

Conversation Contents

Implementation of Secretarial Order 3349, Sections 5(c)(i), (ii), and (v)

Attachments:

/3. Implementation of Secretarial Order 3349, Sections 5(c)(i), (ii), and (v)/1.1 Briefing Memo_2017_0411.docx

/3. Implementation of Secretarial Order 3349, Sections 5(c)(i), (ii), and (v)/7.1 Briefing Memo_2017_0411_trackchanges.docx

/3. Implementation of Secretarial Order 3349, Sections 5(c)(i), (ii), and (v)/8.1 Briefing Memo_2017_0411_revised.docx

"McGinnis, Shelley" <smcginnis@blm.gov>

From: "McGinnis, Shelley" <smcginnis@blm.gov>
Sent: Tue Apr 11 2017 07:59:37 GMT-0600 (MDT)
To: Shannon Stewart <scstewar@blm.gov>, Beverly Winston <bwinston@blm.gov>
CC: Timothy Spisak <tspisak@blm.gov>, Lonny Bagley <lbagley@blm.gov>, Erica Pionke <epionke@blm.gov>
Subject: Implementation of Secretarial Order 3349, Sections 5(c)(i), (ii), and (v)
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Thanks,

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**INFORMATION/BRIEFING MEMORANDUM
FOR THE ASSISTANT SECRETARY – LAND AND MINERALS MANAGEMENT**

DATE: April 11, 2017

FROM: Michael D. Nedd, Acting Director – Bureau of Land Management

SUBJECT: Implementation of Secretarial Order 3349, Sections 5(c)(i), (ii), and (v)

BACKGROUND

Secretarial Order (S.O.) 3349, which was signed on March 29, 2017, implements the review of agency actions directed by an Executive Order signed by the President on March 28, 2017, entitled “Promoting Energy Independence and Economic Growth” (March 28, 2017 E.O.). It also directs a reexamination of the mitigation policies and practices across the Department of the Interior (DOI) in order to better balance conservation strategies and policies with the need for creating jobs.

DISCUSSION

This memorandum responds to sections 5(c)(i), 5(c)(ii), and 5(c)(v) of S.O. 3349. Section 5(c)(i) states that the Bureau of Land Management (BLM) shall proceed expeditiously with proposing to rescind the final rule entitled, “Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands,” 80 *Fed. Reg.* 16128 (Mar. 26, 2015). Section 5(c)(ii) states that within 21 days, the BLM shall review the final rule entitled, “Waste Prevention, Production Subject to Royalties, and Resource Conservation,” 81 *Fed. Reg.* 83008 (January 17, 2017), and report to the Assistant Secretary – Land and Minerals Management on whether the rule is fully consistent with the policy set forth in Section 1 of the March 28, 2017 E.O. (b) (5)

Section 5(c)(v) of S.O. 3349 states that within 21 days, each bureau and office head shall provide to the Deputy Secretary, through their Assistant Secretary, a report that identifies all existing Department Actions issued by their bureau or office that potentially burden the development or utilization of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear resources. The term burden as defined in the March 28, 2017 E.O. means to unnecessarily obstruct, delay, curtail, or otherwise impose significant costs on the siting, permitting, production, utilization, transmission, or delivery of energy resources. In addition to the Hydraulic Fracturing and Waste Prevention Rules, following is a preliminary list of the Actions that have been identified by the BLM that have the highest potential to burden the development or utilization of BLM energy resources. These are in addition to the items that were identified by the BLM in a separate memorandum responding to sections 5(a)(i) and 5(b)(i) of S.O. 3349, regarding “actions” the BLM has adopted or is in the processes of developing with respect to certain memoranda and orders related to mitigation and climate change.

Fluid Minerals

Title: Instruction Memorandum (IM) 2010-117, Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews

Date: 5/17/2010

Purpose: Establishes a process for ensuring orderly, effective, timely, and environmentally responsible leasing of oil and gas resources on Federal lands. The leasing process established in this IM will create more certainty and predictability, protect multiple-use values when the BLM makes leasing decisions, and provide for consideration of natural and cultural resources as well as meaningful public involvement.

Title: IM 2013-101, Oil and Gas Leasing Reform – Master Leasing Plans

Date: 4/15/2013

Purpose: Supplements existing BLM policy and guidance for processing Applications for Permit to Drill and outlines the regulatory and statutory requirements of Onshore Oil and Gas Order Number 1 (Order 1) and the Energy Policy Act of 2005.

Title: IM 2013-177, National Environmental Policy Act (NEPA) Compliance for Oil and Gas Lease Reinstatement Petitions

Date: 8/13/2013

Purpose: Directs all oil and gas leasing offices to: 1) ensure Resource Management Plan conformance; 2) evaluate the adequacy of existing NEPA analysis and documentation; and 3) complete any necessary new or supplemental NEPA analysis and documentation before approving a Class I or Class II oil and gas lease reinstatement petition.

Title: IM 2016-140, Implementation of Greater Sage-Grouse Resource Management Plan Revisions or Amendments – Oil & Gas Leasing and Development Sequential Prioritization

Date: 9/1/2016

Purpose: Provides guidance on prioritizing implementation decisions for BLM oil and gas leasing and development, to be consistent with the Approved Resource Management Plan Amendments for the Rocky Mountain and Great Basin Greater Sage-Grouse Regions and nine Approved Resource Management Plans in the Rocky Mountain Greater Sage-Grouse Region (collectively referred to as the GRSG Plans). This IM applies to activities in the areas covered by both the Rocky Mountain and Great Basin Regions Records of Decision, issued by the BLM in September 2015. This IM also contains reporting requirements for communication between State Offices and the Washington Office.

Title: Onshore Orders Nos. 3, 4 and 5

Date: All three final rules were published in the *Federal Register* on 11/17/2016, and became effective on 1/17/2017

Purpose: “Onshore Orders” is shorthand for the three concurrent rulemakings that replaced the BLM’s site security, oil measurement, and gas measurement regulations contained in Onshore Oil and Gas Orders Nos. 3, 4 and 5, which had been in place since 1989. The recent rulemakings resulted in new site security, oil measurement, and gas measurement regulations for Onshore Federal and Indian oil and gas production and are codified in the Code of Federal Regulations at 43 C.F.R. part 3170. These rulemakings were prompted by external and internal oversight reviews which found many of the BLM’s production measurement and accountability policies to be outdated and inconsistently applied. The new rules also address some of the Government Accountability Office concerns for High Risk with regards to the Department’s production accountability.

Solid Minerals

Title: IM 2014-156, Supplemental Guidance on Processing Royalty Rate Reduction Applications

Date: 9/26/2014

Purpose: Provides State Directors notice that they must provide the Washington Office (WO) a royalty rate reduction (RRR) justification with a copy of their draft decision when requesting WO concurrence. A checklist is attached to ensure that all required RRR application elements are included. Further, this IM augments and reiterates the existing policy for processing RRR applications.

(b) (5)



Title: IM 2017-035, Publicly Accessible Bureau of Land Management Websites for Information Regarding Federal Coal Program Leasing, Exploration Licensing, and Royalty Rate Reductions

Date: 1/19/2017

Purpose: Improves transparency in administering the Federal coal program. Responds to stakeholder suggestions for improved access to information on the Federal coal program, and replaces the policy and guidance previously provided in WO-IM-2014-159, *Publicly Accessible Bureau of Land Management Websites for Coal Leasing Information*. This IM directs the BLM offices to post and update specified Federal coal program information on BLM publicly accessible websites, including, as described more fully below: (1) information about Federal coal lease applications and leases, lease modification applications, and lease modifications; (2) information about exploration licensing applications and exploration licenses; (3) information about royalty rate reduction applications; and (4) summary information on the Federal coal program.

Title: IM 2017-037, Waste Mine Methane Policy

Date: 1/20/2017

Purpose: Establishes national policies and processes to foster voluntary activities by operators to capture waste mine methane from underground coal or other solid mineral mines. These policies will allow waste mine methane to be put to productive use, where economical, and reduce environmental impacts, while ensuring continued safe underground mining operations on Federal lands.


Other

Title: IM 2016-140, Process for Assessing, Coordinating, and Implementing Greater Sage-Grouse Land Use Plan Adaptive Management Hard and Soft Triggers

Date: 9/1/2016

Purpose: Directs the implementation of the land use plan adaptive management process to evaluate and apply hard and soft triggers and responses, as detailed in the Greater Sage-Grouse Approved Resource Management Plans and Amendments, Great Basin and Rocky Mountain Greater Sage-Grouse Regional Records of Decision (September 21, 2015).

(b) (5)




Title: BLM Land Use Planning Handbook, H-1601-1, Appendix C

Date: 3/11/2017

Purpose: The Handbook provides specific guidance for preparing, amending, revising, maintaining, implementing, monitoring, and evaluating BLM land use plans. Appendix C of the handbook identifies resource-specific guidance for BLM program areas that could restrict or impact energy development. The specific restrictions depend on the individual program's requirements, as identified in the laws, regulations, manuals, handbooks, and instruction memoranda governing each program.

NEXT STEPS

In some cases, the aforementioned Actions include only certain components that are unnecessarily burdensome. (b) (5)



Therefore, the BLM recommends coordination with the DOI Solicitor's Office to discuss modification of these Actions where appropriate, rather than complete rescission.

**INFORMATION/BRIEFING MEMORANDUM
FOR THE ASSISTANT SECRETARY – LAND AND MINERALS MANAGEMENT**

DATE: April 11, 2017

FROM: Michael D. Nedd, Acting Director – Bureau of Land Management

SUBJECT: Implementation of Secretarial Order 3349, Sections 5(c)(i), (ii), and (v)

BACKGROUND

Secretarial Order (S.O.) 3349, which was signed on March 29, 2017, implements the review of agency actions directed by an Executive Order signed by the President on March 28, 2017, entitled “Promoting Energy Independence and Economic Growth” (March 28, 2017 E.O.). It also directs a reexamination of the mitigation policies and practices across the Department of the Interior (DOI) in order to better balance conservation strategies and policies with the need for creating jobs.

DISCUSSION

This memorandum responds to sections 5(c)(i), 5(c)(ii), and 5(c)(v) of S.O. 3349. Section 5(c)(i) states that the Bureau of Land Management (BLM) shall proceed expeditiously with proposing to rescind the final rule entitled, “Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands,” 80 *Fed. Reg.* 16128 (Mar. 26, 2015). The BLM is proceeding with proposing to rescind the final rule in coordination with the DOI Solicitor’s Office.

Section 5(c)(ii) states that within 21 days, the BLM shall review the final rule entitled, “Waste Prevention, Production Subject to Royalties, and Resource Conservation,” 81 *Fed. Reg.* 83008 (January 17, 2017), and report to the Assistant Secretary – Land and Minerals Management on whether the rule is fully consistent with the policy set forth in Section 1 of the March 28, 2017 E.O. The BLM has reviewed the final rule and determined that it is not fully consistent with the policy in Section 1 March 28, 2017 E.O. Specifically, some provisions of the rule add regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation. (b) (5)

Section 5(c)(v) of S.O. 3349 states that within 21 days, each bureau and office head shall provide to the Deputy Secretary, through their Assistant Secretary, a report that identifies all existing Department Actions issued by their bureau or office that potentially burden the development or utilization of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear resources. The term burden as defined in the March 28, 2017 E.O. means to unnecessarily obstruct, delay, curtail, or otherwise impose significant costs on the siting, permitting, production, utilization, transmission, or delivery of energy resources. In addition to the Hydraulic Fracturing and Waste Prevention Rules, following is a preliminary list of the Actions that have been identified by the BLM that have the highest potential to burden the development or utilization of BLM energy resources. These are in addition to the items that were identified by the BLM in a separate memorandum responding to sections 5(a)(i) and 5(b)(i) of S.O. 3349, regarding

“actions” the BLM has adopted or is in the processes of developing with respect to certain memoranda and orders related to mitigation and climate change.

Fluid Minerals

Title: Instruction Memorandum (IM) 2010-117, Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews

Date: 5/17/2010

Purpose: Establishes a process for ensuring orderly, effective, timely, and environmentally responsible leasing of oil and gas resources on Federal lands. The leasing process established in this IM will create more certainty and predictability, protect multiple-use values when the BLM makes leasing decisions, and provide for consideration of natural and cultural resources as well as meaningful public involvement.

Title: IM 2013-101, Oil and Gas Leasing Reform – Master Leasing Plans

Date: 4/15/2013

Purpose: Supplements existing BLM policy and guidance for processing Applications for Permit to Drill and outlines the regulatory and statutory requirements of Onshore Oil and Gas Order Number 1 (Order 1) and the Energy Policy Act of 2005.

Title: IM 2013-177, National Environmental Policy Act (NEPA) Compliance for Oil and Gas Lease Reinstatement Petitions

Date: 8/13/2013

Purpose: Directs all oil and gas leasing offices to: 1) ensure Resource Management Plan conformance; 2) evaluate the adequacy of existing NEPA analysis and documentation; and 3) complete any necessary new or supplemental NEPA analysis and documentation before approving a Class I or Class II oil and gas lease reinstatement petition.

Title: IM 2016-140, Implementation of Greater Sage-Grouse Resource Management Plan Revisions or Amendments – Oil & Gas Leasing and Development Sequential Prioritization

Date: 9/1/2016

Purpose: Provides guidance on prioritizing implementation decisions for BLM oil and gas leasing and development, to be consistent with the Approved Resource Management Plan Amendments for the Rocky Mountain and Great Basin Greater Sage-Grouse Regions and nine Approved Resource Management Plans in the Rocky Mountain Greater Sage-Grouse Region (collectively referred to as the GRSG Plans). This IM applies to activities in the areas covered by both the Rocky Mountain and Great Basin Regions Records of Decision, issued by the BLM in September 2015. This IM also contains reporting requirements for communication between State Offices and the Washington Office.

Title: Onshore Orders Nos. 3, 4 and 5

Date: All three final rules were published in the *Federal Register* on 11/17/2016, and became effective on 1/17/2017

Purpose: “Onshore Orders” is shorthand for the three concurrent rulemakings that replaced the BLM’s site security, oil measurement, and gas measurement regulations contained in Onshore Oil and Gas Orders Nos. 3, 4 and 5, which had been in place since 1989. The recent rulemakings

resulted in new site security, oil measurement, and gas measurement regulations for Onshore Federal and Indian oil and gas production and are codified in the Code of Federal Regulations at 43 C.F.R. part 3170. These rulemakings were prompted by external and internal oversight reviews which found many of the BLM's production measurement and accountability policies to be outdated and inconsistently applied. The new rules also address some of the Government Accountability Office concerns for High Risk with regards to the Department's production accountability.


Solid Minerals

Title: IM 2014-156, Supplemental Guidance on Processing Royalty Rate Reduction Applications

Date: 9/26/2014

Purpose: Provides State Directors notice that they must provide the Washington Office (WO) a royalty rate reduction (RRR) justification with a copy of their draft decision when requesting WO concurrence. A checklist is attached to ensure that all required RRR application elements are included. Further, this IM augments and reiterates the existing policy for processing RRR applications.

(b) (5)



Title: IM 2017-035, Publicly Accessible Bureau of Land Management Websites for Information Regarding Federal Coal Program Leasing, Exploration Licensing, and Royalty Rate Reductions

Date: 1/19/2017

Purpose: Improves transparency in administering the Federal coal program. Responds to stakeholder suggestions for improved access to information on the Federal coal program, and replaces the policy and guidance previously provided in WO-IM-2014-159, *Publicly Accessible Bureau of Land Management Websites for Coal Leasing Information*. This IM directs the BLM offices to post and update specified Federal coal program information on BLM publicly accessible websites, including, as described more fully below: (1) information about Federal coal lease applications and leases, lease modification applications, and lease modifications; (2) information about exploration licensing applications and exploration licenses; (3) information about royalty rate reduction applications; and (4) summary information on the Federal coal program.

Title: IM 2017-037, Waste Mine Methane Policy

Date: 1/20/2017

Purpose: Establishes national policies and processes to foster voluntary activities by operators to capture waste mine methane from underground coal or other solid mineral mines. These policies will allow waste mine methane to be put to productive use, where economical, and reduce

environmental impacts, while ensuring continued safe underground mining operations on Federal lands.

Other

Title: IM 2016-140, Process for Assessing, Coordinating, and Implementing Greater Sage-Grouse Land Use Plan Adaptive Management Hard and Soft Triggers

Date: 9/1/2016

Purpose: Directs the implementation of the land use plan adaptive management process to evaluate and apply hard and soft triggers and responses, as detailed in the Greater Sage-Grouse Approved Resource Management Plans and Amendments, Great Basin and Rocky Mountain Greater Sage-Grouse Regional Records of Decision (September 21, 2015).

(b) (5)



Title: BLM Land Use Planning Handbook, H-1601-1, Appendix C

Date: 3/11/2017

Purpose: The Handbook provides specific guidance for preparing, amending, revising, maintaining, implementing, monitoring, and evaluating BLM land use plans. Appendix C of the handbook identifies resource-specific guidance for BLM program areas that could restrict or impact energy development. The specific restrictions depend on the individual program's requirements, as identified in the laws, regulations, manuals, handbooks, and instruction memoranda governing each program.

NEXT STEPS

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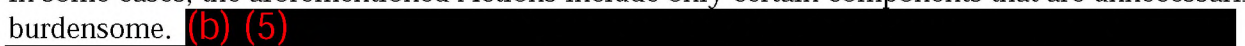
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