

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

May 5, 2008

In Reply Refer To:
3100 (310) P

Relates to:
IM No. 2006-206

EMS TRANSMISSION 05/14/2008
Instruction Memorandum No. 2008-122
Expires: 09/30/2009

To: All State Directors

From: Director

Subject: Oil and Gas Bond Adequacy Reviews DD: 05/30/2008; 10/31/2008

Program Area: Federal Oil and Gas Lease Operations and Bonding

Purpose: To reissue the policy and guidance from Instruction Memorandum (IM) No. 2006-206 relating to regulatory and policy bonding requirements for oil and gas operations on Federal lands, including split estate lands. Additionally, this IM adds a requirement for semi-annual reporting of bond amount increases for oil and gas lessees and operators and the Bureau of Land Management (BLM) dollars spent on plugging and reclaiming wells.

Policy/Action: Each State Office administering an oil and gas program shall maintain and implement its action plan developed for IM No. 2006-206, with the goal that operators on Federal oil and gas leases are reviewed for risk assessment and bond adequacy. The goal is to ensure regular review of operations on Federal oil and gas leases and include steps to increase bond amounts when it is determined necessary. The authorized officer (AO) will determine whether existing bonding is adequate when: 1) an operator has an increase in activities or risk factors; 2) record title or operating rights are transferred, and the transferor is the bonded party and is transferring all of its lease interests, whether by assignment or operation of law (name changes and mergers); or 3) the BLM is notified of a change of operator.

The bond may be increased to any level specified by the AO, although the bond amount should not be increased solely on the number of wells on the lease. In no circumstance shall the bond amount exceed the total of the estimated cost of plugging and reclamation, the amount of uncollected royalties due, plus the amount of monies owed to the lessor, if previous violations remain outstanding. If an operator's bond coverage is determined inadequate, the bonded party will be contacted and requested to increase its bonding or negotiate a plan to reduce plugging obligations and/or conduct reclamation work.

Additionally, the bond may be decreased if Federal liability on the bond is reduced. This may occur when plugging and reclamation activities are performed on a lease or leases while some operational liabilities still remain under the bond. In other instances, state or other local jurisdictions may require new or increased bonding for liabilities already covered by the Federal bond. If these other jurisdictional bonds may be used to pay for Federal liabilities covered by our bond in case of operator default, then these bonds may be considered in

reducing the Federal bond amount (but not below the regulatory minimum). The AO should take into account all liabilities secured by such bonds held by other governments in determining whether it is reasonable to reduce the Federal bond coverage in reliance on these bonds.

It is important that idle and inactive wells be reviewed and that continuous reclamation monitoring be conducted to identify potential problems and liabilities and to assess adequacy of existing bond amounts. Attachment 1, Bond Adequacy Review Process Description, contains standard business process descriptions for bond adequacy reviews.

This IM is not intended to force across-the-board increases for all bonds. Upon analysis, however, there may be situations where a bond increase should be pursued. The judgment and experience of staff is paramount in making these determinations. The BLM is mindful of the need to maintain an acceptable risk level, yet not to place an undue burden on industry.

The AO has the authority to require an increase to an existing statewide or nationwide bond, as well as an individual lease bond, to cover a specific liability on one or several Federal leases. Liabilities may include: produced water impoundment structures; wells with significant liabilities; surface production facilities; or other surface uses with significant reclamation liabilities. This type of bond increase can be accomplished via a bond rider that is reserved solely for the liability specified, so that other demands on the statewide or nationwide bond could not draw on that increased amount of the bond.

The AO also has the authority to require bonding for reclamation of off-lease lands or surface waters that may be adversely affected by operations necessary on the leasehold. Examples of off-lease liability could include disposal pits, on-channel reservoirs or produced water impoundments constructed on private lands for use by one or more Federal leases. Bonding for these types of off-lease liabilities can be covered by a bond rider attached to a lease, a statewide or a nationwide oil and gas bond, and should specify the specific off-lease liability to be covered. The AO must take into account the existence of any other bond covering these off-lease liabilities required by the either the BLM, the state or other jurisdiction, in order to prevent duplication of bond coverage, for example, a right-of-way bond.

At mid-year and year end, the State Directors will report to the Fluid Minerals Division, (WO-310), on the bonds increased during the previous six months, and the amount of any government expenditures to plug and reclaim wells. The reports are due by the end of the month following the close of each half year. (NOTE: The first report is due one month later, on May 30, 2008.) The reports are to be submitted on the Excel spreadsheets shown as Attachments 2 and 3. If no bonds were increased nor government funds expended during the period, the spreadsheet report is to be submitted with "none" in the operator columns on the pertinent tab. These reports will allow for continuing evaluation of this policy.

Timeframe: The guidance contained in this IM is effective immediately.

Budget Impact: Some additional resources may be required to perform bond adequacy reviews. Because the number of bond increases reported in Fiscal Year 2007 was small, the impact of the reporting requirement is expected to be small, with minimal budget impact.

Background: Task 7 of the National Energy Policy Implementation Plan requires the BLM to explore improvements related to liability and reclamation of Federal oil and gas leases. The regulations under 43 CFR 3104-Bonds require that the lessee, operating rights owner, or operator provide bond coverage prior to surface disturbing activities and to maintain adequate bond coverage during the operational period of a lease. The AO may require an increase in the amount of any bond whenever it is determined that the operator poses a risk. Risk factors include, but are not limited to, 1) a history of previous violations, 2) a notice from the Minerals Management Service that uncollected royalties are due, or 3) total cost of plugging existing wells and reclaiming lands exceeds the present bond amount based on the estimates determined by the AO, and the lessees' economic conditions warrant concern about their ability to meet the cost of plugging and reclamation.

Regulation/Manual/Handbook Sections Affected: Regulations at 43 CFR 3104, 3106.6 and 3163.3-1, and Handbooks 3104-1 and 3106-1.

Coordination: Because this IM reiterates policy and guidance issued in 2006, coordination was limited to BLM Washington Office Staff and the Office of the Solicitor.

Contact: Please direct questions, to Greg Shoop, Senior Mineral Leasing Specialist, WO Division of Fluid Minerals (WO-310) at 202-452-0334, or by e-mail at gregory_shoop@blm.gov.

Signed by:
Henri R. Bisson
Acting, Director

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

3 Attachments

- 1 - [Bond Adequacy Review Process Description \(2 pp\)](#)
- 2 - [Bond Increases and Expenses Reporting Table \(1 p\)](#)
- 3 - [Incurred Government Expenses \(1 p\)](#)

Last updated: 05-14-2008

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