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Understanding the Federal Onshore Oil and Gas Leasing Process



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The Bureau of Land Management (BLM), within the Department of the Interior (DOI), is responsible for leasing oil and gas for development throughout the federal onshore mineral estate. These leases may be issued on BLM lands, but also U.S. Forest Service lands, other federally owned lands, and tens of millions of acres of private lands where the federal government holds the subsurface mineral estate. At the end of fiscal year 2024, BLM was managing around 22.2 million acres of public land leased for oil and gas development.

Section 17 of the Mineral Leasing Act (MLA), 30 U.S.C. § 226, sets out the process for selling and managing leases for this publicly owned oil and gas. Not all public lands may be leased, however. The Federal Land Policy and Management Act (FLPMA), 43 U.S.C. § 1701 et seq., requires the Secretary of the Interior and the Secretary of Agriculture to prepare land use plans balancing multiple uses of federal lands, and allows the withdrawal of specified lands from specified uses, including oil and gas leasing. In addition, some other lands are withdrawn under different land conservation programs, like the Wilderness Act.

Lease Sales

Under the MLA, the Secretary of the Interior is required to hold lease sales at least quarterly in every state where unleased lands are available. For ordinary oil and gas leases, the area to be offered in each lease tract is to be no more than 2,560 acres (leases in Alaska or in “tar sands” may be up to 5,760 acres), and the lands to be included in each lease are to be as compact as possible. For decades, sales were required to be held through in-person auctions, but a statutory change in 2014 allowed them to be conducted online. They are now held through a commercial website called EnergyNet.

The lease sale process begins with public nominations of available lands to be included in a sale—known as “Expressions of Interest.” The BLM state office considers these nominations and conducts an environmental review—typically an Environmental Assessment rather than a full Environmental Impact Statement. Based on that review, the state office then issues a notice of what tracts will be available for sale, with a period for public comments or formal protests on the proposed leases. After the comment period, the state office publishes the final list of tracts available for lease and opens the online bidding.

Bid Process

The MLA requires that leases go to the highest bidder who offers at least a “national minimum acceptable bid” per acre, which is currently set at \$10 per acre. These “bonus bids” are an amount per acre that the potential lessee pays to receive the lease, in addition to other payments that will be required under the lease—annual per-acre rental charges and royalties on any oil or gas produced from the lease. Following the receipt of bonus bids, the state office goes through a bidder qualification review before awarding the lease to the highest bidder meeting the qualifications. Winning bidders must pay their bonus bid immediately, along with the first year’s rent and an administrative fee.

Noncompetitive Leasing

After the auction, if a parcel does not receive a bid, it then becomes available for noncompetitive leasing for two years. Companies or other parties may submit noncompetitive offers for the parcel starting on the very next business day after a lease sale is held. If multiple offers are submitted, BLM holds a drawing to randomly select who gets the right to lease the parcel. If no offers are submitted on the first day, the parcel is eligible for noncompetitive leasing for the next two years, and BLM will award a lease to the first eligible party to submit an offer. If the parcel is leased, the new lessee is required to pay a minimum \$75 administrative fee and first year’s rent.

Lease Terms

The leases issued by BLM have a “primary term” of ten years. This is the period of time during which the lessee may explore for oil and gas deposits and attempt to bring them into production. If the lessee has begun drilling by the end of the ten-year term, the lease term may be extended by two years. If the lessee has begun to produce oil or gas “in paying quantities” by the end of the primary or extended term, then the lease is extended so long as the lessee continues to produce oil or gas.

During the period of the lease, the lessee must pay either rent on the land or royalties on the oil and gas produced. The rental rate is \$3 per acre for the first two years; \$5 per acre for years 3-8; and then no less than \$15 per acre for years 9-10. New leases must be issued with the statutory minimum royalty rate of 12.5 percent of the value of the oil and gas produced. Most leases are issued at the statutory minimum. Some existing leases have higher royalty rates; between August 2022 and July 2025, leases were issued with a 16.67% royalty rate and in June 2022 more than 71,000 acres were issued with a 18.75% royalty rate.

Actual drilling for oil and gas under a federal lease is also regulated by BLM. BLM must approve a plan of operations for any surface disturbing activities and issue a permit to drill each well.

Bonding

The MLA also requires that BLM obtain an adequate bond or other financial assurance from operators before drilling starts. In the event an operating company dissolves or goes bankrupt, BLM uses the company's bond to cover at least some of the costs of necessary reclamation work. If the amount of the bond is insufficient, taxpayers will have to shoulder the costs of reclamation.

Bureau of Land Management accepts two types of bonds:

- Bonds for an operator's wells on an individual lease (minimum \$150,000)
- Bonds for all wells owned by an operator in one state (minimum \$500,000)

Higher bond values may be required if the operator has a history of violations, BLM anticipates unusually high reclamation costs, or there are other risk factors.

Operators can secure either a surety bond or a personal bond. A surety bond is a legally binding contract with a third-party surety company that assumes responsibility for the debt if the operator defaults or cannot make bond payments. A personal bond is either an upfront cash payment or a guarantee of funds in the future. Acceptable forms include certificates of deposit, letters of credit, cashier's checks, certified checks, and negotiable Treasury securities.

When the federal government does not own the surface rights—which are separate from mineral rights and may have different owners—operators may be required to secure a surface owner protection bond. This bond does not cover reclamation costs, but instead addresses other damages, such as damage to crops.

Current bonding requirements were implemented in June 2024 for new leases and will phase in for existing leases. Nationwide and unit bonds were required to be converted into statewide or individual bonds by June 2025. Statewide bonds must be increased to the new minimum by June 2026, and individual lease bonds must meet the new minimum by June 2027.

Conclusion

Modernizing the onshore oil and gas leasing system, including charging market-rate fees and requiring adequate bonds, can better ensure taxpayers receive a fair return from the development of our valuable resources and protect us from future liabilities.