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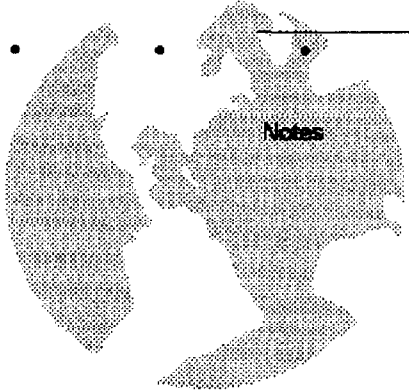
To: David Guzy Fax: 303-231-3385

From: Gary Wade Date: 03/22/99

Re: Response to NOPR – Accounting Relief for Marginal Properties Pages: 6

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March 22, 1999

Mr. David S. Guzy
Chief, Rules and Publications Staff
Minerals Management Service
Royalty Management Program
P.O. Box 25165, MS 3021
Denver, CO 80225

Comments on MMS Proposal on
Accounting Relief For Marginal Properties
30 CFR Part 204, 64 FR 3360 (January 21, 1999)

Dear Mr. Guzy:

The Council of Petroleum Accountants Societies (COPAS) appreciates the opportunity to comment on the MMS proposed rulemaking governing accounting relief for marginal properties. COPAS members have extensive experience in working with and the application of Royalty Management Program rules. Therefore, we believe our comments will be beneficial in improving RMP processes for both the MMS and industry.

General Comments

COPAS commends MMS for its efforts to develop rules for accounting and auditing relief. However, the general impression of the proposed rule is that it provides very little relief, is administratively burdensome and too complex. These factors make the process very expensive and time consuming to both the industry and the MMS. For the major companies with large automated systems, the cost of programming changes necessary to implement provisions of cumulative royalty reporting relief will exceed any benefit. For independent producers, the burden of determining the level of relief, the notification process and processing fees are burdensome. We believe the rule should be simplified and more broadly applied.

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Specific Comments

204.2 Definitions

COPAS recommends the dates for the Base Period be changed from October 1st through September 30th to August 1st through July 31st. The timing of the proposed Base Period would be burdensome on industry because the calculations cannot be started until the last month of the base period is reported. Therefore, September production would not be available until the last half of November. The work process would then fall during November and December when the work months are shorter than normal and when accounting staff workloads increase due to end of the year accounting requirements. The current proposal is burdensome in this respect. Also, additional lead time for working interest owners will be needed to gather production information from the operator of a property.

204.4 Marginal property qualifications

The current requirements as they relate to accounting and auditing relief are too narrow. For example, this definition is unlikely to be applicable to many units that may include a few large producing wells and a large number of marginally producing wells. COPAS recommends higher production rates be allowed in the rule for this situation. In addition, COPAS believes a separate and higher rate of production should be established for offshore properties.

204.202 Accounting and auditing relief options available

The reference to 202.4 stated in the first paragraph should be 204.4.

204.203 Cumulative royalty reporting relief

COPAS believes the additional calculation in 204.203 (a)(1)-(3) to determine the level of reporting relief has further narrowed the original definition of a marginal property. The intent of RSFA is to provide reporting relief on all marginal properties. In addition, the calculations need further clarification. During our meeting to discuss the proposed rule, COPAS members had multiple interpretations of how the calculation should be performed and applied.

COPAS also believes the use of the royalty rate in the calculation is burdensome. In the examples used by the MMS, the royalty rate of two different Federal owners in the same unit was needed in order to calculate the level of relief. In the case of an oil lease, different owners may have different royalty rates as in the case of a property qualifying for a reduced royalty rate. It is COPAS' belief that not all owners in a property will seek the reduced royalty rate and this creates different royalty rates. There are other possibilities for leases to have different royalty rates. In any situation, it is likely that none of the owners in a property will have all of the royalty rate information to calculate the level of relief. Therefore, this creates a burden on the producers and the MMS to gather this information and perform an accurate calculation.

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For these reasons, COPAS recommends the calculations under this section be deleted and rely on the calculation under 204.4 (c). The table in 204.203 should be modified to represent total well volumes and provide some type of relief for all properties meeting the 15 BOE per day criteria.

Under 204.203 (c), COPAS requests the MMS to clarify if the terms "reporting period" and "sales month" are synonymous. COPAS is concerned with how the reporting for certain situations would be handled. For example, sales information is generally not available within 30 days after the sales month. Therefore, all actual sales information would not be available to meet the quarterly, semi-annual or annual report deadlines. Will the normal one month estimated payment allow an extra 30 days to report all actual sales data for the reporting period (quarterly, semi-annual or annual)?

Section 204.203 (f) requires separate reporting of any allowances. COPAS believes this requirement should be eliminated on marginal properties. This is based on the thought that amounts would be so immaterial that they would not impact MMS' internal analysis. As a result, the allowance could be netted against the value.

In addition, COPAS questions other situations and how they will be handled with cumulative royalty reporting. Examples are dual accounting and reporting on a property that has both processed and unprocessed dispositions.

204.205 Rolled-up reporting relief

COPAS assumes that this option means all product codes would also be rolled up. If this is not the case, then we believe that the majority of small properties would only have one selling arrangement currently.

204.203- 204.205

Because of the questions on how to perform the calculation in 204.203, COPAS is unable to accurately comment on the other relief options. COPAS does not understand the reasoning behind the difference in the production levels for the different options (0 to 500, 0 to 1000, and 0 to 2500 BOE). The different production levels also make it more administratively burdensome to re-qualify a property under multiple options. Therefore, COPAS recommends a consistent production level be provided for 204.203-204.205; that level being 15 BOE / day per well for onshore properties and a higher rate for offshore properties.

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204.206 Alternate valuation relief option.

COPAS questions why this option is necessary based on the understanding that lessees are not precluded from obtaining this kind of relief by the current regulations for any property. Also, filing fees are not required for proposals currently submitted to the MMS. In addition, COPAS understands the State is currently not required to modify, approve or deny a request. As a result, COPAS recommends this relief option be removed from the rule.

204.207 Audit relief option.

Section 204.207 (a) states audit relief may include audits of limited scope (including statistical sampling) and coordinated royalty and severance tax audits. This type of audit relief is currently available and practiced by the MMS and the States. Therefore, it seems unreasonable to be required to request these relief options and be required to pay a processing fee.

204.210 How do I obtain accounting and auditing relief?

MMS requested comments about making the relief options under 204.203, 204.204 and 204.205 automatic rather than submitting a notification. COPAS believes these options should not require any prior notification and could be flagged in the MMS system by utilizing a unique reporting code. This would eliminate an additional administrative burden not currently imposed on the MMS or Industry.

MMS also requested comments concerning proposed processing fees for relief options under sections 204.206, 204.207 and 204.208. COPAS is opposed to any fee since it is an increased cost to industry and is inconsistent with other Federal incentive programs.

204.212 Approval to approve, modify or deny relief.

Section 204.212 (c) indicates both the MMS and the Assistant Secretary for Land must approve a request to use an alternate valuation method. Our understanding is the Assistant Secretary's approval is a binding determination. COPAS notes that the binding determination would not be available on any other properties and therefore recommends the proposed approval authority be required for all properties, marginal or otherwise.

204.211 - 204.212

In many cases, the proposed rule imposes a deadline for action by the State or lessee. COPAS recommends the MMS develop a timeline for the entire process. At best, the process seems very cumbersome and burdensome and may result in unnecessary delays.

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204.212, 204.213, 204.214

COPAS recommends the order of these sections be changed to facilitate a more logical process flow. The recommended order is 204.214 should be 204.212; 204.213 should remain the same and 204.212 should be 204.214.

Summary

COPAS endorses a rule that provides cost reduction and therefore allows domestic oil and gas producers to lower operating and administrative costs. In turn, lower costs should encourage producers to continue producing and developing marginal properties. Our perception is the proposed rule requires further modification to meet this objective.

Conclusion

COPAS appreciates the opportunity to provide comments to this proposed rule. If you have any questions regarding our comments, please call me at 405-552-4721.

Sincerely,



Gary Wade
Chairman, COPAS Federal Affairs Subcommittee

Cc:
Sandy Launchbaugh
Mary Stonecipher
John Clark