
Fish and Wildlife Service, Park Service Overhaul Decades-Old Regulations on Oil and Gas Operations in Wildlife Refuges and National Parks

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The US Fish and Wildlife Service (Service) yesterday announced its final rule governing oil and gas development in wildlife refuges, updating the regulations for the first time in over 50 years. The [final rule](#) will be published in the Federal Register on November 14, 2016, and will become effective on December 14, 2016. The rule applies to all non-federal operators conducting oil and gas activities on public lands administered as part of the National Wildlife Refuge System.

Permits Required for New and Modified Operations

The Service final rule requires oil and gas operators in a refuge to obtain a permit before commencing any new or modified operations. The requirement extends to exploration, drilling, production, enhanced recovery operations, transportation, plugging and reclamation projects. Operators under an existing permit may continue but must obtain a new permit or amend an existing one for new operations or modifications that would impact refuge resources. The rule also requires operators to plug and reclaim inactive wells, and operators must obtain a permit for plugging and reclaiming existing sites. To incentivize wells outside refuges, the rule exempts from its reach directional wells drilled from outside federal lands that access non-federal minerals.

New Performance-Based Operating Standards

The rule includes new performance-based operating standards—in contrast to a one-size-fits-all prescriptive approach—intended to avoid or minimize impacts to refuge resources but give operators flexibility to adopt more specific actions and best management practices. Generally, the Service will determine whether operations avoid or minimize impacts to the maximum extent practicable under industry considerations, and otherwise require terms and conditions to ensure compliance. The rule was developed with recognition that hydraulic fracturing will occur on refuge lands. In addition, the rule will impose new information and financial assurance (bonding) requirements, fees for new access beyond an operator's oil and gas rights, and other penalty provisions.

Enforcement, Penalties and State Regulations

The rule authorizes the Service to deny a permit if an operator does not meet certain requirements, and may adopt further progressive enforcement actions through Service policy. The final rule mostly preserves enforcement measures from the proposed rule, which include fines, imprisonment, and/or suspension or revocation of the right to operate. Finally, the Service envisions a role in enforcing state oil and gas law by prohibiting under the rule operator acts that violate state oil and gas regulations not in conflict with federal law. To this end, the rule authorizes the Refuge Law Enforcement group to work cooperatively with states in ensuring operators meet Service and state regulatory requirements with minimum duplication of efforts.

Oil and Gas Operations in National Parks

The updated Service regulations arrive on the heels of the National Park Service's (NPS) publication last week, on November 4, 2016, of a final rule for oil and gas activities in national parks. The [NPS rule](#) updates regulations dating back to 1978 and will become effective on December 5, 2016.

The NPS rule covers all non-federal oil and gas operations within an NPS unit, including operations that may become located in a unit either by statutory boundary expansion or establishment of a new NPS unit. Among other provisions, the rule requires operators to have an operations permit or a temporary access permit to a unit before conducting reconnaissance surveys. In addition, the rule establishes the “technologically feasible, least damaging methods” standard that operators must satisfy when conducting oil and gas activities on NPS lands.