

OIL AND GAS

GEOPHYSICAL EXPLORATION

1. Types of Activities Regulated

A person or firm planning to conduct geophysical exploration must have a geophysical exploration permit issued by the county clerk and recorder.¹

Statute: 82-1-101, MCA

Contact: COUNTY CLERK AND RECORDER

2. Application Requirements

- 1) Before beginning exploration, the applicant must file a notice of intent with the clerk and recorder in each county where the exploration will occur.
- 2) The Montana Secretary of State's Office requires the designation of an authorized resident agent to contact in case of legal action related to the exploration. In addition, a surety bond or other guarantee must be filed with the Secretary of State to indemnify property owners against potential property damage resulting from the exploration.

Statute: 82-1-102 through 82-1-104, MCA

3. Permitting Procedures

- 1) When notified that a surety bond or other guarantee has been filed with the Secretary of State, the county clerk and recorder will issue an exploration permit valid for that calendar year. The county clerk forwards a notice of the application to the Board of Oil and Gas Conservation (BOGC), which then advises the clerk's office whether or not the applicant is in compliance with all applicable laws and rules. The BOGC is responsible for taking action to ensure compliance.

¹ Most geophysical exploration in Montana is conducted using seismic equipment to identify the physical properties of subsurface rocks and minerals, in particular the potential presence of oil or gas, by measuring shock waves.

- 2) Before beginning operations, the person or firm conducting seismic activity must notify the surface owner of the schedule of exploration activities and provide copies of applicable laws¹, and, if available, the publication *A Guide to Split Estates in Oil and Gas Development*.² If requested, the permitholder must also provide the name and address of the exploration firm, proof of a valid permit, evidence of insurance, the number of the surety bond, a description and locations of planned activities, and the need, if any, to use water.

The surface owner is responsible for providing the permitholder with the name of a person to contact during operations. The surface owner must also provide the name and address of the permitholder to any lessees, tenants, or other parties responsible for surface operations on the property. Written permission from the surface owner is required to discharge shot holes within a prescribed distance from some structures and water features.

- 3) Within three months after any firing of shot points in seismic exploration, the permitholder must file a report with the county clerk and recorder. Shot holes must be plugged as specified by the BOGC unless otherwise agreed to between the surface owner and the company. When the exploration is completed, the land surface must be restored.
- 4) Exploration crews operating in the state must comply with crew identification requirements established by the BOGC.

Statute: 82-1-101 through 82-1-108, MCA

Rule: ARM 36.22.501-36.22.504

Contact: COUNTY CLERK AND RECORDER

BOARD OF OIL AND GAS CONSERVATION

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Oil and Gas Conservation Division

SECRETARY OF STATE
Business Services Bureau

¹ Title 82, chapter 10, part 5 and Title 82, chapter 1, part 1, MCA.

² *A Guide to Split Estates in Oil and Gas Development* is a brochure published by the Environmental Quality Council and is available online at <http://leg.mt.gov/content/publications/environmental/hb790brochure.pdf>.

4. Fees

The fee for a geophysical exploration permit is \$5 per year.

Statute: 82-1-105, MCA

OIL AND GAS

1. Types of Activities Regulated

A notice of intention to explore and drill for oil and gas on private or state lands¹ must be filed with the Montana Board of Oil and Gas Conservation (BOGC) and permits to drill are required. Wells must comply with spacing units and be operated in compliance with the BOGC's regulations and established pooling orders. Operators must also comply with the Montana Department of Environmental Quality's discharge regulations. See WATER QUALITY PERMITTING, p. 207. If water discharged from a well is to be put to a beneficial use, a permit from the Montana Department of Natural Resources and Conservation may be required (see WATER APPROPRIATIONS - GROUND WATER, p. 197 and WATER APPROPRIATIONS - SURFACE DIVERSIONS, p. 201).

Statute: 82-11-101, *et seq.*, MCA

Rule: ARM 36.22.601, *et seq.*

Contact: BOARD OF OIL AND GAS CONSERVATION

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Oil and Gas Conservation Division

2. Application Requirements

The notice of intention to drill must include information identifying the area where the proposed activity will occur. Well logs must be kept and filed with the BOGC; surface lands restored, fresh water supplies protected, and wells drilled, cased, operated, and plugged in accordance with Board rules. A bond must be posted to guarantee proper abandonment procedures. No exploration or development drilling may take place until a permit is issued.

¹ The BOGC's jurisdiction over federal lands is limited to the authority granted by the U.S. Bureau of Land Management in a Memorandum of Understanding. The BOGC has no jurisdiction over wells drilled on land held in trust by the United States for tribes or Indian allottees.

Rule: ARM 36.22.601-36.22.602

3. Permitting Procedures

- 1) An oil or gas operator or developer must give written notice of the proposed drilling operations to the surface owner of record and any purchaser under contract for deed at least 20 but not more than 180 days prior to any activity that will disturb the land surface. The notice must include a copy of applicable laws¹, and, if available, the publication *A Guide to Split Estates in Oil and Gas Development*.² The surface owner is responsible for providing the name and address of the oil and gas developer to any lessees, tenants, or other parties responsible for surface operations on the property. The owner or operator of an oil or gas well on state-owned land must notify the Montana Department of Natural Resources and Conservation before beginning operations.
- 2) The operator is responsible for advertising a notice of pending permit for a well in undeveloped (wildcat) areas in the *Helena Independent Record* and in a newspaper of general circulation in the county where the well is located. Wells located in BOGC delineated fields do not need to be advertised, except under certain conditions. Advertisements must follow a format prescribed by the BOGC in rule and must advise of the procedure required to request a hearing. If no request for hearing is received within the 10-day notice period, the permit may be administratively approved. The staff is required to refer an application for permit to drill to the BOGC for notice and public hearing.
- 3) If an operator will be using hydraulic fracturing or other well stimulation techniques as part of the well completion process, additional requirements apply. Operators must generally obtain approval from the BOGC before fracturing occurs and submit a report of the actual work performed to the Board. In addition, operators must disclose the composition of the fracturing fluids (if a trade secret exemption is not applicable) either to the BOGC or through FracFocus.org or a similar website. Finally, the Board mandates specific construction and testing requirements for wells in which hydraulic fracturing will be used.
- 4) Prior to the development of a coal bed methane well, the developer must offer a reasonable water mitigation agreement to each ground water right

¹ Title 82, chapter 10, part 5, MCA.

² *A Guide to Split Estates in Oil and Gas Development* is a brochure published by the Environmental Quality Council and is available online at <http://leg.mt.gov/content/publications/environmental/hb790brochure.pdf>.

holder with a well that is within one mile of the coal bed methane well or within 1/2 mile of a well that is adversely affected by the coal bed methane well. See also WATER APPROPRIATIONS - GROUND WATER: Coal Bed Methane Wells, p. 200.

- 5) If the project complies with applicable statutes, rules, and regulations, a permit is issued. Operations must occur within the terms and conditions of the permit and the BOGC administrator has the authority to impose additional permit conditions if they are warranted.

Statute: 82-10-503, 82-11-122, 82-11-123, and 82-11-175, MCA

Rule: ARM 36.22.601, 36.22.602, 36.22.604, 36.22.608, 36.22.1010, 36.22.1015, 36.22.1016, and 36.22.1106

4. Fees

Permit fees for oil or gas well drilling are:

- 1) For each well with an estimated depth of 3,500 feet or less, \$25;
- 2) For depths of 3,501 feet to 7,000 feet, \$75; and
- 3) For depths of 7,001 feet and deeper, \$150.

The BOGC also collects a privilege and license tax to fund the services of the Board that is 3/10 of one percent of the value of each barrel of crude petroleum and each 10,000 cubic feet of natural gas produced, stored, saved, or marketed.

Statute: 82-11-118, 82-11-131, and 82-11-137, MCA

Rule: ARM 36.22.603

OPERATIONS ON STATE LANDS: GEOPHYSICAL EXPLORATION

1. Types of Activities Regulated

The Montana Board of Land Commissioners may issue a geophysical exploration permit on state- owned lands for the purpose of prospecting and exploring for oil and gas.

Rule: ARM 36.25.230, *et seq.*

Contact: BOARD OF LAND COMMISSIONERS
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Application Requirements

A person wishing to prospect for oil and gas by geophysical methods on state land for which an oil and gas lease is not held must submit two copies of a permit application to the Montana Department of Natural Resources and Conservation (DNRC). The application must include a legal description of the areas where the exploration will take place. Descriptions of multiple sections of state-owned land are allowed. A permit from the Montana Board of Oil and Gas Conservation is also required (see OIL AND GAS, p. 139).

Rule: ARM 36.25.230, *et seq.*

3. Permitting Procedures

- 1) The applicant must be registered to do business in Montana and file a surety bond with the Montana Secretary of State's office. The name and permanent address of the geophysical exploration firm that will be doing the actual seismic work must also be submitted.
- 2) The applicant must provide proof that the surface owner or lessee has been notified of the approximate time schedule of activities. Permission from oil and gas lessees is also required to conduct exploration on lands covered by an oil and gas lease.
- 3) A geophysical exploration permit is valid for one year and does not grant any rights to an oil and gas lease or any other interests in the land.
- 4) There are several conditions for conducting exploration activities designed to protect the land surface.

Rule: ARM 36.25.231 and 36.25.232

Contact: SECRETARY OF STATE
Business Services Bureau

4. Fees

A fee of \$50 is required for a seismic permit application. The DNRC charges \$50 per shot hole or \$100 per mile for vibroseis, surface charges, or other surface activity, depending on the exploration procedures used.

Rule: ARM 36.2.1003 and 36.25.236

OPERATIONS ON STATE LANDS: OIL AND GAS

1. Types of Activities Regulated

The Montana Board of Land Commissioners is authorized to lease any state-owned minerals for the purpose of oil and gas exploration or drilling and development. This includes private or state oil and gas rights beneath state surface-owned land and state oil and gas rights beneath non-state-owned land. Corporations not incorporated in Montana must obtain a certificate of authority to transact business in the state from the Montana Secretary of State's office prior to applying for a lease.

Statute: 77-3-401, MCA

Rule: ARM 36.25.203 and 36.25.204

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

SECRETARY OF STATE
Business Services Bureau

2. Permitting Procedures

- 1) A person wishing to lease state lands for oil and gas operations must submit an application on forms available from the Montana Department of Natural Resources and Conservation (DNRC) offices or online at <http://dnrc.mt.gov/divisions/trust/docs/minerals-management/oil-and-gas/forms>.
- 2) Sale of oil and gas leases are normally held once each quarter (March, June, September, and December). Notice of each sale is published in a publication of general circulation in Montana and at least twice in a publication of general circulation in each county where a tract is nominated for sale. Notice is also

posted on the DNRC, Minerals Management Bureau website and mailed to an interested persons mailing list.

- 3) The sale of each lease takes place through competitive oral bidding. The successful applicant is required to pay the first year's rental for the lease within 10 days following the lease sale.
- 4) The primary term of an oil and gas lease is generally five to 10 years. An oil and gas lease issued on state lands may not exceed 640 acres with the exception that any section surveyed by the United States containing more than 640 acres may be included under one lease. Leased lands must be generally compact and contiguous.
- 5) Owners of state oil and gas leases may enter into agreements with others for drilling and other operations. Pooling agreements are also possible. The Board may approve assignment of oil and gas leases to qualified assignees.
- 6) The owner or operator of an oil or gas well on state-owned land must notify the DNRC in advance of any operations.
- 7) The lessee is required to submit a plan for the location of all facilities to the surface owner or lessee and is required to consult with the surface owner or lessee regarding reasonable location of access roads.
- 8) Oil and gas operations on state lands are subject to other applicable state regulatory authorities (see OIL and GAS, p. 139).

Statute: 77-3-404, 77-3-405, 77-3-411, 77-3-421, 77-3-429, 77-3-430, and 77-3-438, MCA

Rule: ARM 36.25.203, 36.25.205, 36.25.206, 36.25.216, and 36.25.217

3. Fees

The fee for an oil and gas lease application is \$15 and \$25 for a lease issuance. The lease rental fee is \$1.50 per acre but not less than \$100 per year. The delay drilling penalty is \$1.25 per acre in year six of the lease and \$2.50 per acre in years seven through 10 of the lease in addition to the rental fee. The royalty rate is 16.67 percent.

Rule: ARM 36.2.1003 and 36.25.208-36.25.210

UNDERGROUND INJECTION CONTROL

1. Types of Activities Regulated

Underground injection control permits are required from the Montana Board of Oil and Gas Conservation (BOGC) for new injection wells (wells where fluids are injected into porous rock formations or below the soil layer) or to convert existing wells to injection for the purposes of disposal, storage, or enhanced recovery of oil or gas (class II wells).

The U.S. Environmental Protection Agency regulates the classes of injection wells listed in the table below.

Class I	Injection of hazardous and nonhazardous wastes or municipal wastewater below the lowermost underground source of drinking water.
Class II wells on reservation lands except for within the boundaries of the Fort Peck Reservation where the tribe has been approved by the EPA to enforce its own UIC class II regulations.	
Class III	Injection of fluids associated with solution mining to extract minerals.
Class IV	Injection of hazardous or radioactive wastes into or above underground sources of drinking water are banned unless authorized under a federal or state ground water remediation project.
Class V	Injection wells that are not included in categories I-III and are usually shallow on-site disposal systems for nonhazardous fluids.
Class VI	Injection of carbon dioxide (CO ₂) for long term storage (sequestration).

Statute: 82-11-101, *et seq.*, MCA

Rule: ARM 36.22.1401, *et seq.*

Contact: BOARD OF OIL AND GAS CONSERVATION
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Oil and Gas Conservation Division

U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

2. Application Requirements

- 1) The application for an underground injection well filed with the BOGC must show the location of all wells and pipelines, a description of the formation, a

description of the injection zone, logs and lithologic information, a description of the injected fluids, and the names and addresses of the lease holders and surface owners. In addition, the applicant must submit a corrective action plan and fulfill bonding requirements.

- 2) A notice of application for an underground injection permit must be mailed to each current operator, lease owner, and surface owner within the review area on or before the date the application is mailed to or filed with the BOGC.
- 3) Well abandonment plans must be filed with and approved by the BOGC. When wells have been plugged and the project completed, the land surface must be restored.

Rule: ARM 36.22.1307 and 36.22.1403-36.22.1425

3. Fees

The BOGC collects an annual fee of \$200 for each injection well.

Rule: ARM 36.22.1423

UNDERGROUND STORAGE OF NATURAL GAS ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners is authorized to lease state lands for the underground storage of natural gas to public utilities that transport or distribute natural gas for public use.

Statute: 77-3-501, *et seq.*, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Permitting Procedures

- 1) The Board may order a hearing prior to issuance of a lease. A lessee must furnish a bond to indemnify the state against damage or loss.
- 2) Lease terms may not exceed 20 years. The lessee has a preferential right to renewal.

3. **Criteria**

The lessee must use all reasonable precautions to prevent waste of oil or gas developed on the land or injury to oil or gas deposits.