WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
Division of Highways
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February 1, 2011

MEMORANDUM

TO: ALL DISTRICT ENGINEERS/MANAGERS

FROM: PAUL A MATTOX, JR., P. E.
SECRTARY OF TRANSPORTATION/
COMMISSIONER OF HIGHWAYS

SUBJECT: OIL AND GAS ROAD POLICY

Upon further review of the Interim Oil and Gas Roads Policy (Policy), the Division of Highways (DOH) recognizes a need to focus the scope of its Policy on those horizontal drilling operations that are anticipated to have significant impacts on State roadways and to ensure continued maintenance of the State's local roadways in light of heavy road traffic attendant to these types of oil and gas development operations. Additionally, coverage under this Policy extends to smaller oil and gas operations, primarily conventional drilling operations, which have significantly less potential to impact the condition of local roadways.

This Policy supersedes the interim policy dated August 20, 2010.

A. GENERAL:

1. The requirements set forth in this Policy shall apply to oil and gas operators as defined in WV Code §22-6-1(w).

2. The proposed project shall be identified as beginning with the onset of drilling and concluding with the completion of well fracturing at a site. Where more than one well is drilled at a site within a period of 12 months, the project will conclude with the completion of well fracturing for the last well and no additional wells are scheduled to be drilled or fractured for a period of at least 12 months.

3. Bonding shall be required for only those highways classified as "state local service" roads in accordance with WV Code §17-1-28 and as defined in WV Code §17-4-2(d) (e.g., CR XX/X) (hereinafter

referred to as "Covered Roads"). Highways that carry an interstate, state or corridor system designation are not Covered Roads and are not to be included in determining bonding amounts.

4. Permits for oversized/overweight vehicles are not subject to the conditions of this Policy and shall be handled through normal DOH procedures as identified in WV Code 17C-17 and legislative rules.

5. Definitions:

   a) "Anticipated damage" is the added potential stress placed on a highway and/or structure due to the increased continuous use of the roadway by heavy vehicles.

   b) "Gas and Oil Wells" means wells drilled for the purpose of extracting natural gas and/or oil as those terms are defined in WV Code §22-6-1(j) and (k).

   c) "Required Major Improvements" are those modifications to Covered Roads that are necessitated by the high volumes of heavy traffic anticipated for a project and may include but are not limited to sight distance improvements, signage, signalization, road widening, construction of new roadways and acquisition of rights-of-way.

   d) "Restrictions" are requirements directed at the protection of the traveling public, including but are not limited to pilot cars, hours of operation, etc.

B. <u>GAS AND OIL WELLS WITH 5,000+ BARRELS OF LIQUIDS TRANSPORTED ON COVERED ROADS FOR DRILLING AND/OR STIMULATION ACTIVITIES:</u>

1. The operator shall provide written notice to the appropriate district engineer/manager of its intent to conduct operations covered by this Policy at a location within the District. The written notice shall include the exact location of the proposed project along with the proposed routes to be used by the operator.

2. Within 14 days of the receipt of the notice provided pursuant to B.1, above, the district engineer/manager, or his appointed representative, shall conduct an on-site meeting with the operator, or his appointed representative, to determine if the roadway is designed to meet the requirements of both the operator and the DOH. The operator shall provide a 24 hour point-of-contact for use by the DOH.

3. The route shall be filmed if at all possible before commencement of the project.

4. Within one month of the on-site meeting, the DOH shall negotiate with the operator to secure an Agreement addressing the permit that will be provided from the DOH and defining the responsibilities of both parties and which shall include, at a minimum, any Required Major Improvements before, during and after the operator has completed the well fracturing. Any work within the DOH right-of-way shall be performed to DOH standards and specifications and subject to DOH final approval.

5. The Agreement may stipulate any appropriate Restrictions and shall require a bond.

6. Upon conclusion of the project, the operator shall notify the DOH to schedule an on-site meeting to determine if the conditions of the Agreement have been met. Such meeting shall be held within 14 days of the receipt of such notice by the DOH and, if it is determined that the conditions of the Agreement have been met, any bonding applicable to the project shall be promptly released.

C. GAS AND OIL WELLS WITH LESS THAN 5,000 BARRELS OF LIQUIDS TRANSPORTED ON COVERED ROADS FOR DRILLING AND/OR STIMULATION ACTIVITIES:

1. The operator shall provide written notice to the appropriate district engineer/manager of its intent to conduct operations covered by this Policy at a location within the District. The written notice shall include the exact location of the proposed project along with the proposed routes to be used by the operator.

2. Within two days of receipt of the notice required by C.1, above, the DOH shall contact the operator, or his representative, to review the road, if necessary, and determine if the road meets the needs for the project.

3. The operator shall provide a 24 hour point-of-contact for use by the DOH.

4. The DOH shall provide the operator with a permit stipulating that the road shall be maintained equal to or better than the original condition.

D. SECURITY

1. SINGLE BONDS

a) For operators of wells with 5,000+ barrels of liquids transported on Covered Roads for drilling and/or stimulation activities covered by Section B, above, bonding shall be based on the degree of Anticipated Damage to Covered Roads up to the following maximum amounts:

BOND	ROAD TYPE
$100,000	Paved Mile
$ 35,000	Tar and Chipped Mile
$ 25,000	Graveled Mile

b) For operators of wells with less than 5,000 barrels of liquids transported on Covered Roads for drilling and/or stimulation activities covered by Section C, above, bonding shall be based on the degree of Anticipated Damage to Covered Roads up to a maximum amount of $5,000 per well.

2. BLANKET BONDS

a) In the alternative to D.1.A., operators of wells with 5,000+ barrels of liquids transported on Covered Roads for drilling and/or stimulation activities covered by Section B, above, may elect to post either a (a) district wide or (b) statewide blanket bond amount to cover multiple roads. The maximum blanket bond shall be $250,000 per district or $1,000,000 statewide.

b) In the alternative to D.1.B, operators of wells with less than 5,000 barrels of liquids transported on Covered Roads for drilling and/or stimulation activities covered by Section C, above, may elect to post a maximum statewide blanket bond of $50,000.

c) Should the operator elect to use blanket bonding, projects may be added/deleted as they are initiated/completed. The DOH shall be provided with written notification of any changes to the blanket bond. Once a project has been completed and notification to DOH provided, there shall be no further liability under the bond for such project.

d) All agreements utilizing blanket bonds are negotiable and shall be handled by the DOH Central Office in Charleston.

3. **FORMS OF SECURITY: The form of the bond(s) described in D.1 and D.2, above, shall be approved by the DOH. The forms of security provided pursuant to this Policy may include, at the option of the operator, surety bonding, collateral bonding (including cash and securities), letters of credit, establishment of an escrow account, self-bonding, or a combination of these methods.**

4. **Should damages attributable to the operator's activities occur on a secured road, the DOH shall contact the operator to determine the appropriate method of repair:**

   a) **Operator repairs the roadway to the DOH standards and specifications;**

   b) **DOH repairs the road with reimbursement by the operator; or**

   c) **DOH seeks reimbursement from the pledged security.**

5. **Provided that the requirements of any Agreement executed in accordance with this Policy have been met, or, where no Agreement is required by this Policy and the condition of the Covered Roads at the conclusion of the project is at least as good as before the commencement of the project, normal wear and tear excepted, the DOH will promptly return the security upon written notice that the operator has:**

   a) **Completed the project identified in the single project or**

   b) **When notified that all projects under a blanket bond are complete and the operator anticipates no further work under the blanket bond.**

6. **The DOH reserves the right to pursue an operator for damages attributable to the operator's activities that exceed the bonded amount. The DOH further reserves the right to pursue the assistance of the operator with regard to damages which can be attributed to the project on all routes. Said assistance may include the operator repairing or assisting in the repair of any damages that can be identified as a result of the project.**

E. MULTIPLE OPERATORS SHARING A COMMON ROADWAY

In the event that damages occur on a shared section of roadway, the DOH shall seek an equitable reimbursement from all persons whose operations or activities have contributed to road damages. A determination of reimbursement levels shall take into consideration the number of trips/loads and associated weights attributable to each operation/activity and a credit shall be provided for any improvements funded by an operator.

F. APPEAL PROCESS

Should the operator and the district representative not reach agreement on the conditions to be stipulated in the Agreement or permit or on an equitable allocation under Sec. E, the operator may progressively appeal to:

1. District Engineer/Manager
2. Central Office Coordinator
3. State Highway Engineer
4. Commissioner of Highways

G. TERMINATION

This policy shall remain in effect for a period of 12 months, but may be amended or modified in the interim.

PAM:Mb

cc: AC, CH, CHH, LL, HD, HO, OM