

APPENDIX 27—PROCEDURES FOR PROCESSING APPLICATIONS FOR PERMIT TO DRILL

Upon receipt, an application (Application for Permit to Drill [APD] or Notice of Staking [NOS]) is posted for a 30-day public review. The APD is checked for completeness by the fluids minerals staff and entered into various databases. Bonding and lease adequacy, including any inclusions in other administrative categories such as units or communitization agreements, is determined. Spacing and location requirements are within the jurisdiction of the Wyoming Oil and Gas Conservation Commission (WOGCC), and these requirements are checked as described in the memorandum of understanding (MOU) between the Bureau of Land Management (BLM) and WOGCC. Sometimes these requirements result in hearings before the WOGCC that delay the APD approval process. Any discrepancies in adjudication, wildlife, cultural resources, and any perceived deficiency in the surface use plan or drilling plan is communicated to the operator within 7 days of the receipt of the APD. The operator has 45 days to correct these deficiencies or the APD is returned.

In conjunction with posting an APD, specialist requests are sent to each resource specialist to review the project's site-specific details to determine conformance with the Resource Management Plan (RMP) and any other environmental plan (Environmental Impact Statement [EIS] or Environmental Assessment [EA]) that encompasses the project location. These specialists are paleontology/geology, cultural, range (grazing), soils/water (hydrology), realty, transportation, and wildlife. Each specialist is intimately familiar with specific resource attributes within the various plans. In almost all cases, each site-specific location is visited by the specialists to identify the precise character at that site. In some cases, it is necessary to obtain more specialized input from outside agencies, such as U.S. Fish and Wildlife Service (UFWWS) and State Historic Preservation Office (SHPO), and these consultations are included in the appropriate specialist's comments. The individual specialist's expertise and judgment is communicated to the fluid minerals natural resource specialist (NRS), who compiles the information and generates an appropriate site-specific National Environmental Policy Act (NEPA) document. In this process, the NRS reviews the proposal in the context of existing environmental documents and the RMP to determine whether existing documentation is adequate. If existing documentation is adequate, the NRS prepares an Administrative Determination (AD). If existing documentation is insufficient or nonexistent, the NRS prepares NEPA documentation as needed, using the appropriate format (see BLM NEPA Handbook. H-1790-1).

The NRS also generates reasonable conditions of approval (COA), based on sound science and each specialist's requirement to protect or mitigate the various resources (see Wyoming Instruction Memorandum WY-90-346). The COAs are included in the approved application as a contractual requirement for that specific project. Because the COAs represent decisions of the authorized officer, they can be appealed if the operator considers the COAs too onerous to exercise the benefits of the lease. Under the Energy Policy and Conservation Act (EPCA), COAs are also be continuously evaluated to determine their effectiveness and necessity.

In specified seasonally restricted areas, an approved APD generally includes a seasonal COA because (1) the APD is valid for 1 year from date of issuance and BLM does not control the start-up date for project activity and (2) field conditions during the crucial period cannot be predicted at the time of APD approval. The need for a COA must be documented in an appropriate site-specific NEPA document and must consider the reasonableness of the restriction.

PROCEDURES FOR HANDLING SPLIT ESTATE REQUESTS FOR ACCESS ON FEDERAL SURFACE

A right-of-way (ROW) grant is required for access roads and well sites on federal surfaces overlying state or fee minerals. The procedure to acquire this ROW and other cooperative regulatory requirements is defined in an MOU between BLM and the State of Wyoming WOGCC, dated September 13, 1994, BLM MOU WY920-94-09-79. The MOU was entered into by and between BLM and the WOGCC in accordance with the Federal Land Policy and Management Act (FLPMA). The other cooperative regulatory requirements are underground injection, units and communitization agreements, well spacing, and geophysical operations. Appendix 2-I-A-3 of the MOU states that the BLM agrees to “Notify the Commission within 10 working days after receipt of the APD by the appropriate BLM office of any critical environmental problems regarding surface operations (i.e., big game crucial winter range, known cultural resources, presence of threatened and endangered species, etc.). Prior to notifying the commission, critical environmental problems will be confirmed and justified through on-site inspections by the BLM to verify potential problems. The existence of big game crucial winter range will not be used as the sole reason for denying access to a location.”

The ROW grant is administered by lands and realty and is essentially processed in same manner as an APD. Specialist requests are sent to each resource specialist to review the project’s site-specific requirements to determine conformance with the RMP and any other environmental plan (EIS or EA) that encompasses the project location. After the resource specialists’ requests are returned, the realty specialist compiles the information and generates an appropriate site-specific NEPA document. In this process, the realty specialist reviews the proposal in the context of existing environmental documents and the RMP to determine whether existing documentation is adequate. If existing documentation is adequate, the realty specialist prepares an AD. If existing documentation is insufficient or nonexistent, the realty specialist prepares NEPA documentation as needed, using the appropriate format (see BLM NEPA Handbook H-1790-1). The realty specialist generates stipulations and attaches these to the ROW grant. These grants are, in most cases, written for 30 years, and may have processing cost reimbursement and rental fee requirements.