



U.S. Department of the Interior
Bureau of Land Management

October 2021

Tribal Consultation - Review of the Federal Coal Leasing Program



Internal Use Only



Agenda:

- Welcome and Introductions
- Federal Coal Program Overview
- Previous Federal Coal Program Changes
- Need for Program Review
- Purpose of Program Review
- Timeline and Feedback



Government-to-Government Consultation:

- The BLM takes its consultation responsibilities seriously and we believe it is vital that Native American governments be afforded opportunities for ongoing, meaningful dialogue on the program review as required by law.
- We recognize that rule changes may have potential impacts and opportunities to sovereign tribes, and as such, your input on this program review is valuable.
- BLM welcomes Tribal input and comment on the program review throughout the process.



Federal Coal Program Overview

- BLM is responsible for leasing and regulation of the development of Federal coal for mineral estate owned by the Federal Government.
 - Includes mineral rights on Federal lands, and Federal mineral rights under non-Federal surface ownership.
 - Responsible for land use planning, applications, estimated valuation, lease sales, and post-sale actions.
- ~42% of US annual coal production is on Federal lands. Federal leases have an initial term of 20 years but may be terminated after 10 if not developed.
- Federal coal revenue comes from:
 - Bonuses paid at the time of lease issuance
 - Rental fees
 - Production royalties (fixed at 8% underground, not less than 12.5% for surface mines)
- BLM Resource Management Plan process considers impacts of “reasonably foreseeable development scenarios” but does not directly determine leasing.



Previous Federal Coal Program Changes

- February 1973 moratorium: in response to concerns about the program, a complete moratorium on new prospecting permits and new leases (with very limited exceptions).
 - Gradually scaled back to removal in 1981, after impact studies and a new leasing system were developed.
- Federal Coal Leasing Amendments Act of 1976 (FCLAA): with limited exceptions, Federal coal lease lands must be sold by competitive bid, with BLM receiving fair market value (FMV) for the lease.
- 1979 BLM coal leasing regulations provided for:
 - Regional leasing, where BLM selects tracts in a region for competitive sale, and
 - Leasing by application, where an industry applicant nominates a tract for competitive sale.
- 1983/84: concerns about FMV for leases arose; a commission investigated, and suspension of the program continued through 1987.



Previous Federal Coal Program Changes, cont.

- 2015: Secretary Jewell proposed modernizing the program. In 2016, BLM was directed to review the program again.
- 2017: Secretary Zinke rescinded this request and lifted the coal pause.
- 2021: Secretary Haaland rescinded Zinke's order, restarting the programmatic review process.



Need for Program Review

- The review is the result of litigation.
- DOI/BLM have entered into a stay agreement with the plaintiffs in a case regarding the revocation of Secretarial Order 3338 (*Concerning the Federal Coal Moratorium*).
- The programmatic review is a part of this agreement.



Purpose of Program Review:

- To address whether the bonus bids, rents, and royalties received under the program are creating a fair return to the American public, and if not, what adjustments should be made.
- Investigate how to best measure and assess the climate impacts of continued Federal coal production, transportation, and combustion.
- To assess other impacts to public health and the environment, such as water and air quality, endangered species, socioeconomic effects, and other land uses (recreation, grazing, etc.).
- Investigate how leasing decisions should consider actual/projected exports of domestic coal, and how to evaluate potential.



Purpose for Program Review, cont.

- To seek input on how Federal coal supports fulfilling the energy needs of the United States.
- To investigate potential new leasing models, or reforms to existing models for regional leases and leases by application.
- To investigate new approaches to increase competition in the bidding process.
- To review any data or analyses that justify changes to royalty rates.
- To improve pre-sale FMV estimates.
- To improve assessment of reclamation responsibilities.



Timeline and Feedback:

- The BLM's goal is to announce additional steps for the programmatic review by November 2021.
- Opportunities for Feedback:
 - Ongoing Government-to-Government consultation will be coordinated upon request



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