

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240
<http://www.blm.gov>

May 2, 2007

In Reply Refer To:
3100 (310) P

EMS TRANSMISSION 05/10/2007
Instruction Memorandum No. 2007-115
Expires: 09/30/2008

To: All Field Officials

From: Director

Subject: Applications for Permit to Drill (APD) – In Accordance with Onshore Oil and Gas Order No.1, as Revised on March 7, 2007 (72 FR 10308)

Program Area: Oil and Gas Operations

Purpose: This Instruction Memorandum (IM) provides detailed follow-up guidance for the Onshore Oil and Gas Order Number 1 (Order) as revised in 2007. Specific areas include determination of when an APD is complete and consistent APD processing.

Policy/Action: Complete APD Determination - Section III. D. of the revised Order describes the components of a complete APD. An APD is complete, when the components listed in Section III. D. of the revised Order have been submitted and any deficiencies have been adequately addressed. An onsite inspection must be performed to confirm the accuracy of the submitted information, make any changes, or identify other deficiencies before the APD will be considered complete.

The revised Order requires that the onsite inspection be scheduled but not necessarily conducted within 10 days of receipt of the APD package. The previous Order required that the onsite inspection be conducted within 15 days of receipt of the APD. It is still the Bureau of Land Management's (BLM) intent that the inspection be conducted within 15 days of receipt of the APD, but the BLM recognizes that in some cases inclement weather, availability of the operator, agency staff, or the surface owner sometimes makes this timeframe impossible.

Section 366 of the Energy Policy Act of 2005 (Act) requires the BLM to notify the operator within 10 days of receiving an APD (10-day letter) that either the APD is complete; or the BLM must tell the operator what is missing or deficient if the APD is not complete. Unless the onsite inspection has been conducted as part of a Notice of Staking, it will likely not have been done before the 10-day letter is sent. If this is the case the 10-day letter must note the lack of the onsite inspection as a reason why the APD is not complete even if all other information required in Section III. D. is present. The BLM should notify the operator in the 10-day letter that the sufficiency of this material will be confirmed at completion of the onsite inspection.

The revised Order makes it clear that studies and/or inventories associated with the National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act or other similar analyses are **not** requirements of a complete APD. Cultural and threatened and endangered species inventories may be required for the BLM to comply with these statutes prior to approving an APD, but they are specifically excluded from and are not a requirement for a complete APD. This was unclear in the previous Order.

The Well Plat required in an APD must include geospatial data with geographical coordinates of the proposed well location referenced to the National Spatial Reference System (North American Datum 1983 or latest edition), and give the feet and direction of the proposed well location from the nearest

two adjacent section lines or nearest two adjacent property lines, when not within the Rectangular Survey System (see Section III. D. 2. of the revised Order). Geospatial data are required for the Well Plat because the BLM must be able to accurately locate the proposed well in order to assure that the well is on the lease. Geospatial data are not required for other maps and diagrams required in the Surface Use Plan of Operations (SUPO). However, such data are highly recommended because it will assist the BLM and the U. S. Forest Service (FS) in their review and may speed the approval process.

The operator must certify that it has made a good faith effort to provide a copy of the SUPO to the private surface owner, if applicable, before the APD is considered complete. This requirement was added as a result of the split estate listening sessions required by the Act and is stated in Sections III. D. 4. k. and VI. of the revised Order. However, the BLM is not responsible for review of those agreements and should not request copies for review or inclusion in the file.

The Automated Fluid Minerals Support System (AFMSS) compiles information for reporting progress in APD processing. Field offices must input progress in processing APDs into AFMSS in an accurate and timely manner. Washington Office (WO) IM No. 2005-046, *Policy for Entry of Data into Applications for Permit to Drill (APD) Processing Tracking and Monitoring Fields in the Automated Fluid Minerals Support System (AFMSS) Database*, which was extended to September 30, 2008, provides guidance for AFMSS input for APD processing. The BLM is in the process of reviewing this IM and other AFMSS guidance to assure that it is compatible with the revised Order. Further guidance may be issued if necessary.

Processing APDs – Section 366 of the Act and Section III. E. 2. of the revised Order address processing of APDs. WO-IM No. 2005-235, *Interim Guidance for Process Time Line – Permitting Oil and Gas Operations on Federal and Indian Leases*, issued on September 13, 2005, implements the policy of this section of the Act.

Specific clarification of policy is as follows:

As discussed above, the BLM is required to notify the operator within 10 days of receiving the APD whether or not the APD is complete. Several BLM offices have developed form letters for this purpose. Attachments 1 and 2 are based on examples of 10-day letters now in use and may be helpful templates for other offices.

Thirty days after the APD is deemed complete the BLM must approve, defer, or deny the APD. These actions are described in Section III. E. 2. b. of the revised Order. If the BLM is deferring the APD, it must notify the operator of any actions that it could take to allow the APD to be issued and/or the list of actions that the BLM or the FS must take to comply with applicable law before making a decision on the APD. Only the options of approval and deferral are discussed in Section 366 of the Act. The BLM added a third option that would deny any APD 30 days after the APD is complete. This third option was added because the BLM recognized that there may be rare cases in which there may be no action that the operator could take for the APD to be issued. Examples could include that the operator is not authorized by the lessee, or the state refuses the well spacing proposed in the APD. This option allows the operator to appeal the decision immediately rather than wait up to 2 years on deferred APDs. This option is to be used only on rare occasions and must have prior State Director concurrence.

Section 366 (3)(C) of the Act and Section III. E. 2. d. of the revised Order require that the BLM deny an APD after 2 years if the operator has not completed the requirements set forth in the deferral notice described above.

The BLM and the FS will process incomplete APDs up to the point that further processing is not possible or practical because of missing or inaccurate information.

Time Frame: This IM is effective on May 7, 2007, which coincides with the effective date of the revised Order.

Background: The BLM conducted an audit of various field offices prior to revising the Order and found that the offices were not processing APDs consistently. Section 366 of the Act contains an APD

processing time line that is based in part on the date that an APD is complete. The BLM must report progress on APD processing accurately and the progress reports will only be meaningful if we use a consistent method for determining when an APD is complete.

The revised Order was prepared by staff from seven BLM states with active oil and gas programs, the BLM Washington Office, and the FS. The revised Order was published in the Federal Register on March 7, 2007 (72 FR 10308). The Order becomes effective 60 days after the publication date. A proposed Order was published in 2005 and a further proposed Order was published in 2006 to modify the 2005 draft for consistency with the Act (which was signed after the proposed Order was published). The staff reviewed and considered public and internal comments before the revised Order was written.

The BLM also conducted a series of listening sessions about split estate with the public and the results of these sessions were considered in the revised Order.

The BLM issued WO-IM 2005-235, that provided interim guidance for processing times as required by Section 366 of the Act. The IM required that an onsite inspection be held before the APD could be considered to be complete. The revised Order and this IM further implement that requirement.

Budget Impact: Implementation of the new policy in this IM can be accommodated under existing budget allocations.

Manual/Handbook Sections Affected: These requirements, as implemented by the proposed Order, will be incorporated into the updated versions of BLM Manual 3160.

Coordination: This IM was coordinated with the Office of the Solicitor.

Contact: For questions, call Jim Burd at 202-452-5017.

Signed by:
James M. Huhges
Acting, Director

Authenticated by:
Robert M. Williams
Division of IRM Governance, WO-560

2 Attachments

- 1 - Notice of Completeness or Deficiencies for an APD letter (2pp)
- 2 - Receipt and Acceptability of Application for Permit to Drill letter (1p)

IN REPLY REFER TO:
3160

Date

Company Name & Address

This letter provides written notification that the submitted Application for Permit to Drill (APD) is complete or contains deficiencies that need to be corrected. Any retained APD which is deficient must be brought to an acceptable level of completion within 45 days of the date of this notice or the APD may be returned unapproved.

NOTICE OF COMPLETENESS OR DEFICIENCIES FOR AN APD

Lease No.: _____ Well No.: _____ APD Received Date: _____

- I. APD IS COMPLETE AS SUBMITTED.
- II. APD IS DEFICIENT IN THE FOLLOWING AREA(S) [as marked]:
 - A. Form 3160-3 is Incomplete.
 - B. Well Plat.
 - C. Drilling Plan is Deficient in the Following Area(s)
 - 1. Geologic formation names and tops.
 - 2. Estimated depths of anticipated water, oil, gas, or minerals.
 - 3. Minimum specifications for pressure control.
 - 4. Proposed casing program.
 - 5. Estimated amount and types of cement.
 - 6. Type and characteristics of the proposed circulation muds.
 - 7. Testing, logging, and coring programs
 - 8. Anticipated bottom hole and abnormal pressure, temperature or hazards.
 - 9. Other.

- D. Surface Use and Operations Plan is Deficient in the Following Area(s)
 - 1. Existing roads.
 - 2. New or reconstructed access roads.
 - 3. Location of existing wells.
 - 4. Location of existing and/or proposed facilities.
 - 5. Location and type of water supply.
 - 6. Source and character of construction materials.
 - 7. Methods for handling waste.
 - 8. Ancillary facilities.
 - 9. Well site layout.
 - 10. Plans for surface reclamation.
 - 11. Surface ownership
 - 12. Other information.

E. Evidence of Bonding.

D. Operator Certification.

G. Onsite Inspection

H. Other:

- 1. _____
- 2. _____

III. Other Information Needed:

- 1. _____
- 2. _____

IV. APD is retained. Processing will start upon receipt of further information as noted above.

VI. APD is being processed. Final action is pending receipt of further information as noted.

VII. Other:

If you have any questions concerning the processing of this APD, please contact Jim Burd at 202-452-5017.

Lease
Well #

Date

RE: Receipt and Acceptability of Application for Permit to Drill

Dear Operator;

Your Application for Permit to Drill Well Name was received in this office on Date. The following checklist identifies areas in which the APD is deficient, where more information is needed, or if the application is complete as submitted.

1. APD complete as submitted.
2. APD deficient in the following area(s):
 - A. Form 3160-3 is incomplete.
 - B. Well Plat is incomplete.
 - C. Drilling Plan is incomplete.
 - D. Surface Use Plan of Operations is incomplete.
 - E. Evidence of Bonding is Missing.
 - F. Operator Certification is Missing.
 - G. Onsite Inspection has not occurred.
 - E. Other:

(Description of deficiency or missing information is necessary for any checked item above.)

3. APD is retained; to be processed upon receipt of further information as noted above.
4. APD access road requires a right-of-way (ROW). APD cannot be issued until ROW requirements have been met. Our lands and realty staff will be contacting you regarding these requirements.
5. APD is being processed; final action pending receipt of further information as noted above.

A retained but deficient APD must be brought to a complete status within 45 days of your receipt of this notice or the application may be returned without taking final action. You can contact _____.

Sincerely,

Attachment 2