

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
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Instruction Memorandum No. 2010-161
Expires: 09/30/2011

To: All State Directors
From: Assistant Director, Minerals and Realty Management
Subject: Federal Oil and Gas Bonds

Program Area: Federal Oil and Gas Operations and Related Bonding.

Purpose: This Instruction Memorandum (IM) reiterates the regulations and clarifies the existing policy and guidance for bonding requirements for operations on Federal oil and gas leaseholds and, under certain conditions, on private lands.

Policy/Action: Each Bureau of Land Management (BLM) state office (SO) administering an oil and gas program will continue to review operations on Federal oil and gas leases for risk assessment and bond adequacy in accordance with IM 2006-206, Oil and Gas Bond Adequacy Reviews. The process established ensures review of operations on Federal oil and gas leases and includes steps to increase bond amounts when it is determined to be necessary (See Attachment 1).

The BLM bond may be increased to any level specified by the Authorized Officer (AO), but in no circumstance will the bond amount exceed the total of the estimated cost of plugging and reclamation and the amount of uncollected royalties due, plus the amount of monies owed to the lessor due to outstanding violations. If bond coverage for the lease is determined to be inadequate, the SO will issue a decision notifying the bonded party of the amount of increased bond that will be required.

If the potential Federal liability is reduced, it is possible to reduce the current bond amount, but not to a level below the regulatory minimums. This situation may occur when plugging and reclamation activities are performed on a lease, or leases, while some operational liabilities still remain under the bond.

It is important that inactive wells be reviewed and that reclamation be monitored to identify potential problems and liabilities, and to assess adequacy of existing bond amounts. Attachment 1 clarifies standard business process descriptions for bond adequacy reviews.

This IM is not intended to force across-the-board increases for all bonds. Analysis of data reported by the BLM state offices suggests that there are likely situations where bond increases should be pursued. The judgment and field experience of your staff is paramount in making these determinations.

The AO has the authority to require an increase to an existing lease, statewide, nationwide, or unit bond, to cover potential liabilities on one or several Federal leases. Liabilities may include produced water impoundment structures, wells with significant actual or potential Federal liabilities, surface production facilities, or other surface uses with significant reclamation liabilities. This type of bond increase will be accomplished by increasing the face amount of a lease or unit bond or for a statewide or a nationwide bond by a bond rider which specifies the designated liability; thus, other demands on the statewide or nationwide bond would not draw on that rider.

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 or a statewide or a nationwide oil and gas bond, and must specify the off-lease liability to be covered.

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

Budget Impact: None.

Background: The regulations in 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 operation poses a risk. Risk factors include, but are not limited to, a history of previous violations, a notice from the Bureau of Ocean Energy Management, Regulation and Enforcement that uncollected royalties are due, or when the total cost of plugging existing wells and reclaiming lands exceeds the present bond amount based on the estimates determined by the AO.

Manual/Handbook Sections Affected: BLM Manuals and Handbooks 3104-1, *Bonds*, and 3106-1, *Assignments and Other Transfers*, will be updated during their next revision.

Coordination: The BLM Washington, state and field office staff, and the Solicitor's Office were consulted in preparation of this IM.

Contact: If you have any questions concerning the content of this IM, please contact me at 202-208-4201, or your staff may contact Rudy Baier, Washington Office Division of Fluid Minerals, at 202-912-7146. For specific questions relating to data entry into the Bureau's Automated Fluid Minerals Support System, please contact Carol Larson at 406-233-3655.

Signed by:
Timothy R. Spisak
Acting, Assistant Director
Minerals and Realty Management

Authenticated by:
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Division of IRM Governance,WO-560

1 Attachment

1 - Bond Adequacy Review Process Description Summary (2 pp)

Bond Adequacy Review Process Description Summary

A. Process scope and record keeping.

Bond adequacy reviews must be performed, and documented in writing in the lease file, when any of the events listed below occur on active Federal oil and gas leases.

1. Record title is assigned.
2. Operating rights are transferred.
3. A change of operator occurred.
4. The bondholder requests that a bond be released or decreased.
5. Any periodic review of lease operations.
6. When a surety seeks to terminate the period of liability of a bond.

In addition, the bond review must be documented in the following screens using the Bureau of Land Management (BLM) Automated Fluid Minerals Support System (AFMSS). This documentation will facilitate nationwide rollup reporting to ensure that bond reviews are routinely occurring.

1. From the AFMSS Main Menu, select “Adjudication,” and then “Bonds.”
2. On the “Bond Status and Information (GLB.67)” screen, query for the bond to be reviewed.
3. Highlight the bond to be reviewed and click on “Edit Bond.”
4. While in the “Maintain BLM Bonds (GLB.68B)” screen, click on “Review Bonds.”
5. This will launch the “BLM Bond Review History (GLB.109B)” screen. On this screen, record the **Bond Adequacy Review Date, Acceptable (Yes or No = Y or N)**, and enter the first and last name of the person who is reviewing the bond in the field **Bond Reviewed By**.
6. If a change to the bond amount is going to be recommended, enter the new amount in the **Recommended New Bond Amount** field. (Enter only numbers such as 25000 and press the TAB key. The correct format of \$25,000 will be entered.)
7. Select the **Reason for the Bond Increase** from the drop down menu.
8. Finally, enter the **Date Recommended**. Save the record and exit.

AFMSS tracks the recommended bond amount. The actual bond amount is maintained in the BLM’s Bond and Surety system. Entering the recommended bond amount in AFMSS will not change the amount in Bond and Surety.

B. The Authorized Officer (AO) determines the amount of well plugging and surface reclamation liability using current cost indices.

If an increase in bonding is determined in accordance 43 CFR 3104.5 and policy, the following actions will be performed:

1. Determine the well plugging and abandonment liability cost. Attachment 1 – 2
2. Determine the surface reclamation costs including pit closures, removal of equipment, road reclamation, etc.

C. The AO determines an adequate level of bond coverage and notifies the State Office (SO).

1. The bond amounts as stated in 43 CFR 3104 are the minimum acceptable bond amounts.
2. The bond amount cannot exceed the total cost of:
 - a. Estimated well plugging and surface reclamation,
 - b. Uncollected royalties, and
 - c. Monies owed for previous violations that remain payable.
3. The bond amount may be to any level specified and justified by the AO (but note C. 2).
4. Existing bond amounts may be maintained in cases where a written agreement is signed with the operator to reduce well plugging and surface reclamation liabilities. The agreement must specify a plan of action to be performed in a timeframe acceptable to the AO. The agreement must be monitored to ensure compliance with the established timeframe.
5. If the bond amount is considered adequate, no action is required to increase the bond, but the bond evaluation must be documented in the lease file.

D. The SO's role in increasing a bond amount.

1. If the AO determines that the existing bond amount is inadequate, the bondholder is issued a decision by the SO, to raise the current outstanding bond to a specified amount.
2. The bondholder may appeal the SO decision to increase the bond amount.
3. Monitor the bondholder's compliance for the bond increase.