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Executive Director

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RE: Comments regarding: Oil & Gas Registration Submittal and Analysis

Dear Oline:

The Montana Department of Environmental Quality (Department) is seeking public comment on two related items:

- Submittal to EPA of the Oil and Gas Registration rules (Administrative Rules of Montana, Title 17, Chapter 8, Subchapters 16 and 17) for inclusion into Montana's State Implementation Plan (SIP); and
- A Department demonstration that the Oil & Gas Registration Program does not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Clean Air Act, 42 USC §§7401, *et seq.*

The Montana Petroleum Association (MPA) has reviewed the proposed submittal and accompanying analysis. Based on our review, we find that we are in agreement with the Department's proposed action to submit the Oil & Gas registration rules to EPA as a revision to the Montana SIP.

We have also carefully reviewed the Department's documents that evaluate the impact of the program in regards to attainment, reasonable progress and other requirements generally outlined in Section 110 of the Federal Clean Air Act (42 USC 7401 *et seq.*). Our review indicates that the document adequately addresses attainment and other related issues. The document outlines the program as a whole, its individual impacts and analyzes, attainment, nonattainment and other issues.

Additional comments and rationale follow:

**Oil & Gas Registration Program SIP Submittal**

The Department is proposing to submit the Oil & Gas registration program regulations (subchapters 16 and 17) to EPA as a revision to the Montana SIP. These rules were developed as an alternative to the traditional minor source permitting program. The rules insure ambient air quality resources are protected in the state. The rules effectively substitute the traditional permit process and obligations with a blanket set of requirements (control technology, reporting and monitoring). An Oil & Gas facility has the option of operating and reporting under this program or it may obtain a traditional permit.

The elements of the program have been analyzed and debated at length throughout its development and state approval. While MPA and others do not believe that all of the required controls, reporting and monitoring requirements are necessary for program approval, we agree to the program as a whole. For purposes of analysis, the program provides a plethora of requirements that, taken as a whole, is equivalent or more stringent than individual permits of a multitude of similar facilities.

## Demonstration Analysis

An integral portion of the Department's proposal is a demonstration that the Oil & Gas Registration program complies with the requirements set forth in Section 110 (particularly subsection I) of the Federal Clean Air Act. Section 110, itself specifically addresses state implementation plans as it regards the National Ambient Air Quality Standards (NAAQS: See 40 CFR 50). More specifically, Section 110(I) requires any SIP revision, as is the case here, to not "*interfere with any applicable requirement concerning attainment and reasonable further progress (as defined by section 7501) of this title*" (42 USC 7401(I)).

The demonstration document<sup>1</sup>, which is the subject of this public comment, has been created to fulfill that statutory requirement. The document reviews the regulation in detail and provides a number of comparisons and analyses. The demonstration provides the following analyses and comparisons.

Subject	Comment
History	A historical background is presented which outlines the program's need legislative history
Applicable Requirements	Each rule that is applicable to the Oil & Gas facilities is outlined. The outline provides a perspective that the Registration program itself (Subchapter 16 and 17) must be considered in their entirety; not in isolation
Emission Reduction	The document notes that the program requires adherence to emissions and reporting requirements without waiver. A traditional permit program does not necessarily guarantee this same adherence since there are numerous case-by-case analyses.
Recordkeeping and Reporting	A review of the requirements demonstrates a sufficient program of monitoring and reporting. The document provides a lengthy table that outlines the specific requirement and notes federal equivalency (MACT requirements, for example) when appropriate.
NAAQS: Attainment	The pollutant-by-pollutant analysis has been conducted. The ambient air quality stations are reviewed in detail along with general plans. For all pollutants, there is no evidence that the 600+ current wells involved in the program have any noteworthy impact on air quality at any monitoring location for any pollutant. Additionally, an extensive ambient monitoring network is in place to monitor the impact, if any, of these facilities.
NAAQS: Nonattainment	The nonattainment areas in Montana have been identified and analyzed. Control plans have been created for all nonattainment areas. The results of those detailed analyses conclude that <u>none</u> of these areas have identified Oil and Gas facilities as a contributor to any of the nonattainment designations.

<sup>1</sup> The "document" is found at the Department web site at: <http://deq.mt.gov/pubcom.mcp.x>. The files in question that constitute the document are:

- 110(I)demo.pdf
- CombinedAttachmentO&GDemo.pdf
- ATT11O&GMap.pdf
- Pp17-431-431ARM.pdf

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Subject	Comment
Current Permit Program	A comparison has been made between the requirements of the traditional air quality program and the Registration program. That analysis leads to the conclusion that the Registration program, taken as a whole, is as stringent as the current SIP approved requirements.
Program Approvability	The analysis makes clear that EPA has the discretion, and duty, to approve the submittal as a revision to the SIP. The ability to approve the program is, on its face, presented in the multiple analyses presented in the document. Perhaps of more importance is the recognition that the Clean Air Act clearly contemplates States as the primary agency to determine what program is necessary in each state to affect the Act's goals. This has been borne out by the courts.  <i>"It is to the states that the [CAA] assigns initial and primary responsibility for deciding what emissions reduction will be required from which sources."</i>  Whitman v. Am. Trucking Ass'ns, 531 US 457, 121 S.Ct. 903, 149 L.Ed. 2d. 1 (2001)." (p. 26 of the DEQ document).

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**Conclusion**

The Department is proposing to submit the Oil & Gas registration program regulations (subchapters 16 and 17) to EPA as a revision to the Montana SIP and have included a demonstration document as it regards Section 110 of the Federal Clean Air Act. We have carefully reviewed the rules and analyses and conclude that they meet all federal regulatory requirements. As a result we support the submittal of these rules and documents to EPA for consent.

If you have any questions regarding our comments please contact me at 406-442-7582. We would be pleased to discuss this further at your convenience.

Regards,



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Executive Director