

BEFORE THE BOARD OF OIL AND GAS CONSERVATION AND
THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 36.22.307, 36.22.608,) PROPOSED AMENDMENT AND
36.22.1015, and 36.22.1016) REPEAL
pertaining to fracturing of oil and gas)
wells, and the repeal of ARM)
36.22.1244 pertaining to the)
producer's certificate of compliance)

TO: All Concerned Persons

1. On September 17, 2018, at 2:00 p.m., the Department of Natural Resources and Conservation and the Board of Oil and Gas Conservation will hold a public hearing at 2535 St. Johns Avenue, Billings, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the board by 5:00 p.m. on September 10, 2018, to advise us of the nature of the accommodation that you need. Please contact Jim Halvorson, Board of Oil and Gas Conservation, 2535 St. Johns Ave., Billings, Montana, 59102; telephone (406) 656-0040; fax (406) 655-6015; TDD/Montana Relay Service (406) 444-1421; or e-mail jhalvorson@mt.gov.

3. The rules as proposed to be amended provide as follows.

36.22.307 ADOPTION OF FORMS (1) The forms hereinafter listed are adopted by reference and made a part of these rules for all purposes, and the same must be used as herein directed in giving notice and in making reports and requests to the board. Copies of printed forms will be supplied by the board on request. ~~Address requests for forms to: Board of Oil and Gas Conservation, 1625 Eleventh Avenue, Helena, Montana, 59620-1601 or 2535 St. Johns Avenue, Billings, Montana, 59102.~~

(a) through (j) remain the same.

~~(k) Form No. 13~~ ~~Producers Certificate of Compliance and~~
~~Authorization to Transport Oil and Gas from Lease~~

(l) through (s) remain the same but are renumbered (k) through (r).

AUTH: 82-11-111, MCA
IMP: 2-4-201, 82-11-111, MCA

REASONABLE NECESSITY: The department proposes to amend this rule to remove Form No. 13 because it serves no current regulatory purpose. The

department further proposes to incorporate by reference updated versions of Form No. 9 and Form No. 10, proposed to be dated August 2018. The proposed changes to Form No. 9 are: change of filing address, request for printed name of submitter, addition of lines and column boundaries to the form, clarification that the API well number may be used for identification of the gas source in addition to a lease or meter station, and requesting that the number of wells associated with the lease or station be reported rather than the well type. The proposed changes to Form No. 10 are: change of filing address, request for printed name of submitter, simplification of the production section of the form and the addition of Helium, Carbon Dioxide, and Nitrogen as potential plant output. Page 2 of Form No. 10 is changed to clarify that API well number may be used for identification of the gas source in addition to a lease or meter station, and requesting that the number of wells associated with the lease or station be reported rather than the well type. The proposed updated versions of these forms will be available here:
<http://bogc.dnrc.mt.gov/Forms/WebForms/>.

36.22.608 WELL STIMULATION ACTIVITIES COVERED BY DRILLING PERMIT (1) and (2) remain the same.

(3) For the purpose of this section, an adequate description of the proposed well stimulation includes:

(a) remains the same.

(b) ~~the trade name or generic name of the principle components or chemicals;~~ disclosure of fracturing fluids in accordance with 82-10-603, MCA;

(c) through (e) remain the same.

(4) ~~In lieu of a well specific design the owner, operator, or service company may provide:~~

(i) ~~a copy of a final design of well treatment actually used for similar wells and which reflects the likely design for the well to be permitted; or~~

(ii) ~~a prefiled generic design submitted for specific geologic formations, geographic areas, or well types likely to be used in a particular well.~~

AUTH: 82-11-111, MCA

IMP: 82-11-111, 82-11-122, 82-11-134, MCA

REASONABLE NECESSITY: The board proposes to amend this rule to ensure consistency with statutory changes in 82-10-600, MCA et seq., which became effective October 1, 2017.

36.22.1015 DISCLOSURE OF WELL STIMULATION FLUIDS (1) remains the same.

(2) For hydraulic fracturing treatments the description of the amount and type of material used must include: the disclosure of fracturing fluids in accordance with 82-10-603, MCA, with the actual rate or concentration of each ingredient or additive used for treatment.

(a) ~~a description of the stimulation fluid identified by additive type (e.g. acid, biocide, breaker, brine, corrosion inhibitor, crosslinker, demulsifier, friction reducer,~~

gel, iron control, oxygen scavenger, pH adjusting agent, proppant, scale inhibitor, surfactant); and

~~(b) the chemical ingredient name and the Chemical Abstracts Service (CAS) Registry number, as published by the Chemical Abstracts Service, a division of the American Chemical Society (www.cas.org), for each ingredient of the additive used. The rate or concentration for each additive shall be provided in appropriate measurement units (pounds per gallon, gallons per thousand gallons, percent by weight or percent by volume, or parts per million).~~

(3) and (4) remain the same.

AUTH: 82-11-111, MCA

IMP: 82-11-111, MCA

REASONABLE NECESSITY: The board proposes to amend this rule to ensure consistency with statutory changes in 82-10-600, MCA et seq., which became effective October 1, 2017.

36.22.1016 PROPRIETARY CHEMICALS AND TRADE SECRETS (1) As provided in 30-14-402, MCA, where the formula, pattern, compilation, program, device, method, technique, process, or composition of a chemical product is unique to the owner or operator or service contractor and would, if disclosed, reveal methods or processes entitled to protection as trade secrets, ~~such a chemical need not be disclosed to the board or staff. The~~ the owner, operator, or service contractor may identify the trade secret chemical or product by trade name, inventory name, chemical family name, or other unique name and the quantity of such constituent(s) used. request that the administrator withhold the information in accordance with 82-10-604, MCA.

(2) ~~If necessary to respond to a spill or release of a trade secret product the owner, operator, or service contractor must provide to the board or staff, upon request, a list of the chemical constituents contained in a trade secret product. The administrator may request information be provided orally or be provided directly to a laboratory or other third party performing analysis for the board. Board members, board staff, and any~~ Any third parties receiving trade secret information on behalf of the board may be required to execute a nondisclosure agreement.

(3) and (4) remain the same.

AUTH: 82-11-111, MCA

IMP: 82-11-111, MCA

REASONABLE NECESSITY: The board proposes to amend this rule to ensure consistency with statutory changes in 82-10-600 et seq., which became effective October 1, 2017.

4. The department proposes to repeal the following rule:

36.22.1244 PRODUCER'S CERTIFICATE OF COMPLIANCE

AUTH: 82-11-111, MCA
IMP: 82-11-123, MCA

REASONABLE NECESSITY: The department proposes to repeal this rule because Form No. 13, on which this rule is based, serves no current regulatory purpose and ARM 36.22.307 is proposed to be amended to remove Form No. 13.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Jim Halvorson, Board of Oil and Gas Conservation, 2535 St. Johns Ave., Billings, Montana, 59102; telephone (406) 656-0040; fax (406) 655-6015; or e-mail mtogpub@mt.gov, and must be received no later than 5:00 p.m., September 24, 2018.

6. Robert Stutz, Agency Legal Services, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Robert Stutz
ROBERT STUTZ
Rule Reviewer

/s/ Ronald S. Efta
RONALD S. EFTA
Chair
Board of Oil and Gas Conservation

Certified to the Secretary of State August 14, 2018.