

generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 23, 2006. Filing a petition for reconsideration by the

Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Reporting and recordkeeping requirements, Intergovernmental relations, Ozone.

Dated: March 14, 2006.

**A. Stanley Maiburg,**

*Acting Regional Administrator, Region 4.*

■ 40 CFR part 52, is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

*Authority:* 42 U.S.C. 7401 *et seq.*

**Subpart II—North Carolina**

■ 2. Section 52.1770 (e) is amended by adding a new entry at the end of the table for "Charlotte, Raleigh-Durham, and Winston-Salem Carbon Monoxide Second 10-Year Maintenance Plan" to read as follows:

**§ 52.1770 Identification of plan.**

*	*	*	*	*
(e) * * *				

**EPA-APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS**

Provision	State effective date	EPA approval date	Federal Register citation
Charlotte, Raleigh-Durham, and Winston-Salem Carbon Monoxide Second 10-Year Maintenance Plan.	March 18, 2005 .....	March 24, 2006 .....	[Insert first page of publication]

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**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**43 CFR Part 3100**

[WO–310–1310–PP–241A]

RIN 1004–AD83

**Oil and Gas Lease Acreage Limitation Exemptions and Reinstatement of Oil and Gas Leases**

**AGENCY:** Bureau of Land Management, Department of the Interior.

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Land Management (BLM) is issuing this final rule to amend its regulations to conform to provisions of the Energy Policy Act of 2005 (EPAc) that changed oil and gas lease acreage limitations and oil and gas lease reinstatement provisions. Section 352 of the EPAc expands the types of lease holdings that are exempt from the lease acreage holding limitations. Section 371 of the EPAc extends the time to file a lease reinstatement petition from 15 months to 24 months.

**DATES:** This final rule is effective March 24, 2006.

**FOR FURTHER INFORMATION CONTACT:** Jay Douglas in the Fluid Minerals Group at (202) 452–0336. For assistance in reaching Mr. Douglas, persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, 7 days a week.

**SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Discussion of the Final Rule
- III. Procedural Matters

**I. Background**

Section 184(d) of the Mineral Leasing Act of 1920 limited the amount of acreage a Federal oil and gas lessee may hold in any one state to 246,080 acres. That section also provides that certain types of acreage holdings are exempt from those limitations. Section 352 of the EPAc amended the Mineral Leasing Act to expand the types of acreage holdings that are exempt from the limitations imposed by the Act.

Section 188(d) of the Mineral Leasing Act of 1920 provides for reinstatement, under certain circumstances, of Federal oil and gas leases that were terminated for nonpayment of rental. Section 371 of the EPAc amended that section of the

Act by extending the maximum time for a lessee to submit a petition for reinstatement to the BLM.

The BLM finds good cause to omit the general notice of proposed rulemaking required by 5 U.S.C. 553(b). The notice and comment are unnecessary because the terms of the EPAc are very clear and provide no room for interpretation. Both changes are required by the EPAc, are not discretionary on the part of the Secretary of the Interior, and would implement clear and mandatory provisions of a recently enacted statute. For all the reasons noted above, the BLM further finds good cause to waive the delay in effectiveness in 5 U.S.C. 553(d). In addition, the provisions of the revised regulations do not require any change in conduct by the public and have been known to the public since the EPAc's enactment in August 2005.

**II. Discussion of the Final Rule**

This final rule will implement the changes to the 43 CFR Part 3100 regulations that are required because of amendments Sections 352 and 371 of the EPAc made to the Mineral Leasing Act. A section-by-section discussion of the changes follows:

*Section 3101.2–3 Exempted Acreage*

This section is revised to add the following to the list of acreage that will

not be included in computing accountable acreage:

(A) Communitization agreements; and  
(B) Acreage in leases for which royalty (including compensatory royalty or royalty in-kind) was paid in the preceding calendar year.

This section previously stated that acreage in a communitization agreement should not be exempted and the section did not include leases for which royalty (including compensatory royalty or royalty in-kind) was paid in the preceding calendar year. The other categories of excepted acreage, such as acreage subject to an operating, drilling, or development contract, are renumbered but not changed.

#### *Section 3108.2-3 Reinstatement at Higher Rental and Royalty Rates: Class II Reinstatements*

Paragraph (b)(1) of this section is revised by limiting its application to leases that terminated on or before August 8, 2005, the date of enactment of EPAct. Under this new section, if a lease terminated on or before August 8, 2005, any form of actual notice, including a return of a check, constitutes notice of termination. The provisions of this paragraph are not changed except as to the period to which it applies, i.e. leases that terminated for underpayment of rental, before August 8, 2005.

This section is further revised by adding a new paragraph (b)(2) that addresses the timing of submission of petitions for reinstatement for leases that terminated after August 8, 2005. Under this new section, if a lease terminated after August 8, 2005, the BLM can reinstate the lease if the lessee submitted a petition for reinstatement and the required back rental and royalty at the increased rate accruing from the date of termination by the earlier of:

(A) Sixty days after the last date that any lessee of record received Notice of Termination by certified mail; or

(B) Twenty four months after termination of the lease.

This provision is similar to previous section 3108.2-3(b)(1) except that it increases the maximum amount of time to submit a petition for reinstatement from 15 months to 24 months.

### **III. Procedural Matters**

#### *Executive Order 12866, Regulatory Planning and Review*

These final regulations are not a significant regulatory action and are not subject to review by Office of Management and Budget under Executive Order 12866. These final regulations will not have an effect of \$100 million or more on the economy.

They will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. These final regulations will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These final regulations do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor do they raise novel legal or policy issues.

This final rule expands the types of lease holdings that are exempt from the lease acreage holding limitations and extends the time to file a lease reinstatement petition from 15 months to 24 months. These provisions are administrative in nature and have the potential for only minor economic impacts, however, the economic impact is not a result of this rulemaking, as both changes are required by the EPAct and are not discretionary on the part of the Secretary of the Interior.

#### *National Environmental Policy Act*

The BLM has determined that this final rule is essentially administrative in nature. This qualifies for a categorical exclusion under 516 Departmental Manual (DM) Chapter 2, Appendix 1.10. Therefore, it is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act (NEPA), pursuant to 516 DM, Chapter 2, Appendix 1. In addition, the final rule does not meet any of the 10 criteria for exceptions to categorical exclusions listed in 516 DM, Chapter 2, Appendix 2. Pursuant to Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department of the Interior, the term "categorical exclusions" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

#### *Regulatory Flexibility Act*

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended, 5 U.S.C. 601-612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial,

on a substantial number of small entities. The final regulations will have no effect on any small entities. These provisions are administrative in nature and have the potential for only minor economic impacts, however, the economic impact is not a result of this rulemaking, as both changes are required by the EPAct and are not discretionary on the part of the Secretary of the Interior. Therefore, the BLM has determined under the RFA that this final rule would not have a significant economic impact on a substantial number of small entities.

#### *Small Business Regulatory Enforcement Fairness Act*

These final regulations are not a "major rule" as defined at 5 U.S.C. 804(2). These provisions are administrative in nature and have the potential for only minor economic impacts, however, the economic impact is not a result of this rulemaking, as both changes are required by the EPAct and are not discretionary on the part of the Secretary of the Interior.

#### *Unfunded Mandates Reform Act*

These final regulations do not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year; nor do these final regulations have a significant or unique effect on State, local, or tribal governments or the private sector. The final rule will not impose any mandate on State, local, or tribal governments or the private sector. The regulations implement clear and mandatory provisions of a recently enacted statute. These provisions are administrative in nature and have the potential for only minor economic impacts, however, the economic impact is not a result of this rulemaking, as both changes are required by the EPAct and are not discretionary on the part of the Secretary of the Interior. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

#### *Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)*

The final rule does not represent a government action capable of interfering with constitutionally protected property rights. The final rule has no effects that could be considered a taking. The final regulation is essentially administrative in nature, and assists rather than restricts the continued holding of leases by their current private owners, by relaxing acreage holding limitations and

giving a longer period of time to seek reinstatement of lapsed leases. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

#### *Executive Order 13132, Federalism*

The final rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The final rule will have no effect on the States, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The final regulation is essentially administrative in nature, merely expanding the types of lease holdings that are exempt from the lease acreage holding limitations and extending the maximum time to file a lease reinstatement petition from 15 months to 24 months. Therefore, in accordance with Executive Order 13132, the BLM has determined that this final rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

#### *Executive Order 12988, Civil Justice Reform*

Under Executive Order 12988, the Office of the Solicitor has determined that this final rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

#### *Executive Order 13175, Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, the BLM has determined that this rule has no impact on Tribal lands because the BLM's part 3100 regulations do not apply to Tribal lands.

#### *Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

In accordance with Executive Order 13211, the BLM has determined that the final rule will not have substantial direct effects on the energy supply, distribution or use, including a shortfall in supply or price increase. This rule does not represent the exercise of agency discretion. Congress' mandate to expand the types of holdings that are exempt from the acreage holding limitations and to increase the

maximum amount of time to petition for lease reinstatement in certain circumstances may result in an increase in oil and gas production of unknown amounts. It does not impose a regulatory burden on any lessee.

#### *Executive Order 13352, Facilitation of Cooperative Conservation*

In accordance with Executive Order 13352, the BLM has determined that this final rule is administrative in nature, merely expanding the types of lease holdings that are exempt from the lease acreage holding limitations and extending the maximum time to file a lease reinstatement petition from 15 months to 24 months. This rule does not impede facilitating cooperative conservation; takes appropriate account of and considers the interests of persons with ownership or other legally recognized interests in land or other natural resources; has no effect on local participation in the Federal decision-making process; and does not affect programs, projects, and activities having to do with protecting public health and safety.

#### *Paperwork Reduction Act*

The BLM has determined that this rulemaking does not contain any new information collection requirements that the Office of Management and Budget (OMB) must approve under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The OMB has approved the information collection requirements in the regulations under OMB control number 1004-0185 which expires June 30, 2006.

#### *Author*

The principal author of this rule is Jay Douglas of BLM's Fluid Minerals Group (WO320) assisted by Ian Senio of BLM's Regulatory Affairs Group and Dennis Daugherty, Office of the Solicitor, Department of the Interior.

#### **List of Subjects in 43 CFR Part 3100**

Government contracts; Mineral royalties; Oil and gas exploration; Public lands—mineral resources; Reporting and recordkeeping requirements; Surety bonds.

Dated: March 10, 2006.

#### **Chad Calvert,**

*Acting, Assistant Secretary, For Land and Minerals Management.*

■ Accordingly, BLM amends 43 CFR part 3100, as set forth below:

#### **PART 3100—OIL AND GAS LEASING**

■ 1. Revise the authority citation for part 3100 to read as follows:

**Authority:** 30 U.S.C. 189 and 359; 43 U.S.C. 1732(b), 1733, and 1740; and the Energy Policy Act of 2005 (Pub. L. 109-58).

■ 2. Amend § 3101.2-3 by designating the first sentence of the section as paragraph (a) and the second sentence of the section as paragraph (b) and by revising newly designated paragraph (a) to read as follows:

#### **§ 3101.2-3 Excepted acreage.**

(a) The following acreage shall not be included in computing accountable acreage:

- (1) Acreage under any lease any portion of which is committed to any Federally approved unit or cooperative plan or communitization agreement;
- (2) Acreage under any lease for which royalty (including compensatory royalty or royalty in-kind) was paid in the preceding calendar year; and
- (3) Acreage under leases subject to an operating, drilling or development contract approved by the Secretary.

\* \* \* \* \*

■ 3. Amend § 3108.2-3 by redesignating paragraph (b)(1) and (b)(2) as paragraphs (b)(2) and (b)(3), respectively, adding a new paragraph (b)(1), and revising newly designated paragraph (b)(2) to read as follows:

#### **§ 3108.2-3 Reinstatement at higher rental and royalty rates: Class II reinstatements.**

\* \* \* \* \*

(b)(1) Leases that terminate on or before August 8, 2005, may be reinstated if the required back rental and royalty at the increased rates accruing from the date of termination, together with a petition for reinstatement, are filed on or before the earlier of:

(i) Sixty days after the receipt of the Notice of Termination sent to the lessee of record, whether by return of check or any form of actual notice; or

(ii) Fifteen months after termination of the lease.

(2) Leases that terminate after August 8, 2005 may be reinstated if the required back rental and royalty at the increased rates accruing from the date of termination, together with a petition for reinstatement, are filed on or before the earlier of:

(i) Sixty days after the last date that any lessee of record received Notice of Termination by certified mail; or

(ii) Twenty four months after termination of the lease.

\* \* \* \* \*

[FR Doc. 06-2848 Filed 3-23-06; 8:45 am]

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