Interior Department Seeks Public Dialogue on Reform of Federal Onshore Oil and Gas Regulations

Effort to examine royalty rates, bonding requirements, penalties and minimum bids to ensure fair return and protection for taxpayers

WASHINGTON – Secretary of the Interior Sally Jewell today announced that the Bureau of Land Management (BLM) will open a public dialogue on potential changes to federal onshore oil and gas regulations as part of President Obama’s strategy to support a balanced, prosperous energy future. The BLM is issuing an Advance Notice of Proposed Rulemaking (ANPR) to seek public comment on potential updates to BLM rules governing oil and gas royalty rates, rental payments, lease sale minimum bids, civil penalty caps and financial assurances.

“It’s time to have a candid conversation about whether the American taxpayer is getting the right return for the development of oil and gas resources on public lands,” said Secretary Jewell, who recently discussed the Administration’s energy reform agenda in remarks at the Center for Strategic and International Studies. “The BLM’s regulations have not kept pace with technological advances and market conditions, so this is an important information-gathering step as we seek to improve the way the federal government does business.”

Modernizing the BLM’s rate structures can provide critical flexibility, Jewell noted, especially given the dramatic growth of oil development on public and tribal lands, where production has increased in each of the past six years, and combined production was up 81 percent in 2014 versus 2008. Potential changes to BLM’s regulations would also respond to concerns expressed by the Government Accountability Office (GAO), Interior’s Office of Inspector General, and others that the BLM’s existing rules lack flexibility and could be causing the United States to forego significant revenue to the detriment of taxpayers.

The GAO has repeatedly concluded that the BLM’s regulations do not provide a reasonable assurance that the public is getting appropriate fair share of the revenue from these resources. The BLM’s current rules lack the flexibility to offer new competitive leases at higher royalty rates.

“As part of this process, the BLM and the Department will conduct a thorough analysis of the
cost of doing business on federal lands, and we welcome input from all parties on how taxpayers can be better assured adequate compensation from oil and gas production on public lands,” said Assistant Secretary for Land and Minerals Management Janice Schneider. “We also want to ensure those resources are developed diligently and responsibly and that financial assurances and penalties reflect the true costs of modern day oil and gas development and reclamation.”

Currently, the royalty rate for competitive oil and gas leases on public lands is 12.5 percent of the value of production. Current regulation locks that rate at the minimum allowed by law, even though many states and private landowners assess higher rates to oil and gas developed from their lands. The ANPR seeks comment on potential changes that would provide the BLM with the procedural flexibility to change the royalty rate in response to market conditions consistent with the procedure for offshore oil and gas leases. Tribal lands would not be affected.

The ANPR also seeks comment on the adequacy of bonding requirements and civil penalty assessments. The current minimum bond amounts -- $10,000 for a lease-wide bond, $25,000 for a statewide bond, and $150,000 for a nationwide bond -- have not been updated in two generations. The current lease-wide amount reflects a small fraction -- one-fifth of one percent -- of the average cost of drilling a modern well and may not adequately reflect the potential cost to taxpayers should a company fail to comply with lease terms. Similarly, existing rules cap the amount of civil penalties that BLM can assess at levels that may be too low to provide sufficient deterrence for potential violations.

“Our current minimum bonding rates and maximum penalties are ripe for a fresh look,” said BLM Director Neil Kornze. “Today’s bonding rates were set when Dwight D. Eisenhower was president. We are long overdue to consider an update that will help us ensure that oil and gas sites are properly managed and reclaimed and that taxpayers aren’t left picking up the tab.”

The ANPR additionally addresses the value of these resources by inviting comment on how the BLM might update its rules regarding the minimum acceptable bid that must be paid by parties seeking a lease at auction, and the annual rental payments that are due after a lease is obtained. The current minimum acceptable auction bid is $2 per acre, which is well below the rate at which most parcels sell, suggesting that the rate could be higher. After obtaining a lease, a lessee is currently required to make annual rental payments until the lease starts producing oil or gas. These rental rates currently are $1.50 per acre for the first five years and $2.00 for years five through 10. The ANPR invites comment on how rental payments might be better structured to incentivize diligent development of leased areas.

“This process will not only assure broad public input and thorough review and analysis but also help build the public confidence necessary to sustain our energy revolution,” said BLM Director Neil Kornze. “This dialogue can help ensure that American taxpayers receive a fair return from energy resources developed on their public lands, offer companies incentives to promptly explore and develop their leases, and provide real-world assurances and deterrents that address the risks associated with exploration and production.”

The ANPR is another step in the most ambitious reform agenda in the Department’s history to strengthen, update and modernize energy regulations. For oil and gas operations offshore,
Interior has made sweeping reforms to provide for safe and responsible development, overhauling federal oversight by restructuring to provide independent regulatory agencies that have clear missions and are better-resourced to carry out their work, while also keeping pace with a rapidly evolving industry.

In the wake of the devastating Deepwater Horizon blowout, explosion and oil spill, Interior strengthened drilling and emergency response standards for oil and gas companies, and raised the bar for operations through a comprehensive rule to clarify and enhance well-control requirements for drilling, workover, completion and decommission operations on the Outer Continental Shelf. Interior also released robust proposed standards for Arctic oil and gas exploration and development, specifically tailored to the region’s challenging conditions.

Onshore, the Department recently announced common-sense initiatives, based on extensive public comment and industry best practices, for regulating hydraulic fracturing.

The ANPR invites the public to submit comments during a 45-day comment period, which will start after the ANPR is published in the Federal Register next week.

For a draft of the notice, which will publish April 21, click here http://on.doi.gov/1ONPcxj.