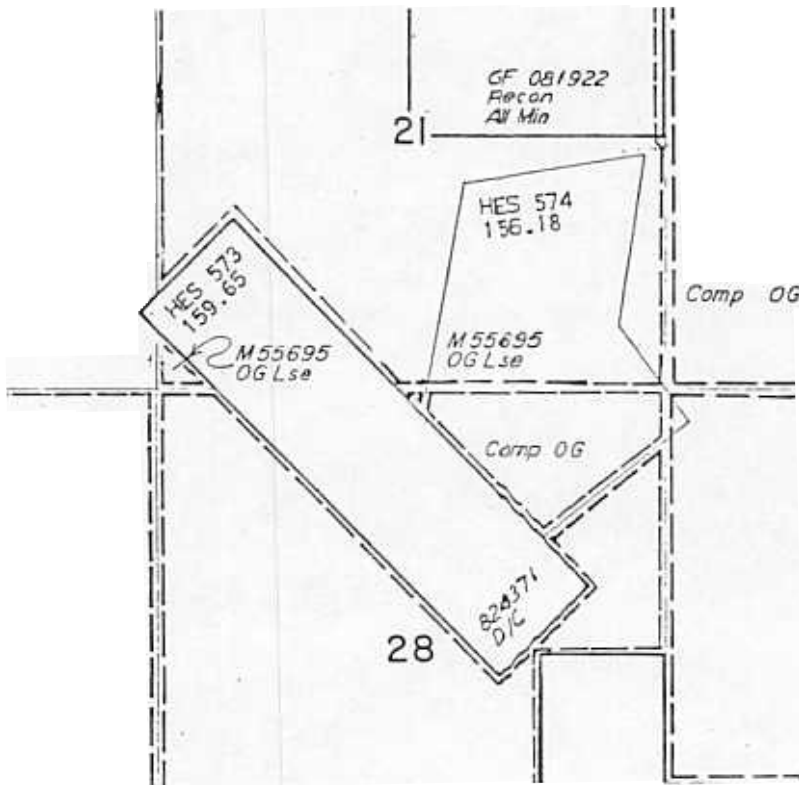


# UNIFORM FORMAT FOR OIL AND GAS LEASE STIPULATIONS



**Final Recommendations Prepared By:**  
**Rocky Mountain Regional Coordinating Committee**  
**March 1989**

**ROCKY MOUNTAIN REGIONAL COORDINATING COMMITTEE  
STIPULATION SUBCOMMITTEE  
STANDARDIZATION OF STIPULATION FORMAT**

**March 1989**

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## GENERAL GUIDANCE

### Introduction

Federal land managers and the oil and gas industry have noted inconsistency and variation in the application of lease stipulations and notices between the various offices of Federal land management agencies throughout the Rocky Mountain States. The Coordinating Committee has been requested to determine if the number of apparently similar stipulations could be reduced, their wording standardized, and guidelines developed for consistent usage. This document provides guidance for the standardization of Federal oil and gas lease stipulations, uniform definitions, format, and wording. These guidelines were developed by the Bureau of Land Management and Forest Service but may be adopted and used by other surface management agencies.

In consolidating existing stipulations to a minimum number and expressing them in a standardized format, emphasis was placed on providing a system for accommodating all necessary lease conditions recognized by Federal land managers. Stipulations are to be part of a lease only when the environmental and planning record demonstrates the necessity for the stipulations. Stipulations, as such, are neither "standard" nor "special" but rather a necessary modification of the terms of the lease.

These forms, given on Pages 14-16, provide for standardized structure, wording, and usage. In order to accommodate the variety of resources encountered on Federal lands, these stipulations are categorized as to how the stipulation modifies the lease

rights, not by the resource(s) to be protected. What, why, and how this mitigation/protection is to be accomplished is determined by the land manager through the land use planning and National Environmental Policy Act (NEPA) analysis.

### Implementation

If upon weighing the relative resource values, there are values, uses, and/or users identified that conflict with oil and gas operations and cannot be adequately managed and/or accommodated on other lands, a lease stipulation is necessary. Land use plans serve as the primary vehicle for determining the necessity for lease stipulations (BLM Manual 1624). Documentation of the necessity for a stipulation is disclosed in planning documents or through site-specific analysis. Land use plans and/or NEPA documents also establish the guidelines by which future waivers, exceptions, or modifications may be granted. Substantial modification or waiver subsequent to lease issuance is subject to public review for at least a 30-day period in accordance with Section 5102.f of the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (FOOGLRA).

Stipulations may be necessary if the authority to control the activity on the lease does not already exist under laws, regulations, or orders. It is important to recognize that the authorized officer has the authority to modify the siting and design of facilities, control the rate of development and timing of activities as well as require other mitigation under Sections 2 and 6 of the standard lease terms (BLM Form 3100-11) and 43 CFR 3101.1-2.

The necessity for individual lease stipulations is documented in the lease-file record with reference to the appropriate land use plan or other leasing analysis document. The necessity for exceptions, waivers, or modifications will also be documented in the lease-file record through reference to the appropriate plan or other analysis. The uniform format for stipulations should be implemented when amendments or revisions of land use plans are prepared or by other appropriate means.

The uniform format for stipulations is designed to accommodate most existing stipulations by providing space to record the local mitigation objectives. The stipulations

have been developed for the categories of: (1) no surface occupancy, (2) timing or seasonal restriction, and (3) controlled surface use. This guidance also includes the use of lease notices. There is also provision for special or unique stipulations, such as those required by prior agreements between agencies when the standardized forms are not appropriate. In all cases, use of the uniform forms for stipulations will require identification of specific resource values to be protected and description of the specific geographical area covered. Stipulations attached to noncompetitive leases will require the applicant's acceptance and signature.

## DEFINITIONS

**Condition of Approval (COA):** Conditions or provisions (requirements) under which an Application for a Permit to Drill or a Sundry Notice is approved.

**Controlled Surface Use (CSU):** Use and occupancy is allowed (unless restricted by another stipulation), but identified resource values require special operational constraints that may modify the lease rights. CSU is used for operating guidance, not as a substitute for the NSO or Timing stipulations.

**Exception:** Case-by-case exemption from a lease stipulation. The stipulation continues to apply to all other sites within the leasehold to which the restrictive criteria applies.

**Lease Notice:** Provides more detailed information concerning limitations that already exist in law, lease terms, regulations, or operational orders. A Lease Notice also addresses special items the lessee should

consider when planning operations, but does not impose new or additional restrictions. Lease Notices attached to leases should not be confused with NTLs--Notices to Lessees. (See 43 CFR 3160.0-5)

**Modification:** Fundamental change to the provisions of a lease stipulation, either temporarily or for the term of the lease. A modification may, therefore, include an exemption from or alteration to a stipulated requirement. Depending on the specific modification, the stipulation may or may not apply to all other sites within the leasehold to which the restrictive criteria applied.

**No Surface Occupancy (NSO):** Use or occupancy of the land surface for fluid mineral exploration or development is prohibited to protect identified resource values. The NSO stipulation includes stipulations which may have been worded as "No Surface Use/Occupancy," "No Surface Disturbance," "Conditional NSO," and "Surface Disturb-

ance or Surface Occupancy Restriction (by location)."

**Notice to Lessees (NTL):** The NTL is a written notice issued by the authorized officer. NTLs implement regulations and operating orders, and serve as instructions on specific item(s) of importance within a State, District, or Area.

**Stipulation:** A provision that modifies standard lease rights and is attached to and made a part of the lease.

**Timing Limitation (Seasonal Restriction):**

Prohibits surface use during specified time periods to protect identified resource values. This stipulation does not apply to the operation and maintenance of production facilities unless the findings of analysis demonstrate the continued need for such mitigation and that less stringent, project-specific mitigation measures would be insufficient.

**Waiver:** Permanent exemption from a lease stipulation. The stipulation no longer applies anywhere within the leasehold.

## NO SURFACE OCCUPANCY STIPULATION GUIDANCE

The No Surface Occupancy (NSO) stipulation is intended for use only when other stipulations are determined insufficient to adequately protect the public interest. The land use plan/NEPA document prepared for leasing must show that less restrictive stipulations were considered and determined by the authorized officer to be insufficient. The planning/NEPA record must also show that consideration was given to a no-lease alternative when applying a NSO stipulation. A No Surface Occupancy Stipulation is not needed if the desired protection would not require relocation of proposed operations by more than 200 meters (43 CFR 3101.1-2). 656,

The legal subdivision, distance, location, or geographic feature, and resource value of concern must be identified in the stipulation and be tied to a land use plan and/or NEPA document. Land description may be stated as: the "Entire Lease", Distance from resources and facilities such as rivers, trails, campgrounds, etc.; legal description; geographic feature such as the 100-year floodplain, municipal watershed, percent of slope, etc.; Special Areas with identified boundaries--area of critical environmental concern, Wild and Scenic River, etc., or other description that specifies the boundaries of the lands affected. The estimated percent of the total lease area affected by the restriction must be given if no legal or geographic description of the location of the restriction is given. In other cases the estimated percent is optional. (See Example: Figure 1).

Land use plans and/or NEPA documents should identify the specific conditions for providing waivers, exceptions, or modifications to lease stipulations. Waivers, exceptions, or modifications must be supported by appropriate environmental analysis and documentation, and subject to the same test used to initially justify the imposition of this stipulation. Language may be added to the NSO stipulation form to provide the lessee with information or circumstances under which waivers, exceptions, or modifications would be considered. A waiver, exception, or modification may be approved if the record shows that circumstances or relative resource values have changed or that the lessee can demonstrate that operations can be conducted without causing unacceptable impacts, and that less restrictive stipulations will protect the public interest. Waivers, exceptions or modifications can only be granted by the authorized officer. If the waiver, exception, or modification is inconsistent with the land use planning document, that document must be amended as necessary, or the change disallowed.

If the authorized officer determines, prior to lease issuance, that a stipulation involves an issue of major concern, modification or waiver of the stipulation will be subject to public review (43 CFR 3101.1-4). The land use plan may also identify other cases when a public review is required for waiver, exception, or modification. In such cases, wording such as the following should be added to the stipulation form to inform the lessee of the required public review: "A 30-day public notice period is required prior to modification or waiver of this stipulation."

EXAMPLE

Serial No. \_\_\_\_\_

NO SURFACE OCCUPANCY STIPULATION

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

- a. T. 147 N., R. 103 W., 5th P.M.  
Sec. 29: N1/2NW1/4, SW1/4NW1/4
- b. 1,320 feet from scenic and recreational segments of Flathead Wild and Scenic River.

T. 31 N., R. 17 W., PMM  
Sec. 28: E1/2SE1/4

For the purpose of:

- a. Avoidance of steep slopes exceeding 40 percent to avoid mass slope-failure (Management D, Custer Forest Plan, page 55).
- b. Protection of visual and recreational qualities as discussed in Flathead Forest Plan (p. 89) and EIS (p.171).

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

Form #/Date

FIGURE 1

## TIMING LIMITATION STIPULATION GUIDANCE

The Timing Limitation (often called seasonal) Stipulation prohibits fluid mineral exploration and development activities for time periods less than yearlong. When using this stipulation, assure that date(s) and location(s) are as specific as possible. A timing stipulation is not necessary if the time \* limitation involves the prohibition of new surface disturbing operations for periods of less than 60 days (43 CFR 3101.1-2).

The land use plan/NEPA document prepared for leasing must show that less restrictive stipulations were considered and determined to be insufficient. The environmental effects of exploration, development, and production activities may differ markedly from each other in scope and intensity. If the effects of reasonably foreseeable production activities necessitate timing limitation requirements, this need should be clearly documented in the record. The record should also show that less stringent, project-specific mitigation may be insufficient. In such cases the stipulation language should be modified on a case-by-case basis to clearly document that the timing limitation applies to all stages of activity.

The legal subdivision, distance, location, or geographic feature, and resource value of concern must be identified in the stipulation and be tied to a land use planning and/or NEPA document. The timing limitations for separate purposes may be written on separate forms or as one combined stipulation. (See Example: Figure 2.) During the review and decisionmaking process for APD's and Sundry Notices, the date(s) and location(s) should be refined based on current information.

Land use plans and/or NEPA documents should identify the specific conditions for providing waivers, exceptions, or modifications to lease stipulations. Waivers, exceptions, or modifications of this stipulation such as continuing drilling operations into a

restricted time period, must be supported with appropriate environmental analysis and documentation, and will be subject to the same test used to initially justify the imposition of this stipulation. Language may be added to the stipulation form to provide the lessee with information or circumstances under which waiver, exception, or modification would be considered. The need for one-time, case-by-case exceptions of timing limitation stipulations may arise from complications or emergencies during the drilling program. The need for timely review and decisionmaking is great in such cases. For this reason, it is desirable that land use plans/NEPA documents clarify what review procedures and other requirements, if any, will apply in such cases.

A waiver, exception, or modification may be approved if the record shows that circumstances or relative resource values have changed or that the lessee can demonstrate that operations can be conducted without causing unacceptable impacts, and that less restrictive stipulations will protect the public interest. Waivers, exceptions or modifications can only be granted by the authorized officer. If the waiver, exception, or modification is inconsistent with the land use planning document, and that document does not disclose the conditions under which such changes will be allowed, the plan or NEPA document must be amended as necessary, or the change disallowed.

If the authorized officer determines, prior to lease issuance, that a stipulation involves an issue of major concern, modification or waiver of the stipulation will be subject to public review (e.g., 43 CFR 3101.1-4). The land use plan may also identify other cases when a public review is required for waiver, exception, or modification. In such cases, wording such as the following should be added to the stipulation form to inform the lessee of the required public review: "A 30-day public notice period is required prior to modification or waiver of this stipulation."



EXAMPLE

Serial No. \_\_\_\_\_

TIMING LIMITATION STIPULATION

No surface use is allowed during the following time period(s). This stipulation does not apply to operation and maintenance of production facilities.

- a. May 1 to June 15.
- b. During periods when soils are water saturated.

On the lands described below:

- a. Section 21, T. 22 N., R.12 E.
- b. Entire Lease.

For the purpose of (reasons):

- a. Protect elk calving area; North Fork Forest Plan (p. 62) and EIS (p. A-34).
- b. Prevent excessive soil erosion and stream sedimentation resulting from construction activities during periods when soils are saturated. This does not apply to operation and maintenance of production facilities; Broad Draw Resource Management Plan (p. 61).

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

Form #/Date

FIGURE 2

## CONTROLLED SURFACE USE STIPULATION GUIDANCE

The Controlled Surface Use (CSU) Stipulation is intended to be used when fluid mineral occupancy and use are generally allowed on all or portions of the lease area year-round, but because of special values, or resource concerns, lease activities must be strictly controlled. This stipulation replaces stipulations commonly referred to as Limited Surface Use Stipulations. The CSU Stipulation is used to identify constraints on surface use or operations which may otherwise exceed the mitigation provided by Section 6 of the standard lease terms and the regulations and operating orders. The CSU Stipulation is less restrictive than the NSO (No Surface Occupancy) or Timing Limitation stipulations, which prohibit all occupancy and use on all or portions of a lease for all or portions of a year. The CSU Stipulation should not be used in lieu of an NSO or Timing Limitation Stipulation. The use of this stipulation should be limited to areas where restrictions or controls are necessary for specific types of activities rather than all activity.

The stipulation should explicitly describe what activity is to be restricted or controlled, or what operation constraints are required, and must identify the applicable area and the reason for the requirement. The record must show that less restrictive stipulations were considered and determined to be insufficient. The legal subdivision, distance, location, or geographic feature, and resource value of concern must be identified in the stipulation and be tied to a land use plan and/or NEPA document. (See Example: Figure 3)

Land use plans and/or NEPA documents should identify the specific conditions for providing waivers, exceptions, or modifications to lease stipulations. Waivers, exceptions, or modifications of this stipulation must be supported with appropriate environmental analysis and documentation, and will be subject to the same test used to initially justify the imposition of this stipulation. Language may be added to the stipulation form to provide the lessee with information or circumstances under which waiver, exception, or modification would be considered. A waiver, exception, or modification may be approved if the record shows that circumstances or relative resource values have changed or that the lessee can demonstrate that operations can be conducted without causing unacceptable impacts, and that less restrictive stipulations will protect the public interest. Waivers, exceptions or modifications can only be granted by the authorized officer. If the waiver, exception, or modification is inconsistent with the land use planning document, that document must be amended as necessary, or the change disallowed.

If the authorized officer determines, prior to lease issuance, that a stipulation involves an issue of major concern, modification, or waiver of the stipulation will be subject to public review (43 CFR 3101.1-4). The land use plan may also identify when a public review is required for waiver, exception, or modification. In such cases, wording such as the following should be added to the stipulation form to inform the lessee of the required public review: "A 30-day public notice period is required prior to modification or waiver of this stipulation."

EXAMPLE

Serial No. \_\_\_\_\_

CONTROLLED SURFACE USE STIPULATION

Surface occupancy or use is subject to the following special operating constraints.

Unless otherwise authorized, access to this leasehold will be limited to the established roadway.

On the lands described below:

Entire lease

For the purpose of:

To meet visual quality objectives and to protect semiprimitive recreation values; Grand Junction Resource Management Plan (p. 89).

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

Form #/Date

FIGURE 3

## SPECIAL ADMINISTRATION STIPULATION GUIDANCE

There is no required or suggested uniform format for these stipulations. They are usually provided by another agency or organization. However, other agencies are to be encouraged to use the uniform stipulation format.

Special Administration Stipulations are used in situations where the three uniform stipulation forms or Lease Notices do not adequately address the concern. Special Administration Stipulations should be used only when special external conditions, such as pre-existing agreements with other agencies, require use of a one-of-a-kind stipulation that is not used in any other area or situation. The resource use or value, location, and specific restrictions must be clearly identified. In addition, the external agency, agreement or pre-existing use that dictates the special restrictions must be identified. The stipulation should state if and under what circumstances a waiver, exception, or modification may be allowed

### EXAMPLES OF SPECIAL ADMINISTRATION STIPULATIONS ARE:

1. Stipulation for Lands of the National Forest System Under Jurisdiction of Depart-

ment of Agriculture (Bureau of Land Management IM 84-415).

2. Stipulation for leases subject to a Highway Material Site Right-of-Way (Bureau of Land Management, New Mexico; Agreement with New Mexico Highway Department).

3. New Mexico Potash Stipulation for Oil and Gas Leases (Department of Interior, Federal Register Notice, November 5, 1975).

4. Jackson Hole Area Oil and Gas Lease Stipulation (Department of the Interior, Federal Register Notice, August 30, 1947).

5. White Sands Missile Range Stipulation (Bureau of Land Management, New Mexico; Agreement with Army Corps of Engineers).

6. Lease Stipulation, Bureau of Reclamation, Form 3109-1, (Bureau of Land Management, Utah; Agreement with Bureau of Reclamation).

7. Special State of Idaho Stipulations; Bureau of Aeronautics and Public Transportation (Bureau of Land Management, Idaho; Agreement with State of Idaho).

## LEASE NOTICE GUIDANCE

Lease Notices are attached to leases to transmit information at the time of lease issuance to assist the lessee in submitting acceptable plans of operation, or to assist in administration of leases. Lease Notices are attached to leases in the same manner as stipulations, however, there is an important distinction between Lease Notices and Stipulations. Lease Notices do not involve new restrictions or requirements. Any requirements contained in a Lease Notice must be fully supported in either a law, regulations, standard lease terms, or onshore oil and gas orders. A Lease Notice is not signed by the lessee. Guidance in the use of Lease Notices is found in BLM Manual 3101 and 43 CFR 3101.1-3.

A lease notice should contain the following elements: (1) the resource/use/value; the lands affected, if applicable; (2) the

reason(s); (3) the effect on lease operations or what may be required; and (4) a reference to the lease term, regulation, law or order from which enforcement authority is derived.

If a situation or condition is known to exist that could affect lease operations, there should be full disclosure at the time of lease issuance via a Lease Notice. If a lessee may be prevented from extracting oil and gas through a prohibition mandated by a specific nondiscretionary statute, such as the Endangered Species Act, then a stipulation may be used even though a Lease Notice would be sufficient. It is at the discretion of the authorized officer whether a situation is sufficiently sensitive to warrant the use of a lease stipulation. An examples of a Lease Notice is found in Figure 4.

**EXAMPLE**

Serial No. \_\_\_\_\_

**LEASE NOTICE**

A 5-acre graveyard is located in the NW1/4NW1/4, Section 6, T. 5 N., R. 31 W., 6PM. In accordance with Section 6 of the lease terms and 43 CFR 3101.1-2, exploration and development activities must occur outside the graveyard.

Form #/Date

**Figure 4**

**STIPULATION  
FORMS**

Serial No. \_\_\_\_\_

**NO SURFACE OCCUPANCY STIPULATION**

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

For the purpose of:

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

Form #/Date



Serial No. \_\_\_\_\_

**TIMING LIMITATION STIPULATION**

No surface use is allowed during the following time period(s). This stipulation does not apply to operation and maintenance of production facilities.

On the lands described below:

For the purpose of (reasons):

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

Form #/Date

Serial No. \_\_\_\_\_

**CONTROLLED SURFACE USE STIPULATION**

Surface occupancy or use is subject to the following special operating constraints.

On the lands described below:

For the purpose of:

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

Form #/Date