

May 29, 2026

Revisions to Regulations Regarding Oil and Gas Leasing; Fees, Rentals, and Royalties

RIN 1004–AF41

Docket No. BLM–2025–0138

Bureau of Land Management, Department of the Interior

Submitted by Taxpayers for Common Sense

Taxpayers for Common Sense (TCS) submits these comments in response to the Bureau of Land Management’s (BLM) Direct Final Rule (DFR), “Revisions to Regulations Regarding Oil and Gas Leasing; Fees, Rentals, and Royalties,” published in the Federal Register on April 29, 2026 (91 FR 23018). The rule revises 43 CFR Part 3100, Subpart 3103—Fees, Rents and Royalties—to implement royalty rate changes required by the One Big Beautiful Bill Act (OBBBA), enacted July 4, 2025.

TCS is a nonpartisan federal budget watchdog founded in 1995. Our work spans the entire federal budget, including energy and natural resources policy. For decades, TCS has produced research quantifying how federal and state taxpayers have lost billions of tax dollars in potential revenue under outdated and below-market onshore oil and gas leasing terms. We advocate for policies that ensure taxpayers receive a fair return for energy resources developed on federal public lands and that protect taxpayers from shouldering liabilities from irresponsible development.

TCS submits these comments to express its significant concerns with the 12.5% royalty rate and to urge BLM to use the full extent of its existing authority to pursue more favorable royalty terms for taxpayers.

In accordance with OBBBA, this DFR revises 43 CFR § 3103.31(a) to lower the federal onshore oil and gas royalty rate to “not less than 12.5 percent” for leases issued after the enactment of the OBBBA. The rule codifies OBBBA’s repeal of Section 50262(a) of the Inflation Reduction Act of 2022, which had raised the statutory minimum royalty rate from 12.5 percent to 16.67 percent. The rule would also set the royalty rate for noncompetitive leases at 12.5 percent. This codifies OBBBA’s repeal of Section 50262(e) of the Inflation Reduction Act of 2022, which had eliminated noncompetitive leasing.

BLM issued this rule as a DFR, bypassing the standard notice-and-comment process on the basis that the changes implement a statutory mandate and are “unlikely to receive any significant adverse comments.” TCS respectfully disagrees with that assessment. BLM is obligated to codify a 12.5

percent royalty rate minimum for new, competitive leases and a 12.5 percent royalty rate for noncompetitive leases. However, the royalty rates embedded in this rule are not simply a mechanical implementation of a congressional mandate. They reflect a policy choice that has real and measurable consequences for taxpayers, and the public deserves the opportunity to weigh in.

BLM's implementation of statutory changes in OBBBA will impact taxpayers. As detailed below, it also reflects policy choices that affect taxpayer revenue and therefore warrant public input.

➤ **The 12.5% Royalty Rate Is Below Market and Costs Taxpayers Billions**

The Rate Is Outdated and Below What States and Private Interests Charge

The federal onshore royalty rate of 12.5 percent is substantially below the market rates charged by major oil- and gas-producing states and private landowners. Texas charges 20–25 percent on public school lands. New Mexico imposes rates of 18.75–25 percent on state lands. Other states, including Colorado, North Dakota, Oklahoma, Pennsylvania, Utah, and Wyoming, commonly issue leases with royalty rates ranging from 16.67 to 20 percent, all of which exceed the current federal rate.¹ The 12.5 percent rate was established as the statutory minimum more than a century ago in the Mineral Leasing Act of 1920, and there is no rationale for the federal government to continue charging substantially less than states and private lessors for the same resources.

Taxpayers Have Already Lost Billions Under the Below-Market Rate

TCS has quantified the fiscal cost of the below-market rate in multiple analyses. Between 2015 and 2024, private companies extracted and sold approximately \$359 billion worth of oil, gas, and natural gas liquids from federal lands. Had the 16.67 percent rate been applied across that entire period, taxpayers would have received an additional \$1.5 billion every year, or approximately \$15 billion over the decade.² In New Mexico—the largest producer of federal oil and second largest producer of federal gas—federal and state taxpayers would have received an additional \$13.9 billion in revenue had an 18.75 percent royalty rate been applied to the \$227 billion worth of oil and gas produced on federal lands in the state from 2015 to 2024.³

Since OBBBA reduced the royalty rate back to 12.5 percent in July 2025, TCS calculates that taxpayers have already lost approximately \$1.2 billion in projected royalty revenue from future production on recently issued leases.⁴ This DFR will compound those losses going forward, locking in a below-market rate for every new lease issued on public lands.

Industry Decisions Are Not Materially Affected by Higher Royalty Rates

Some argue that higher royalty rates deter oil and gas production on federal lands. The evidence does not support this conclusion. Leasing and production decisions are driven primarily by resource

potential and market conditions. Oil and gas is produced where the resources are located, regardless of whether it is on state, private, or federal land. Congressional Budget Office estimates indicate that increasing the federal onshore royalty rate to 18.75 percent would generate roughly \$400 million in additional public revenue over ten years for federal and state governments combined, while having little or no impact on production.⁵ The Government Accountability Office (GAO) has similarly found that raising federal royalty rates would reduce production on federal lands by a small amount or not at all, while still increasing federal revenue.⁶

Lease sales in 2023 and 2024 conducted under the updated leasing terms enacted in 2022, including the higher 16.67 percent royalty rate, produced highly competitive results and increased returns for federal and state taxpayers. In 2023, across thirteen onshore oil and gas lease sales, the average bid reached \$978 per acre; in 2024, across fourteen sales, it more than doubled to \$2,149 per acre, the highest level in more than a decade.⁷ States with high production remained competitive, regardless of the royalty rate. In New Mexico, the state continued to lead the nation in average bids per acre both under the 16.7 percent and 12.5 percent rates, confirming that production decisions in the Permian Basin are driven by resource potential, not royalty rates.⁸

➤ **BLM Retains Statutory Authority to Set Rates Above the Minimum and Should Use It**

The OBBBA establishes a minimum royalty rate, not a maximum. BLM retains the authority to set royalty rates above the statutory floor when necessary to ensure taxpayers receive a fair return for the development of publicly owned resources.⁹

That authority exists for a reason. Royalty rates are one of the primary tools available to ensure taxpayers receive fair value for publicly owned resources. When states and private landowners routinely secure substantially higher rates for comparable resources, and when available evidence shows higher rates would have little effect on production, BLM should use its discretion to pursue a better return for taxpayers.

Experience demonstrates that higher royalty rates do not necessarily discourage industry participation. The Department of the Interior increased the offshore royalty rate in the Gulf of Mexico from 16.67 percent to 18.75 percent in 2008 and subsequently found that demand for newly offered leases remained strong, with robust bidding interest in the three subsequent lease sales.¹⁰ More recently, lease sales conducted under the higher royalty rates and updated leasing terms adopted in 2022 attracted competitive bidding and generated record per-acre returns for taxpayers.¹¹

TCS strongly urges BLM to use its existing authority to establish an 18.75 percent royalty rate for all new leases, including both competitive and noncompetitive leases. An 18.75 percent rate would

align federal leasing terms with those already used by major energy-producing states such as New Mexico and Texas.¹² It would provide a fair market return for valuable taxpayer-owned resources. BLM should incorporate this rate into current and future leasing decisions and provide a clear regulatory framework explaining when and how above-minimum royalty rates will be applied.

➤ **The 12.5% Rate for Noncompetitive Leases Will Cost Taxpayers**

This DFR codifies a 12.5 percent royalty rate for noncompetitive leases, in accordance with statutory changes in OBBBA. TCS is categorically opposed to noncompetitive leasing. Noncompetitive leases are significantly less likely than competitive leases to ever enter production. According to GAO, only about 1 percent of noncompetitive leases issued between FY2003 and FY2009 entered production during their 10-year primary term. GAO also found that competitive leases generated nearly three times more revenue on average than noncompetitive leases.¹³

From 2001 to 2020, BLM issued more than 6,400 noncompetitive leases covering over 11 million acres, representing 28 percent of all leased federal land.¹⁴ Few of those leases ever entered production, generating little revenue while preventing other uses of federal land. In Montana, TCS research found that 46 percent of all federal land leased for oil and gas development since 2000 was leased noncompetitively, covering approximately 1.5 million acres. Yet as of 2022, only four of those noncompetitive leases, covering less than 1,500 acres, had ever entered production.¹⁵ At the end of FY2024, 94 percent of the acres leased for oil and gas development in Nevada sat idle.¹⁶

Setting the royalty rate for noncompetitive leases at 12.5 percent compounds an already costly program. TCS urges BLM to implement the noncompetitive leasing program with the transparency, rigor, and safeguards necessary to protect taxpayers from speculative land grabs and lost revenue.

➤ **BLM Should Pursue Stronger Royalty Compliance Measures**

Royalty collection is only as effective as the compliance systems used to administer it. GAO designated Interior's management of federal oil and gas resources as a high-risk area because of challenges involving royalty determination and collection, human capital, and oversight.¹⁷ GAO has also documented serious challenges with DOI's royalty compliance infrastructure, including an unsuccessful effort to modernize information technology systems used to support royalty audits and compliance reviews.¹⁸ The Office of Natural Resources Revenue (ONRR) has also discontinued the practice of estimating an annual royalty gap, the difference between royalties collected and royalties potentially owed.¹⁹

Without robust compliance infrastructure, even a well-designed royalty rate may fail to fully protect taxpayers. TCS urges BLM and DOI to modernize royalty compliance systems, establish clearer

standards for compliance reviews, and reinstate regular royalty gap estimates so policymakers and the public can better assess the extent of unpaid royalties and the effectiveness of federal oversight.

Conclusion

TCS respectfully submits that, while BLM is required by the OBBBA to revise the regulatory royalty rate floor to 12.5 percent, it is not required to set royalty rates at that floor. BLM has the explicit authority to charge higher royalty rates. Charging a below-market royalty rate would impose a significant and avoidable fiscal cost on American taxpayers. The agency should:

1. **Pursue a royalty rate of 18.75 percent** for new competitive leases, using its existing statutory authority under the Mineral Leasing Act, consistent with its exercise of that authority in prior lease sales.
2. **Restore and strengthen royalty compliance infrastructure**, including reinstating the annual royalty gap estimate.
3. **Increase transparency** by ensuring comprehensive, timely, and publicly accessible data on all federal oil and gas lease transactions.

The federal onshore oil and gas leasing program manages a significant share of America’s energy resources on behalf of all taxpayers. The royalty rate embedded in this DFR, unchanged from a level set in 1920, does not reflect the value of those resources or the returns that states and private lessors routinely secure. BLM has both the authority and the responsibility to do better for American taxpayers.

Taxpayers for Common Sense

651 Pennsylvania Avenue SE
Washington, DC 20003
www.taxpayer.net

¹ Taxpayers for Common Sense (TCS), “Fair Royalty Rates Raise Revenue for American Taxpayers and Don’t Discourage Oil and Gas Production,” June 2025. <https://www.taxpayer.net/energy-natural-resources/fair-royalty-rates-raise-revenue-for-american-taxpayers/>. State royalty rate figures sourced from individual state statutes and land board regulations cited therein.

² Ibid.

³ TCS, “New Mexico’s Federal Oil and Gas Boom Could Have Raised Billions More for Taxpayers,” May 2026. <https://www.taxpayer.net/energy-natural-resources/new-mexicos-federal-oil-and-gas-boom-could-have-raised-billions-more-for-taxpayers/>. TCS calculation applies an 18.75% royalty rate to the reported sales value, less allowances, as reported by ONRR for 2015–2024.

⁴ TCS, “By the Numbers: Federal Onshore Oil and Gas Leasing Revenue Loss,” accessed May 29, 2026. <https://www.taxpayer.net/by-the-numbers-federal-onshore-oil-and-gas-leasing-revenue-loss/>

⁵ Congressional Budget Office, “Options for Increasing Federal Income From Crude Oil and Natural Gas on Federal Lands,” April 2016. <https://www.cbo.gov/publication/51421>

⁶ U.S. Government Accountability Office (GAO), “Oil, Gas, and Coal Royalties: Raising Federal Rates Could Decrease Production on Federal Lands but Increase Federal Revenue,” GAO-17-540, June 2017 <https://www.gao.gov/products/gao-17-540>

⁷ TCS, “Fair Royalty Rates Raise Revenue for American Taxpayers,” June 2025.

⁸ TCS, “New Mexico’s Federal Oil and Gas Boom Could Have Raised Billions More for Taxpayers,” May 2026.

⁹ Mineral Leasing Act, 30 U.S.C. § 226(b)(1)(A).

¹⁰ U.S. Government Accountability Office, “Oil and Gas Resources: Actions Needed for Interior to Better Ensure a Fair Return,” GAO-14-50, December 2013.

¹¹ Taxpayers for Common Sense, “Fair Royalty Rates Raise Revenue for American Taxpayers and Don’t Discourage Oil and Gas Production,” June 2025.

¹² Ibid.

¹³ GAO, “Oil and Gas: Onshore Competitive and Noncompetitive Lease Revenues,” GAO-21-138, November 2020, p. 16. <https://www.gao.gov/assets/gao-21-138.pdf>.

¹⁴ Taxpayers for Common Sense, “Noncompetitive Leasing Undermines Fair Returns for American Taxpayers,” June 2025. <https://www.taxpayer.net/wp-content/uploads/2025/06/tcs-noncompetitive-leasing-indesign-final.pdf>. TCS analysis of BLM data accessed through the LR2000. See also Taxpayers for Common Sense, “Noncompetitive Oil & Gas Leasing on Federal Lands,” May 2021. https://www.taxpayer.net/wp-content/uploads/2021/05/TCS_Policy-Brief_Noncompetitive-Federal-Oil-Gas-Leasing_2021.pdf.

¹⁵ TCS, “Mounting Losses II: Federal Oil and Gas Leasing Costs Montana Millions,” February 2024.

https://www.taxpayer.net/wp-content/uploads/2024/02/Taxpayers-for-Common-Sense_Mounting-Losses-II.pdf (46% noncompetitive share). Production figures: Taxpayers for Common Sense, “Taxpayers Lose on Oil and Gas Leasing in Trump’s Budget Bill,” July 7, 2025. <https://www.taxpayer.net/energy-natural-resources/taxpayers-lose-on-oil-and-gas-leasing-in-trumps-budget-bill/> (only 4 leases, less than 1,500 acres, ever entered production).

¹⁶ TCS, “Noncompetitive Leasing Undermines Fair Returns for American Taxpayers,” June 2025, p. 3.

<https://www.taxpayer.net/wp-content/uploads/2025/06/tcs-noncompetitive-leasing-indesign-final.pdf>.

¹⁷ GAO, “High-Risk Series: Heightened Attention Could Save Billions More and Improve Government Efficiency and Effectiveness,” GAO-25-107743, February 2025. <https://www.gao.gov/products/gao-25-107743>

¹⁸ GAO, “Oil and Gas Royalties: Congress and Interior Should Strengthen Safeguards to Better Ensure Accurate Payments,” GAO-26-107669, December 2025. <https://www.gao.gov/products/gao-26-107669>

¹⁹ GAO, “Federal Oil and Gas Royalties: Opportunities Exist to Improve Interior’s Compliance Program,” GAO-24-103676, September 2024. <https://www.gao.gov/products/gao-24-103676>