulation design and operations are complicated requiring specialized expertise. The APD approval process is already excessively slow. BLM provides no information as to how it will ensure it will avoid or minimize the delays with its current budget and manpower constraints. To reduce the burdens on operators, BLM should allow operators to submit generic hydraulic fracturing plans for a targeted zone in resource play areas that can be referenced when an APD is submitted. This would reduce repetitive operator submittals and reduce BLM's approval time.

13. Protection of Trade Secret Information is Vague – The proposed rule allows information to be exempt from public disclosure but does not identify the applicable federal law. Trade secret protection under the Uniform Trade Secret Act would be less onerous than other federal statutes. Further, BLM provides no information on appeal process on BLM decisions to publicly release stimulation fluid information.

14. FracFocus Effectively Marginalized – Finally, while the preamble states that BLM is examining whether or not to use FracFocus as their disclosure mechanism, no mention is made of FracFocus in the rule itself. The proposed rule requires that disclosure of chemicals used in the hydraulic fracturing process should be provided to the BLM after the fracturing operation is completed. The BLM states that it is working with the Ground Water Protection Council to determine whether the disclosure can be integrated into the existing public website known as FracFocus.org. However, there is no commitment to the use of FracFocus. Yet, BLM states that producers operating on private, state and federal lands continue to use FracFocus as an effective disclosure mechanism. BLM should expressly approve FracFocus as the qualified platform of disclosure. If FracFocus becomes the platform for disclosure, that would be a positive improvement from prior drafts of the proposed rule.

Clearly, these rules would slow down the production of natural gas and oil that we need for economic growth. Federal revenues from such production would slow as would revenue to the states.

As significant consumers of natural gas, we support disclosure of fluids used in the hydraulic fracturing process. We have reviewed the Groundwater Protection Council and Interstate Oil and Gas Compact Commission's national online registry, FracFocus (<http://fracfocus.org/>), and believe it to be a superb example of what is needed and demanded by consumers. We recommend that the Department of the Interior implement FracFocus as the vehicle for monitoring and protecting health and the environment.

Since 2000, the manufacturing sector has lost 5.5 million jobs. For the first time in two decades, we have the potential for a manufacturing renaissance because of low natural gas prices. Low natural gas prices provide a strategic advantage over our non-U.S. competitors, and companies are beginning to invest in the U.S. We urge you to not impose regulations that are unnecessary – the consequences are too great.

Respectfully submitted,

Paul N. Cicio
President