

**Minerals Management Service  
Interim Policy Document**

**Effective Date:** September 10, 2007

**IPD No.:** 07-06

**Program:** Offshore Minerals Management

**Title:** Procedure for Issuing Notices to Lessees and Operators (NTLs)

**Originating Office:** Office of Offshore Regulatory Programs, Offshore Minerals Management

**1. Purpose:** This Interim Policy Document (IPD) establishes procedures for Offshore Minerals Management (OMM) to issue NTLs. This document is written to provide transparency, consistency, and accountability for issuing NTLs in keeping with policy guidelines as laid-down by the Office of Management and Budget (OMB).

**2. Objectives:**

A. Provide more detail and clarify certain regulatory requirements. This means that an NTL can be issued to provide clarification on requirements that are only generally stated in our regulations.

B. Supplement existing regulations. For example, an NTL can provide voluntary stop-gap measures to address critical safety or environmental issues while developing regulations, facilitating implementation of a new final rule or informing lessees and operators about meetings and workshops, or provide contact information for various offices.

C. Outline what operators, lessees, or permittees must provide as required information in submissions to MMS. If the NTL requires additional information collection burden to that already under regulation, the NTL will be subject to OMB approval before being issued.

**3. Authority:** OCS Lands Act, as amended (43 U.S.C. 1331-1356)

**4. References:**

A. Regulations at 30 CFR 250.103.

B. Regulations at 30 CFR Chapter II, Subchapter B

C. Office of Management and Budget (OMB) Final Bulletin for Agency on Good Guidance Practices:

[http://www.whitehouse.gov/omb/fedreg/2007/012507\\_good\\_guidance.pdf](http://www.whitehouse.gov/omb/fedreg/2007/012507_good_guidance.pdf), dated 1/25/07 (72 FR 3432).

D. U.S. Geological Survey publication entitled “Policies, Practices, and Responsibilities for Safety and Environmental Protection in Oil and Gas Operations on the Outer Continental Shelf (OCS).”

## **5. Definitions:**

A. Notices to Lessees and Operators (NTLs): Notices that clarify, supplement, or provide more detail about certain requirements. They may also outline what lessees/operators must provide as required information in their various submissions to MMS.

B. Executive Order (E.O.) 12866, Regulatory Planning and Review: This E.O. establishes the guiding principles agencies must follow when developing regulations. The January 18, 2007, White House amendment of this E.O. added the words “or guidance document” throughout the E.O.

C. Guidance document: An agency statement of general applicability and future effect, other than a regulatory action, that sets forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statutory or regulatory issue.

D. Significant guidance document: A significant guidance document would lead to an annual effect of \$100 million or more.

## **6. Policy:** OMM’s policy with regards to issuing NTLs entails:

A. Each new NTL requires a strong justification that should be explained in the “Purpose” section of the Executive Summary and must discuss why the guidance or information is necessary. The justification may also be included in the body of the NTL.

B. Regional NTLs are geographically specific and are issued by the Gulf of Mexico OCS Region (GOMR), Alaska OCS Region, or Pacific OCS Region. National NTLs may originate from a Region or from Headquarters (HQ), but the scope of the NTL must be National. HQ will include Regional input in preparation of National NTLs if Regional operations could be affected.

C. MMS will only post an NTL on the internet after it is signed by the appropriate authority or delegated authority.

D. An NTL will have an expiration date not to exceed 5 years from the issue date. The process for re-issuing an existing NTL will be streamlined. If an NTL becomes obsolete before its expiration date, it may be terminated by a new NTL that supersedes it or by a new NTL whose only purpose is to terminate the original NTL. An NTL which simply terminates another NTL should expire the same day it is issued.

E. The Regions and HQ will conduct a periodic review of all NTLs to ensure accuracy and continuing relevance. Regions will review each NTL 3 months before its expiration date to determine if it warrants renewal or will be allowed to expire permanently. The

review for renewal must allow sufficient time for any OMB approvals needed. The Regulations and Standards Branch will also review all NTLs periodically and initiate new rulemaking as appropriate to incorporate NTLs into regulation through minor regulatory revisions.

F. Most discrepancies and differences in perception (as to whether the language is guidance or rulemaking) will be decided at the program level. When the program offices are unable to resolve issues, they will raise the disputed matter to upper management. The Associate Director (AD/OMM) or the authority delegated by the AD/OMM will make the final call on whether a controversial NTL is issued or not.

## **7. Responsibilities:**

A. Associate Director for Offshore Minerals Management (OMM) signs National NTLs; is responsible for ensuring the objectives of issuing a National NTL are met; and ensures that MMS policies are carried out.

B. Chief, Office of Offshore Regulatory Programs (ORP) is responsible for ensuring that the objectives of issuing an NTL are met and coordinates with Headquarters and regional management to ensure MMS policies are carried out. The Chief, ORP delegates the detailed oversight of issuing NTLs to the Chief, Regulations and Standards Branch (RSB) and one employee in RSB to serve as the NTL Coordinator.

C. Regional Directors/Managers/Program Office Chiefs sign Regional NTLs and are responsible for ensuring the implementation of the NTLs in their respective Regions is consistent with the objectives of the program and MMS policies. The RD/Manager delegates the oversight of issuing NTLs to the Regional Program Supervisors/Program Office Chiefs responsible for initiating and drafting NTLs and ensures that steps in the attached procedures are followed, including the periodic review of existing NTLs.

**8. Guidelines:** The NTLs are **issued** (not approved or published). Due to the nature of the industry MMS regulates, OMM does not anticipate any NTL to be determined significant.

**9. Procedures:** See Attached

## **10. Cancellation:**

This IPD will remain in effect until incorporated into the MMS Manual, canceled, or superseded with another IPD.

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## **PROCEDURES**

### **Executive Summary attached to Future NTLs**

A brief executive summary should accompany each NTL. It will be sent to the Chief, Regulations and Standards Branch, via email with a copy to the designated HQ and Regional staff. This summary should include the following sections:

- Purpose – This section will briefly explain the reason for the NTL and discuss why the NTL is needed.
- Alternatives – This section will briefly address alternatives to issuing the NTL and the likely impacts of each alternative.
- Outside Review – This section will discuss which outside organizations, if any, should be consulted before issuing the NTL.
- Information Collection – This section will state whether the NTL adds any new information collection burden (beyond what is already allotted for in the appropriate regulatory Subpart(s)) and briefly discuss why or why not.

### **Information Included within Future NTLs**

All future NTLs must:

- Clearly identify new sections/parts/requirements in the draft NTL, if an existing NTL will be superseded.
- Include a standard statement emphasizing that NTL's are not legally binding – they are issued to clarify, supplement, provide more detail, or outline what you must do under existing regulations. It is the regulation itself that is legally binding; the NTL is being issued to give more information on how operators can comply with these regulations.
- Clearly identify MMS' authority for the requirements/guidance.
- Discuss the burden associated with the new requirements/guidance in the NTL (how many and how much time to prepare) if the NTL will add a new information collection burden.

### **NTL Drafting and Review Process**

#### **In the Regions:**

- When the need for an NTL arises, the Regions draft the NTL obtaining input from appropriate Subject Matter Experts (SMEs) including SMEs at HQ or other Regions.
- On a quarterly basis, each Region updates a list of proposed NTLs.
- On the list, SMEs are listed as contact names. When determined to be in the best interest of MMS, and only with RD concurrence, the Region may consult outside parties such as the Offshore Operators Committee (OOC) and/or other affected

parties. The SME will work with OOC and/or these parties and incorporate any appropriate comments. Consultation may be appropriate, for example, to insure that highly-technical issues are being accurately addressed. On a case-by-case basis, the RD and the Chief, Regulations and Standards Branch, will determine whether outside parties should be consulted.

### **In HQ:**

- Regions will send all NTLs (along with the Executive Summaries for the NTLs) to the Chief, Regulations and Standards Branch, for regulatory review, Paperwork Reduction Act Statements, and if needed, information collection (IC) via email and will copy designated HQ and Regional staff.
- The Regulations and Standards Branch goal is to complete the HQ review and return each NTL to the Region(s) within 2 weeks. Simple NTLs (such as meeting announcements) may be turned around quicker.
- If there are IC burdens needing OMB approval, the Regulations and Standard Branch will consult the authoring Region and assess whether NTL modifications can be made that would eliminate the need for OMB approval. If such modifications cannot be made, an IC package is prepared and goes through the IC process which usually takes 7-9 months. Public comments on the IC are incorporated into the justification for final OMB approval. Once OMB approves the NTL IC package, only then is the NTL issued.
- After HQ comments/edits are resolved, HQ gives the go ahead to the Regions to issue Regional NTLs.
- The Regulations and Standards Branch and Regions will work together in order to issue appropriate NTLs in a timely manner. If consensus cannot be reached regarding whether or not the proposed NTL language is based on current regulations, the proposed NTL language will go through the rulemaking process unless the AD/OMM determines otherwise.

### **Document Processing and Management**

- If the NTL is a National NTL, the Regulations and Standards Branch prepares a package for the AD/OMM's signature.
- The effective date of an NTL is specified in the NTL.
- All NTLs, Regional or National, are mailed out by the responsible Regional office (e.g., the GOMR Regional Editor or the POCR Office of Facilities, Safety and Enforcement) and to everyone on the NTL/Safety Alert mailing list.

- NTLs are numbered sequentially with the letters A for Alaska, P for Pacific, G for Gulf of Mexico, and N for National preceded by the year (e.g., 2007-N02 [the second National NTL in 2007]; 2007-G04 [the fourth GOMR NTL issued in 2007]).

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