

APPENDIX 1

SURFACE USE AND OCCUPANCY REQUIREMENTS

This appendix describes practices intended to be applied, when needed, to minimize surface disturbance.

The requirements listed below will pertain to all activities conducted in the Roswell Resource Area. They will be applied primarily to the federal surface estate. However, in the case of activities related to the development of oil and gas and other minerals, these standards could be applied to split estate in order to meet the requirements of Onshore Oil and Gas Order No. 1, federal law or regulations, or with the concurrence of surface landowners.

The intent of the Surface Use and Occupancy Requirements is to best manage mechanical surface disturbance and other effects on specified natural resources. Mechanical surface disturbance is created by the use of such things as tools and machinery. Activities such as grazing by livestock or wildlife or certain recreational pursuits (e.g., hiking) are not considered to create surface disturbance in the context of these requirements. Circumstances for waivers of the requirements have been included so that they will not be applied needlessly. Exceptions to the requirements will be considered in emergency situations involving human health and safety and the protection of the environment.

The basis for the “200 meter rule” used in the Surface Use and Occupancy Requirements is 43 CFR 3101.1-2, which states that, at a minimum, mitigation measures are deemed consistent with oil and gas lease rights if they do not require “...relocation of proposed operations by more than 200 meters...” The intent of the actions described in this Appendix is to comply with the regulations

and allow the relocation of proposed activities to mitigate impacts, but by no more than 200 meters, without undertaking additional NEPA analysis. The opportunity exists through the NEPA process to design mitigations of impacts that would require relocation greater than 200 meters. The “200 meter rule” simply allows relocation of an activity, such as during on-site meetings prior to APD approval, without the need for detailed NEPA analysis.

The Surface Use and Occupancy Requirements identify minimum use standards for activities around certain natural and man-made features to ensure protection of those features. Specific information on those features is maintained for review at the Roswell Resource Area office.

Table AI -1 estimates the acreages affected by the Surface Use and Occupancy Requirements. These estimates reflect the maximum amount of acreage that could be affected and are for purposes of disclosure, comparison and analysis, only. The most likely situation is that the requirements will cumulatively affect only a small area.

● **Wildlife Habitat Projects:** Surface disturbance will not be allowed within up to 200 meters of existing or planned wildlife habitat improvement projects. Large-scale vegetation manipulation projects such as prescribed burns will be excepted. This requirement will be considered for waiver with appropriate off-site mitigation, as determined by the Authorized Officer.

**TABLE A1-1
SUMMARY OF ESTIMATED ACREAGES AFFECTED BY
SURFACE USE AND OCCUPANCY REQUIREMENTS
ROSWELL RESOURCE AREA**

FOR PURPOSES OF ANALYSIS ONLY

Resource or Feature	Proposed Plan
Wildlife Habitat Projects	2,408
Raptor Nests	6,240
Slopes (All Ownerships)	260,023
Streams, Rivers, Floodplains	65,694
Playa and Alkali Lakes	8,400
Springs, Seeps and Tanks:	
Springs and Seeps	640
Tanks	8,800
Caves and Karst	26,136
Prairie Chickens:	
Timing requirements	935,000
Occupancy requirements	6,400
Sand Dune Lizard (Potential Habitat)	296,000
Prairie Dog Towns	1,422

Notes:

1. For purposes of analysis, acreages represent the maximum number of acres affected by the requirements. Acreages actually affected when the requirements are applied will be substantially less than those listed.
2. Acreages are not additive, since many different features may occur in the same area (e.g., wildlife habitat projects, raptor nests, prairie chicken habitat and lizard habitat could all be in proximity). Adding acreages amounts to double- or triple-counting (or more) of the same acreage.
3. For determining the effects of these requirements on oil and gas activity, the acreages are assumed to fall completely within areas of high hydrocarbon potential. Actually, many of the areas on which the requirements would be applied are in areas of low or moderate hydrocarbon potential.
4. Acreages represent federal surface only, unless noted.

● **Raptor Nests and Heronries:** Surface disturbance will not be allowed within up to 200 meters of active heronries or by delaying activity for up to 120 days, or a combination of both. Raptor nests on special, natural habitat features, such as trees, large brush, cliff faces and escarpments, will be protected by not allowing surface disturbance within up to 200 meters of nests or by delaying activity for up to 90 days, or a combination of both. Exceptions to this requirement for raptor nests will be considered if the nests expected to be disturbed are inactive, the proposed activity is of short duration (e.g. habitat enhancement projects, fences, pipelines), and will not result in continuing activity in proximity to the nest.

● **Slopes or Fragile Soils:** Surface disturbance will not be allowed on slopes over 30 percent. Exceptions will be considered for authorized mineral material extraction sites and designated OHV areas, for the installation of projects designed to enhance or protect renewable natural resources, or if a plan of operations and development which provides for adequate mitigation of impacts was approved by the Authorized Officer. Occupancy or use of fragile soils will be considered on a case-by-case basis.

● **Streams, Rivers and Floodplains:** Surface disturbance will not be allowed within up to 200 meters of the outer edge of 100-year floodplains, to protect the integrity of those floodplains. On a case-by-case basis, an exception to this requirement may be considered based on one or more of the criteria listed below. The first three criteria would not be applied in areas of identified critical or occupied habitat for federally listed threatened or endangered species.

-Additional development in areas with existing developments that have shown no adverse impacts to the riparian areas as determined by the Authorized Officer, following a case-by-case review at the time of permitting.

-Suitable off-site mitigation if habitat loss has been identified.

-An approved plan of operations ensures the protection of water or soil resources, or both.

-Installation of habitat, rangeland or recreation projects designed to enhance or protect renewable natural resources.

● **Playas and Alkali Lakes:** Surface disturbance will not be allowed within up to 200 meters of playas or alkali lakes. Waiver of this requirement will be considered on a case-by-case basis for projects designed to enhance or protect renewable natural resources. An exception for oil and gas development will be considered if playa lake loss was mitigated by the protection and development of another playa exhibiting the potential for improvement. Mitigation could include: installing fencing; developing a supplemental water supply; planting trees and shrubs for shelter belts; conducting playa basin excavation; constructing erosion control structures or cross dikes; or by improving the habitat in another area.

● **Springs, Seeps and Tanks:** Surface disturbance will not be allowed within up to 200 meters of the source of a spring or seep, or within downstream riparian areas created by flows from the source or resulting from riparian area management. Surface disturbance will not be allowed within up to 200 meters of earthen tanks or the adjacent riparian areas created as a result of the presence of the tanks. Exceptions to this requirement will be considered for the installation of habitat or rangeland projects designed to enhance the spring or seep, or downstream flows.

● **Caves and Karst:** Surface disturbance will not be allowed within up to 200 meters of known cave entrances, passages or aspects of significant caves, or significant karst features. Waiver of this requirement will be considered for projects that enhance or when an approved plan of operations ensures the protection of cave and karst resources.

● **Prairie Chickens:** Drilling for oil and gas, and 3-D geophysical exploration operations will not be allowed in Lesser Prairie Chicken habitat during the period of March 15 through June 15, each year. During that period, other activities that produce noise or involve human activity, such as the maintenance of oil and gas facilities, geophysical exploration other than 3-D operations, and pipeline, road, and well pad construction, will be allowed except between 3:00 a.m. and 9:00 a.m. The 3:00 a.m. to 9:00 a.m. restriction will not apply to normal, around-the-clock operations, such as venting, flaring, or pumping, which do not require a human presence during the period. Additionally, no new drilling will be allowed within up to 200 meters of leks known at the time of permitting. Normal vehicle use on existing roads will not be restricted. Exhaust noise from pump jack engines must be muffled or otherwise controlled so as not to exceed 75 db measured at 30 feet from the source of the noise. Exceptions to these requirements will be considered for areas of no or low prairie chicken booming activity, or unoccupied habitat, including leks, as determined at the time of permitting, or in emergency situations.

● **Sand Dune Lizard:** Surface disturbance will not be allowed in documented occupied habitat areas, or within up to 100 meters of suitable habitat associated with occupied habitat areas identified through field review. An exception to this restriction will be considered when an on-site evaluation of habitat extent, available species occurrence data, the proposed surface use, and proposed mitigations indicate the proposal will not adversely affect the local population.

● **Visual Resource Management:** Painting of oil field equipment and structures to minimize visual impacts will be conducted according to the requirements of Notice to Lessees (NTL) 87-1, New Mexico. Low profile facilities also may be required, when needed, to reduce the contrast of a project with the dominant color, line, texture, and form of the surrounding landscape. Other surface facilities or equipment approved by the BLM, such as large-scale range improvements or pipelines, will be painted, when needed, to conform with the requirements of visual resource management to minimize visual impacts. Paint colors will be selected from the ten standard environmental colors approved by the Rocky Mountain Coordinating Committee. The selected paint color will match as closely as possible the predominant soil or vegetation color of the area.

● **Prairie Dog Towns:** Surface disturbance will not be allowed on public lands within known prairie dog towns or towns identified in the future. Exceptions to this requirement will be considered for maintaining existing structures or facilities. Prairie dog control will not be authorized on public lands, except in emergency situations involving public health.