

Administrative Procedure Improvements

§ 47-320. Permit to drill or treat a well -- fees.

(1) It shall be unlawful to commence operations for the drilling or treating of a well for oil or gas without first giving notice to the commission of intention to drill or treat and without first obtaining a permit from the commission under such rules and regulations as may be reasonably prescribed by the commission and by paying to the commission a filing and service fee as provided by this section.

(a) Any request for a permit or authorization as set forth in subsections (3)(a), (b), (c), (d), (e), (f), (g), (m), (n) or (o) of this section shall be made by application to the department of lands, and processed as provided in this section.

~~(b) The department shall notify the applicant within five (5) business days of receipt of an application if the application is administratively incomplete, and in such notice shall identify missing items to be supplied in order to make the application complete.~~

~~(b)~~ The department shall notify the director of the department of water resources regarding applications for permits to drill or treat a well. The director of water resources shall have ten (10) business days from the date of receipt of such notification from the department of lands to recommend conditions he believes necessary to protect fresh water supplies.

~~(c)~~ Applications submitted under this section, with the exception of those listed in subsections (3)(c) and (g) of this section, shall be posted on the department of lands's website for ten (10) ~~calendar~~business days for a written comment period.

~~(d)~~ The department of lands shall approve or deny ~~the applications~~ to drill or treat a well within fifteen (15) business days of receipt of an complete application. This timeframe does not apply to permits submitted with an application processed under section 47-324.

~~(e)~~ The department's decision made under this section may be appealed to the commission by the applicant pursuant to the procedure in section 47-324~~(d), (e), (f) and (g)~~, Idaho Code.

(2) Upon issuance of any permit to drill or treat a well, a copy thereof, including any limitations, conditions, controls, rules or regulations attached thereto for the protection of fresh water supplies as required in section 47-319, Idaho Code, shall be forwarded to the director of the department of water resources.

(3) The department shall collect the following fees, which shall be remitted to the state treasurer for deposit in the oil and gas conservation fund and shall be used exclusively to pay the costs and expenses incurred in connection with the administration and enforcement of this chapter:

- (a) Application for a permit to drill a well\$2,000
- (b) Application to deepen a well500
- (c) Application to plug and abandon a well, if not completed within one (1) year from issuance of permit to drill a well500
- (d) Application to treat a well, if separate from an application for a permit to drill a well1,000
- (e) Application to construct a pit, if separate from an application for a permit to drill a well1,500
- (f) Application to directionally drill a well, if separate from an application for a permit to drill a well1,000
- (g) Application for a recompletion, modified blow out prevention standards, use of vacuum pumps, removing casing, or multiple zone completion, if separate from an application for a permit to drill or plug and abandon a well1,000
- (h) Application for an exceptional well location, if separate from an application for a permit to drill a well1,300
- (i) Application to change the size or shape of a spacing unit .1,300
- (j) Application to establish or amend a field-wide spacing order1,300
- (k) Application for an integration order1,300
- (l) Application for a unitization order1,300
- (m) Application for a seismic operations permit covering less than twelve (12) miles of a 2D survey800
- (n) Application for a seismic operations permit covering between twelve (12) miles and twenty-four (24) miles of a 2D survey, or up to seventy-two (72) square miles of a 3D survey2,000
- (o) Application for a seismic operations permit covering more than twenty-four (24) miles of a 2D survey, or more than seventy-two (72) square miles of a 3D survey2,500

§ 47-322. Integration of tracts – Orders of Department.

- (a) When two (2) or more separately owned tracts are embraced within a spacing unit, or when there are separately owned interests in all or a part of a spacing unit, the interested persons may

integrate their tracts or interests for the development and operation of the spacing unit. In the absence of voluntary integration, the department, upon the application of any owner in that proposed spacing unit, shall order integration of all tracts or interests in the spacing unit for drilling of a well or wells, development and operation thereof and for the sharing of production therefrom. The department, as a part of the order establishing a spacing unit or units, may prescribe the terms and conditions upon which the royalty interests in the unit or units shall, in the absence of voluntary agreement, be deemed to be integrated without the necessity of a subsequent separate order integrating the royalty interests. Each such integration order shall be upon terms and conditions that are just and reasonable.

(b) All operations, including, but not limited to, the commencement, drilling, or operation of a well upon any portion of a spacing unit for which an integration order has been entered, shall be deemed for all purposes the conduct of such operations upon each separately owned tract in the spacing unit by the several owners thereof. That portion of the production allocated to a separately owned tract included in a spacing unit shall, when produced, be deemed, for all purposes, to have been actually produced from such tract by a well drilled thereon.

(c) Each such integration order shall authorize the drilling, equipping, and operation, or operation, of a well on the spacing unit; shall designate an operator for the integrated unit; shall prescribe the time and manner in which all the owners in the spacing unit may elect to participate therein; and shall make provision for the payment by all those who elect to participate therein; of the reasonable actual cost thereof, plus a reasonable charge for supervision and interest. Each such integration order shall provide for the ~~five~~four following options:

(i) Working interest owner. An owner who elects to participate as a working interest owner shall pay the proportionate share of the actual costs of drilling and operating a well allocated to the owner's interest in the spacing unit. Working interest owners who share in the costs of drilling and operating the well are entitled to their respective shares of the production of the well. The operator of the integrated spacing unit and working interest owners shall enter into a joint operating agreement approved by the department in the integration order.

(ii) Nonconsenting working interest owner. An owner who refuses to share in the risk and actual costs of drilling and operating the well, but desires to participate as a working interest owner, is a nonconsenting working interest owner. Nonconsenting working interest owners are entitled to their respective shares of the production of the well, not to exceed one-eighth (1/8) royalty, until the operator of the integrated spacing unit has recovered up to three hundred percent (300%) of the nonconsenting working interest owner's share of the cost of drilling and operating the well under the terms set forth in the integration order. After all the costs have been recovered by the consenting owners in the spacing unit, the nonconsenting owner is entitled to his respective shares of the production of the well, and shall be liable for his pro rata share of costs as if the nonconsenting owner had originally agreed to pay the costs of drilling and operating the well. The operator of the integrated spacing unit and nonconsenting working interest owners shall enter into a joint operating agreement approved by the department in the integration order.

(iii) Leased. An owner may enter into a lease with the operator of the integrated spacing unit under the terms and conditions in the integration order. The owner shall receive one-eighth (1/8) royalty. The operator of an integrated spacing unit shall pay a leasing owner the ~~same~~highest bonus payment per acre ~~as~~that the operator ~~originally~~ paid to ~~other~~another owners in the spacing unit prior to the ~~issuance~~filing of the integration ~~order~~application.

~~(iv) Objector. If an owner objects to any participation or involvement of any kind in the unit, such owner may elect to be an objector. An objecting owner's interest will be deemed leased under the terms and conditions in the integration order. The owner shall receive one-eighth (1/8) royalty. Provided however, an objecting owner may elect to have any funds to which he would otherwise be entitled transferred to the STEM action center.~~

(iv) Deemed leased. If an owner fails to make an election within the election period set forth in the integration order, such owner's interest will be deemed leased under the terms and conditions in the integration order. The owner shall receive one-eighth (1/8) royalty. The operator of an integrated spacing unit shall pay a leasing owner the ~~same~~highest bonus payment per acre ~~as~~that the operator ~~originally~~ paid to ~~other~~another owners in the spacing unit prior to the ~~issuance~~filing of the integration ~~order~~application.

If one or more of the owners shall drill, equip, and operate, or operate, or pay the costs of drilling, equipping, and operating, or operating, a well for the benefit of another person as provided for in an order of integration, then such owners or owner shall be entitled to the share of production from the spacing unit accruing to the interest of such other person, exclusive of a royalty not to exceed one-eighth (1/8) of the production, until the market value of such other person's share of the production, exclusive of such royalty, equals the sums payable by or charged to the interest of such other person. If there is a dispute as to the costs of drilling, equipping, or operating a well, the department shall determine such costs. In instances where a well is completed prior to the integration of interests in a spacing unit, the sharing of production shall be from the effective date of the integration, ~~except that, in calculating costs, credit shall be given for the value of the owner's share of any prior production from the well~~production.

- (d) An application for an order integrating the tracts or interests in a spacing unit shall substantially contain and be limited to only the following:
- (i) The applicant's name and address;
 - (ii) A description of the spacing unit to be integrated;
 - (iii) A geologic statement concerning the likely presence of hydrocarbons;

 - (iv) A statement that the proposed drill site is leased;
 - (v) A statement of the proposed operations for the spacing unit, including the name and address of the proposed operator;
 - (vi) A proposed joint operating agreement and a proposed lease form;
 - (vii) A list of all uncommitted owners in the spacing unit to be integrated under the application, including names and addresses;

- (viii) An affidavit indicating that at least fifty-five percent (55%) of the mineral interest acres in the spacing unit support the integration application by leasing or participating as a working interest owner;
- (ix) An affidavit stating the highest bonus payment paid to a leased owner in the spacing unit being integrated prior to filing the integration application; and
- (x) A resume of efforts documenting the applicant's good faith efforts on at least two (2) separate occasions within a period of time no less than sixty (60) days to inform uncommitted owners of the applicant's intention to develop the mineral resources in the proposed spacing unit and desire to reach an agreement with uncommitted owners in the proposed spacing unit. Provided however, if any owner requests no further contact from the applicant, the applicant will be relieved of further obligation to attempt contact to reach agreement with that owner. At least one (1) contact must be by certified U.S. mail sent to an owner's last known address. If an owner is unknown or cannot be found, the applicant must publish a legal notice of its intention to develop and request that the owner contact the applicant in a newspaper of general circulation in the county where the proposed spacing unit is located. The resume of efforts should indicate the applicant has made reasonable efforts to reach an agreement with all uncommitted owners in the proposed spacing unit. Reasonable efforts are met by complying with this subsection.

~~An application shall not be required to be in any particular format. An application shall not be denied or refused for incompleteness if it complies substantially with the foregoing informational requirements.~~

- (e) At the time the integration application is filed with the department, the applicant shall certify that, for uncommitted owners who are unknown or cannot be found, a notice of the application was published in a newspaper in the county where the proposed spacing unit is located. Each published notice shall include notice to the affected uncommitted owner of the opportunity to respond to the application, and the deadline by which a response must be filed with the department.
- (f) The information supplied by the applicant pursuant to subsection (d)(vii) of this section and the names and addresses of the uncommitted owners pursuant to subsection (d)(x) of this section shall be deemed trade secrets and kept confidential by the department until the well is producing in the proposed spacing unit, and thereafter shall be subject to disclosure pursuant to chapter 1, title 74, Idaho Code, provided that the information regarding an uncommitted owner shall be subject to disclosure to that owner.
- (g) An application for integration shall be subject to the procedures set forth in section 47-324, Idaho Code.

§ 47-324. Rules for Commission – Administrative Procedures.

(a) The commission shall have authority to hear rulemaking proceedings, complaints filed with it pursuant to this chapter and appeals from the director's decision on an application filed pursuant to this chapter. The commission may prescribe rules governing the procedure before it, subject to the provisions of the administrative procedure act, chapter 52, title 67, Idaho Code.

(b) In all cases where a complaint is made by the commission or any person that any provision of this act, or any rule or order of the commission is being violated, notice of any hearing to be

held on such application or complaint, the commission shall serve notice on the interested parties by certified mail, return receipt requested, or in the same manner as is provided in the rules of civil procedure for the service of summons in civil actions. Where the interested party is unknown or cannot be located, the commission shall serve notice by publishing at least one (1) notice of the hearing to such person in a newspaper of general circulation in the county where the affected tract is located. Such notice must be sent, delivered or published, as appropriate, at least five (5) business days before the date of the hearing.

(c) Except as provided in section 47-320(1)(a), Idaho Code, and subsection (b) of this section, any request for an order related to oil and gas activities within the commission's jurisdiction, other than a civil penalty proceeding pursuant to section 47-325, Idaho Code, or other enforcement action by the department of lands or the commission, shall be made by application to the department of lands and processed as provided in this section.

(i) ~~The department shall notify the applicant within five (5) business days of receipt of an application if the application is administratively incomplete, and in such notice shall identify the missing item or items to be supplied in order to make the application complete—additional information is required for the department to evaluate the application.~~

~~(ii) A decision on the merits of the application shall be made by the director. The director's decision shall not be subject to any motion for reconsideration or further review, except for appeal to the commission provided in subsection (d) of this section.~~

~~(iii)~~(ii) For applications involving an order regarding unit operations or integration of a drilling unit, the ~~department~~ applicant shall send a copy of the application and supporting documents to all known and located uncommitted owners, to all working interest owners within the unit, and to the respective city or county where the proposed unit is located. The mailing shall be sent by certified mail and include notice of the hearing date on which the director will consider the application. The application shall may be redacted pursuant to section 47-322(f), Idaho Code., ~~and sent by certified mail. Upon request, the applicant shall reimburse the department for actual mailing costs incurred under this subsection.~~ For any uncommitted owners and working interest owners who cannot be located, an applicant shall publish notice of any application for an order, notice of hearing, and response deadline once in a newspaper of general circulation in the county in which the affected property is located, and request the department publish notice on its website, within seven (7) calendar days of filing of the ~~complete~~ application. Only an uncommitted owner in the affected unit may file an objection or other response to the application, and the uncommitted owner shall file ~~seven (7)~~ at least fourteen (14) calendar days before the hearing date provided in the notice.

~~(iv)~~(iii) For applications not involving paragraph ~~(iii)~~(ii) of this subsection, ~~including exceptional locations,~~ the department or any uncommitted owner within the area defined in the application may file an objection or other response to the application, and ~~the uncommitted owner~~ shall file ~~seven (7)~~ at least fourteen (14) calendar days before the hearing date provided in the notice.

(iv) The director shall hear the application and make a decision on the application's merits. The director shall set regular hearing dates. Applications shall be filed no

later than forty-five (45) calendar days in advance of a desired hearing date. Untimely applications shall be continued until the next hearing. The director may for good cause continue any hearing. The director may appoint a hearing officer, who shall have the power and authority to conduct hearings. Discovery is not permitted. The department may appear and testify at the hearing. When applications are uncontested, the applicant may request, and the Director may allow, approval without a hearing based on review of the merits of a verified application and the supporting exhibits.

(v) ~~The director shall hear an application within thirty (30) calendar days of the filing of a complete application. Discovery is not permitted.~~ The director shall issue a written decision on any such application within thirty (30) calendar days of the hearing. The director's decision shall not be subject to any motion for reconsideration or further review, except for appeal to the commission provided in subsection (d) of this section.

(d) The director's decision on an application or a request for an order may be appealed to the commission by the applicant or any owner who filed an objection or other response to the application within the time required. An appeal must be filed with the director within fourteen (14) calendar days of the date of issuance of the director's written decision. The date of issuance shall be three (3) calendar days after the director deposits the decision in the U.S. mail, or the date on which he remits a decision electronically. Such appeal shall include the reasons and authority for the appeal, and shall identify any facts in the record supporting the appeal. Any person appealing shall serve a copy of the appeal materials on any other person who participated in the proceedings below, by certified mail, or by personal service. Any person who participated in the proceeding ~~below~~ may file a response to the appeal within five (5) calendar days of service of a copy of the appeal materials. The appellant shall provide the director with proof of service of the appeal materials on other persons as required in this section. The commission shall make a decision based on the record below as set forth in the written submittals of only the appellant and any other participating qualified person, the director's decision, and any oral argument taken by the commission at an appeal hearing.

(e) Appeals to the commission shall be heard at the next regularly scheduled commission hearing, or at a special meeting of the commission if determined by the commission. In no case will a hearing be later than thirty (30) calendar days after the filing of an appeal. The commission may take argument from, but not new testimony of, the appellant and other qualified participating persons at the hearing. The commission shall make a decision on the appeal at the hearing and ~~direct the department to~~ issue a written order within five (5) business days of the hearing. The prevailing party shall draft a proposed written order and submit it ~~to the department~~ within two (2) business days. The final order of the commission shall not be subject to any motion for reconsideration.

(f) If no appeal is filed with the commission within the required time, the decision of the director shall become the final order.

(g) Judicial review of actions taken by the commission shall be governed by the provisions of **chapter 52, title 67**, Idaho Code. ~~Only a person qualified under subsection (d) of this section~~

~~who has completed the appeal procedures set forth in this section shall be considered to have exhausted administrative remedies as required in section 67-5271, Idaho Code.~~

(h) For an application or request for an order submitted under subsection (c), only a person qualified under subsection (d) who has completed the appeal procedures set forth in this section shall be considered to have exhausted administrative remedies as required in section 67-5271, Idaho Code.

(hi) Each order shall include a reasoned statement in support of the decision, including a concise statement of facts supporting any findings, a statement of available procedures and time limits for appeals. Findings must be based exclusively on materials in the record. The applicant and any participating qualified person shall be served with a copy of the order. The order shall include or be accompanied by a certificate of service.

(ij) Every application shall be signed by the applicant or his representative, and his address shall be stated thereon. The signature of the applicant or his representative constitutes a certificate by him that he has read the application and that to the best of his knowledge, information and belief there is good ground to support the same. Each application shall be of such form and content and accompanied by the number of copies required by rule of the commission. Each application shall be accompanied by a fee as established in statute or rule.