

# Wayne National Forest

## Oil & Gas Leasing EA

### Federal Oil & Gas Leasing Regulatory Framework

#### Appendix 6

The Department of the Interior, Bureau of Land Management (BLM) is responsible for issuing oil and gas leases on Federal lands and on private lands for which the Federal government retains mineral rights. The BLM cannot issue leases for lands administered by the United States Department of the Agriculture, Forest Service (Forest Service) without consent from the Secretary of Agriculture. The Mineral Leasing Act of 1920, as amended, and the Mineral Leasing Act of 1947 for acquired lands provide the legislative authority for Federal oil and gas leasing. Title 43 CFR 3100 provides the regulatory basis for BLM to administer Federal oil and gas leasing. Title 36CFR, Subpart E, provides direction to the Forest Service to administer and regulate surface uses and leases on National Forest System lands.

In areas where exploration and development of oil and gas resources would conflict with the protection or management of other resources or public land uses, the NEPA process identifies measures to mitigate impacts. These mitigation measures are usually applied as lease stipulations, which restrict how operations are conducted or where they can be located.

In addition to State permits, an oil and gas operator must comply with a set of standard lease terms contained in the Federal lease, Form 3100-11. Section 6 of the lease terms discusses "Conduct of Operations". This stipulation states that the "lessee shall conduct operations in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, and other resources and other land uses or users. Lessee shall take reasonable measures deemed necessary by lessor to accomplish the intent of this section..... such measures may include, but are not limited to modification to siting or design of facilities, timing of operations, and specification of interim and final reclamation measures.... Lessee may be required to complete minor inventories or short term special studies under guidelines provided by lessor. If in the conduct of operations, threatened or endangered species, objects of historic or scientific interest, or substantial unanticipated environmental effects are observed, lessee shall immediately contact lessor." Reasonable modification to siting or timing of operations has been defined as movement of a specific drill site up to 200 meters or delay of new surface disturbing activities up to 60 days.

The following BLM regulations are in effect for lessees and operators:

- [!\[\]\(49aa2e1da5fe39294864e9598c593810\_img.jpg\) \*\*Part 3150 - Onshore Oil and Gas Geophysical Exploration\*\*](#)
- [!\[\]\(7d0a8d8b1031f74abe67b09fcf4a2322\_img.jpg\) \*\*Part 3160 - Onshore Oil and Gas Operations\*\*](#)
- [!\[\]\(6557fa7496e6a507d2326ea0bef061ee\_img.jpg\) \*\*Part 3180 - Onshore Oil and Gas Unit Agreements: Unproven Areas\*\*](#)
- [!\[\]\(1fe0339452ba17bd8ae951d8509f80d6\_img.jpg\) \*\*National Onshore Order 1 - Approval of Operations\*\*](#)
- [!\[\]\(3f7dbef097b87c46047901c2927193e7\_img.jpg\) \*\*National Onshore Order 2 - Drilling\*\*](#)
- [!\[\]\(f421354329041d30b231dbd0377dc4a4\_img.jpg\) \*\*National Onshore Order 3 - Security\*\*](#)
- [!\[\]\(4557a7673fde5aee3dcfc3acbc13f50f\_img.jpg\) \*\*National Onshore Order 4 - Measurement of Oil\*\*](#)
- [!\[\]\(a09c8052b98b7778d2c72346d2066777\_img.jpg\) \*\*National Onshore Order 5 - Measurement of Gas\*\*](#)
- [!\[\]\(d61d07e9eb9cac37db01dc55c45bd685\_img.jpg\) \*\*National Onshore Order 6 - Hydrogen Sulfide Operations\*\*](#)
- [!\[\]\(c84ad9254f5730201f5f3718afff882d\_img.jpg\) \*\*National Onshore Order 7 - Disposal of Produced Water\*\*](#)

- NTL 3A – Reporting of Undesireable Events
- NTL 4A – Royalty or Compensation for Oil and Gas Lost

### **Lease Types**

Competitive and noncompetitive leases may be obtained for oil and gas exploration and development on lands owned or controlled by the Federal government. The Leasing Reform Act of 1987 requires that all public lands available for oil and gas leasing be offered first by competitive leasing at an oral auction. Noncompetitive oil and gas leases may be issued only after no competitive bids have been received for public lands. Competitive and noncompetitive leases are issued for a period of ten years. Both types of leases remain in effect for the period oil and gas are commercially produced. The maximum competitive lease sizes are 2,560 acres in the lower 48 states and 5,760 acres in Alaska. The maximum noncompetitive lease size is 10,240 acres in all states.

### **Lease Restrictions**

Lease restrictions provide a means to mitigate potentially significant impacts. These restrictions take the form of either Standard Lease Terms or Special Lease Stipulations as described below: Standard Lease Terms and Conditions (SLT's)

The standard lease terms are contained in BLM Lease Form 3100-11, Offer to Lease and Lease for Oil and Gas. As a minimum, all leases must contain standard lease terms. Under the standard lease terms, the lessee has the right to use as much of the leased lands as is necessary to explore or drill for, extract, remove, and dispose of oil and gas deposits that may be in the leased lands, together with the right to build and maintain necessary improvements thereon. Section 6 of the standard lease form requires the operator to conduct operations in a manner that minimizes adverse impacts to surface resources and other land uses. The Federal lessor has the authority to require modifications in the siting and design of facilities, control the rate of development and the timing of activities as well as to require other mitigation measures to protect threatened, endangered, proposed, and sensitive species, or objects of historic or scientific interest. The lessor can also require relocation of proposed operations by up to 200 meters, and impose timing limitations of up to 60 days, as well as other mitigation.

### **Supplemental Stipulations**

Forest Plan standards and guides will be adhered to during implementation of all of the alternatives. To the extent an alternative is not consistent with the Forest Plan it will require a Forest Plan amendment to implement. Mitigation is employed in three major areas. First, as noted above, standard lease terms of BLM Lease Form 3100-11, 43 CFR 3100, and 36 CFR 228E, contain basic mitigation measures to protect the environment. Second, at the lease-issuance stage, special stipulations may be added to protect specific resource values. These stipulations are provisions that modify standard lease terms and are attached to and made a part of the lease. Special, geographically locatable stipulations to mitigate potentially significant impacts could include:

- No Surface Occupancy (NSO)
- Limited Surface Use (LSU) and
- Timing Limitation (TL).

Each of these stipulation categories is discussed further below.

Finally, at the APD stage, additional site-specific mitigation measures may be required or incorporated through negotiations with the applicant to protect site-specific resources identified. Additional mitigation measures may be required or negotiated at the APD stage as a result of on-the-ground examination and NEPA analysis. Conditions of Approval (COA) can be required if they are within the terms of the lease and negotiated if they are outside the terms of the lease. These are determined on a site-specific, case-by-case basis. Any post-lease mitigation applied may not change the intent or terms of the lease or impose undue constraint upon the operator.

#### **No Surface Occupancy (NSO)**

This stipulation is intended for use only when other stipulations are determined to be insufficient to adequately protect the resource values. NSO is not needed if the desired protection could be accomplished by relocating proposed operations 200 meters or less as allowed under Standard Lease Terms (43 CFR 3101.1-2). Generally, the Forest Plan Management Standards will preclude access and construction of other resource facilities in areas that require an NSO stipulation. An example of NSO might be no surface occupancy on slopes over 40 percent. Limited Surface Use (LSU)

The LSU stipulation is intended to be used when surface occupancy and use are allowed on all or portions of the lease area year-round, but because of special resource concerns or values, lease activities must be strictly controlled. It would be used in areas where restrictions or controls are necessary for specific types of activities rather than all activities, and applies to development as well as production phases. An example of LSU would be: in areas that are designated Visual Quality Objective "retention" or "partial retention," to require facilities and operations to be painted or screened by natural features to meet the scenic objectives.

#### **Timing Limitation (TL)**

Standard Lease Terms allow for prohibition of new surface-disturbing operations for periods of up to 60 days. The TL stipulation limits surface use and occupancy for oil and gas exploration and development activities for a period of time greater than 60 days and applies to all on-lease drilling and construction-related activities. It is intended to provide additional protection in areas that may have important seasonal use, such as raptor nest sites and recreation use areas. An example of a TL would be: prohibition of activities during a species' mating season (if longer than 60 days).

#### **Staged Decision Process**

Following are descriptions of the various stages of oil and gas leasing on National Forest system lands.

#### **Lands Available for Lease Decision (36 CFR 228.102(d))**

The decision regarding lands available for leasing is based on disclosure and analysis provided in a "Leasing Analysis." The decision will identify which, if any, lands will be available for leasing. The Forest Plan will be amended, if necessary, at the same time so that the decisions made will be consistent with the Forest Plan. The Forest Supervisor will decide which lands to make available for leasing, and what stipulations to apply should those lands be leased. The decision to lease or not lease land areas will be made. When making the land availability decision, the Forest Supervisor will look at all legally available land. The time period the decision will be in effect, and processes for review, revision, implementation, and monitoring will be identified. The decision to make land available for leasing is based on knowledge of the lands and natural resources and knowledge of the standard lease terms and stipulations necessary to protect those lands and resources. This information was reviewed to determine whether or not any given area could be authorized for lease. The RFD projected activities were used to determine the direct, indirect, and cumulative effects of leasing, and to determine how much, and where, land could be leased should leasing occur.