3102 - QUALIFICATIONS OF LESSEES

INTERIM GUIDANCE - APRIL 1991

Table of Contents

.01 Purpose
.02 Objectives
.03 Authority
.04 Responsibility
.05 References
.06 Policy
.07 File and Records Maintenance

.1 Who May Hold Leases

.2 Aliens
.21 Nonreciprocal Nations
.22 Rejection of Aliens' Applications

.3 Minors

.4 Signature
.41 Dating of Signature

.5 Compliance
.51 Requirements
.52 Certification of Compliance
.53 Evidence of Compliance

Glossary of Terms (See H-3100-1)

Handbooks
H-3102-1 - Qualifications Of Lessees

3102 - QUALIFICATIONS OF LESSEES

.01 Purpose. This Manual Section contains guidance concerning the qualifications requirements of lessees and other interest holders of oil and gas leases on Federal lands. It also sets forth signature, compliance, and qualifications evidence requirements concerning oil and gas leases.

.02 Objectives.

A. Specific. These procedures are designed to:

1. Reduce the paperwork burden on the public with respect to the qualifications information required for oil and gas leasing of Federal lands.

2. Inform interested parties of the necessary qualifications of oil and gas lease interest holders in accordance with the statutory requirements.

3. Ensure that oil and gas leases are issued and assigned only to qualified lessees, and that the requirements of signature and evidence have been met.

.03 Authority. Mineral Leasing Act of 1920 (MLA), as amended and supplemented (30 U.S.C. 181 et seq.).

.04 Responsibility. See Manual Section 3100.04.

.05 References. See Manual Section 3100.05 and H-3102-1.

.06 Policy. The Oil and Gas Lessee Qualifications Audit System, involves the centralized qualifications audit functions conducted in the BLM Wyoming State Office in conjunction with all the BLM State Offices. The Qualifications Audit System is the authorized procedure used by BLM to routinely conduct audits to prevent unqualified persons from holding Federal oil and gas lease interests. In conducting such audits, the Central Audit Office and all State Offices are authorized to request lessees (proprietors), pursuant to 43 CFR 3102.5, to submit documentation to show compliance with the regulations and the MLA. See H-3102-1, Section IV.

.07 File and Records Maintenance. The oil and gas lease records must be timely and accurately maintained in the case files and the Automated Land and Mineral Record System (ALMRS) Case Recordation to provide the required information needed to ensure that lessees and other lease interest holders have certified as to compliance with the laws and regulations concerning Federal oil and gas leases. Current and accurate lease records are required to allow random audits of acreage holdings of lessees. Such information in the records is needed to identify those leases which are or are not chargeable toward the maximum allowable acreage holdings for public domain and acquired lands minerals within each geographic State. Information in the records also is needed to ensure that lessees are not in violation of the coal leasing provisions of section 2(a)(2)(A) of the MLA and the reclamation provisions of the Federal Onshore Oil and Gas Leasing Reform Act (Reform Act) of December 22, 1987 (section 17(g) of the MLA).

3102 - QUALIFICATIONS OF LESSEES

.1 Who May Hold Leases. Leases issued under the authority of the MLA and the Mineral Leasing Act for Acquired Lands of August 7, 1947, as amended (30 U.S.C. 351-359), may be acquired and held only by citizens of the United States, associations (including partnerships and trusts) of such citizens, corporations organized under the laws of the United States or any State or Territory thereof, municipalities, and parties not in violation of sections 2(a)(2)(A) and 17(g) of the MLA. See H-3102-1, Section I.

In accordance with section 2(a)(2)(A) of the MLA (30 U.S.C. 201(a)(2)(A)), any lease to be granted under the MLA must not be issued to any entity, as defined at 43 CFR 3400.0-5 (rr), that holds and has held a Federal coal lease for 10 years beginning on or after August 4, 1976, where such coal lease deposits have not been produced in commercial quantities. Entities in violation of this provision of the statute, however, are allowed to acquire mineral lease interests through record title assignments or other types of lease transfers. See 43 CFR 3102.5-1(d) and H-3102-1.

The Reform Act amended the MLA to specify in section 17(g) that the Secretary shall not issue an oil and gas lease or approve the assignment of an oil and gas lease to any entity that has failed or refused to comply with reclamation requirements with respect to any prior oil and gas lease. Effective June 17, 1988, 43 CFR 3102.5-1(f) was added to the oil and gas leasing regulations to implement the reclamation provisions contained in the Reform Act. See H-3102-1.

3102 - QUALIFICATIONS OF LESSEES

.2 Aliens. Aliens cannot directly hold lease interests, including through associations, partnerships, and trusts. Aliens may acquire leases or interests therein only through stock ownership, or holding or control in a present or potential lessee (corporation) that is incorporated under the laws of the United States or any State or territory thereof, and only if the laws, customs, or regulations of their country do not deny similar or like privileges to citizens of the United States. This is the "reciprocity" or "nonreciprocal alien" provision of the MLA (30 U.S.C. 181).

.21 Nonreciprocal Nations. A determination whether a nation denies similar or like privileges to U.S. citizens or firms shall be made upon formal inquiry of a member of the public or at the initiative of the Assistant Secretary, Land and Minerals Management. A review is made by the Assistant Secretary, Land and Minerals Management, in conjunction with BLM staff, and in coordination with the Department of the Interior Solicitor's Office, the State Department, and other concerned Federal agencies. Final determinations are normally made by the Assistant Secretary, Land and Minerals Management, with the Solicitor's concurrence. Of those nations thus far reviewed, none has been determined to deny similar or like privileges to citizens of the United States. Therefore, no list of such nonreciprocal nations is presently required. Should any nations be deemed nonreciprocal, a list of such nations that deny similar or like privileges would be maintained by the Department of the Interior and made available from any BLM State Office.

.22 Rejection of Aliens' Applications. When a nation has been identified as denying similar or like privileges to citizens of the United States, if a corporation has more than 10 percent of its stock held by aliens of the nonreciprocal nation, all lease applications and offers from, and assignments and transfers to, that corporation must be rejected. If an individual who is a citizen of a foreign country applies for an oil and gas lease, assignment, or transfer, such application, offer, assignment, or transfer must be rejected.

3102 - QUALIFICATIONS OF LESSEES

.3 Minors. Anyone considered a minor under the laws of the State in which the lands are located may not acquire or hold lease interests, except through a legal guardian or trustee holding or acquiring leases on behalf of the minor. See 43 CFR 3102.3. The guardian or trustee must be either a United States citizen or a corporation organized under the laws of the United States or a State or Territory thereof. As with other nonqualifying lessees, in accordance with the MLA at 30 U.S.C. 184(g), a minor may hold a Federal lease for up to 2 years if the lease is acquired through inheritance, judgment, or decree. See 43 CFR 3106.8-1(b) and H-3106-1.

.4 Signatures. The original of a noncompetitive offer or competitive bid must be manually signed in ink by the present or potential lessee person authorized to sign on behalf of the present or potential lessee. The other required copies may be carbons, photocopy duplications, or reproductions of the original document which contains the holographic signature. As required by the MLA (30 U.S.C. 187a), an assignment of record title or transfer of operating rights (sublease), must be manually signed in triplicate by the assignor/transferor, or person authorized to sign on behalf of the assignor/transferor. However, the assignee/transferee is required to manually sign only one original request for approval of the assignment or transfer. A lease relinquishment must be manually signed by the lessee, or person authorized to sign on behalf of the lessee. A machine or rubber-stamped signature in lieu of the required holographic signature cannot be used. A noncompetitive offer or competitive bid must be rejected when such a stamped signature is used. If an assignment or transfer is submitted with a machine or rubber-stamp signature by the assignor/transferor on any of the triplicate originals, or by the assignee/transferee on the one request for approval, the assignment or transfer must be returned unapproved, requesting that the defect be corrected. For any documents filed by a corporation or association (including partnerships and trusts) and signed by a member of the corporation or association that constitutes the offeror/bidder, assignor/transferor, or assignee/transferee, it is not necessary for the signatory to indicate a relationship to the offeror/bidder, assignor/transferor, or assignee/transferee. However, if a person signs documents on behalf of a present or potential lessee (i.e., is not a member of the corporation or association), the name of the signatory and relationship to the present or potential lessee, must be indicated on that document. See H-3102-1, Section IID, concerning power of attorney provisions. When the relationship to the present or potential lessee needs further clarification, additional information or evidence in accordance with 43 CFR 3102.5-3 should be obtained by the authorized officer before further processing of the action.

.41 Dating of Signature. The offer, competitive bid, assignment of record title, or transfer of operating rights (sublease) should reflect the date it was actually signed. However, such date does not have to be manually written in ink. A noncompetitive offer should be dated, but failure to date the offer is not a *per se* disqualification of the offeror, since the critical date is that date when the offer is filed in the proper BLM office. See H-3102-1, Section IIC.

.5 Compliance.

.51 Requirements. To be qualified to own, hold, or control interests in a lease or prospective lease, all parties, including corporations, and all members of associations, including partnerships of all types, must be citizens of the United States or alien stockholders in a corporation organized under State or Federal law (see section 3102.1 and .2, above) and not be minors (see section 3102.3, above). All such parties also must be in compliance with the Federal acreage limitations, i.e., own, hold, or control interests in leases of not more than 246,080 acres of public domain lands and an additional 246,080 acres of acquired lands minerals (see 43 CFR 3103.2 and H-3101-1). Lease assignments must be not less than 640 acres outside Alaska or not less than 2,560 acres in Alaska or, if less than this acreage amount, must be either for the entire lease acreage or demonstrated to further the development of oil and gas. The compliance requirements of section 2(a)(2)(A) of the MLA (30 U.S.C. 201(a)(2)(A)) also must be met, i.e., an oil and gas lease must not be issued to any entity, as defined at 43 CFR 3400.0-5 (rr), that holds and has held a Federal coal lease for 10 years beginning on or after August 4, 1976, where such coal lease deposits have not been produced in commercial quantities. Entities in violation of this provision of the statute, however, are allowed to acquire mineral lease interests through record title assignments or other types of lease transfers.
Section 17(g) of the Reform Act requires that issuance of an oil and gas lease or approval of an assignment of an oil and gas lease be denied to any entity that has failed or refused to comply with reclamation requirements with respect to any prior oil and gas lease or operations thereon in which such entity holds, owns, or controls an interest. Noncompliance with the reclamation provision of the law begins either on the effective date of imposition by the authorized officer of a civil penalty for reclamation purposes (see 43 CFR 3163.2) or when the bond is attached by the authorized officer for reclamation purposes, whichever comes first. A lease issued, or assignment or other lease transfer approved, to an entity during any period of violation of the reclamation requirements shall be subject to cancellation, notwithstanding any appeal that is pending concerning violations or penalties assessed for such violation. Noncompliance with the reclamation provisions shall end upon a determination by the authorized officer that all required reclamation has been fully complied with to the prescribed reclamation standards and that the United States has been fully reimbursed for any costs incurred due to the required reclamation. See 43 CFR 3102.5-1(d).

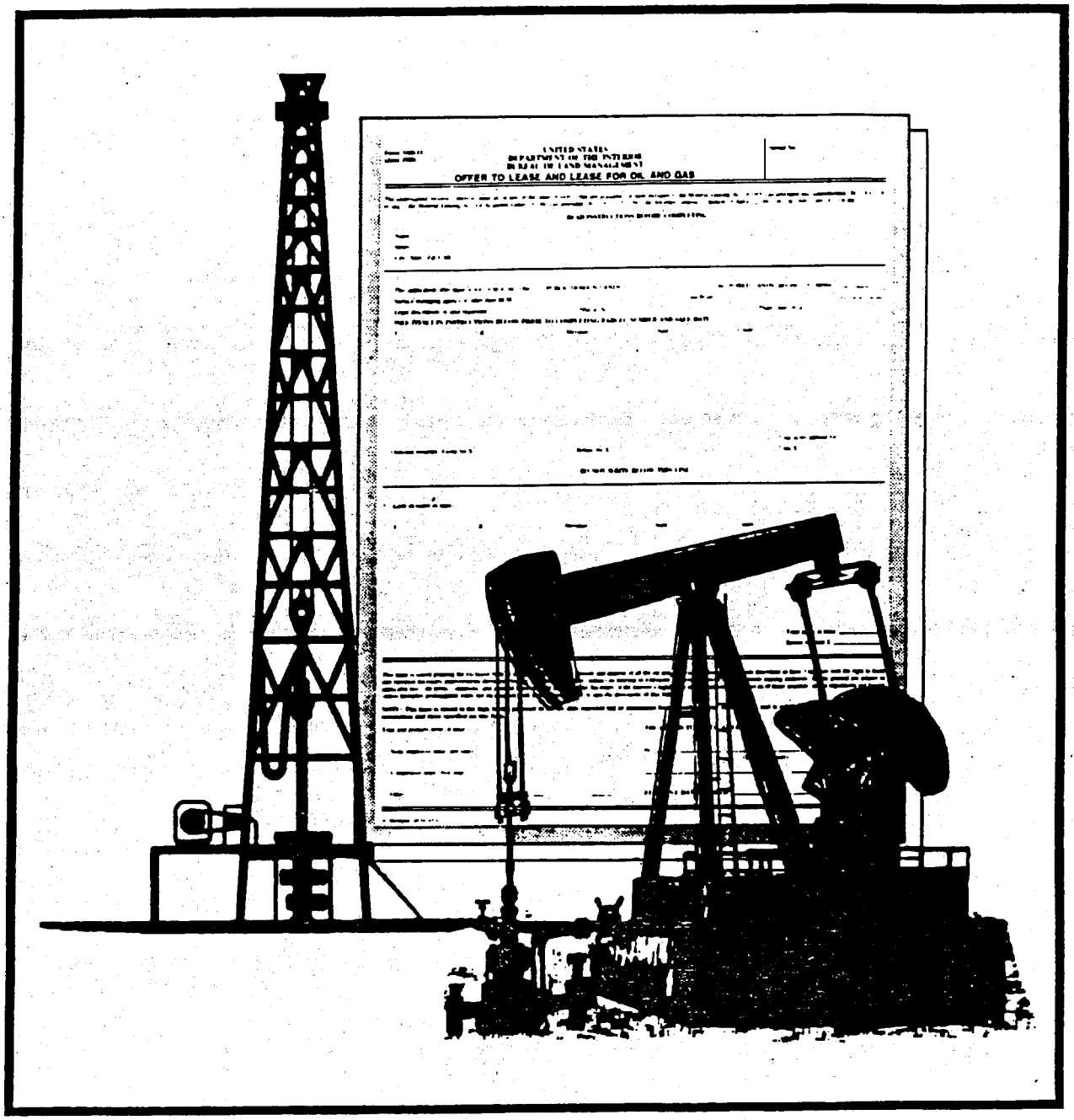
.52 Certification of Compliance. The execution and submission of an offer, competitive bid, or request for approval of an assignment or transfer of a lease constitutes certification of compliance with the regulations and the MLA (see 43 CFR 3102.5-2). Any party that is a corporation or publicly-traded association, including a publicly-traded partnership, certifies by signature of the offer, bid, or request for approval of the lease assignment or transfer that constituent members of the corporation, association, or partnership that hold or control more than 10 percent of the instruments of ownership of the corporation, association, or partnership are in compliance with the regulations and MLA.

.53 Evidence of Compliance. Anyone seeking to acquire, or anyone holding, a Federal oil and gas lease or interest therein shall, upon request of the authorized officer, submit any additional information necessary to show compliance and qualification with the regulations and the MLA. Failure of the party to comply with the request of the authorized officer will result in adjudication of the action based on the incomplete submission.

Oil and Gas Adjudication Handbook

INTERIM GUIDANCE - APRIL 1991

Qualifications of Lessees



BLM MANUAL HANDBOOK 3102-1
Revised 1991

H-3102-1 - QUALIFICATION OF LESSEES

Table Of Contents

	Page
Introduction	1
I. Requirements	1
A. General Requirements	1
B. Who May Hold Leases	2
C. Reciprocity	8
II. Signatures	9
A. General	9
B. Relationship to Signatory	10
C. Dating of Signature	11
D. Power of Attorney	12
III. Evidence of Qualifications	13
A. Certification of Compliance	13
B. Additional Information	13
IV. Oil and Gas Lessee Qualifications Audit System	15
A. Qualifications Audit System for Acreage Holdings	15
1. Information from Case Recordation System	15
2. Information from Private Publications	16
3. Qualifications Audit Sampling by Central Office	16
4. Defining and Sampling Strata No. 1	17
5. Defining and Sampling Strata No. 2	19
6. Proprietor Submissions	22
7. Notification to State Office of Audit	23
8. Central Audit Office Review	23
9. State Office Adjudicative Action	24
10. Central Audit Office Adjudicative Action	27
11. Annual Report to Washington Office	28
B. Qualifications Audit of Federal Coal Lessees and Related Entities	29
1. General	29
2. Audit Procedures for Section 2(a)(2)(A)	30

Glossary of Terms (See H-3100-1)

Illustrations

1. Format for Notice Returning Unsolicited Qualifications Documents
2. Current Leasing Procedures with Regard to Nations Reviewed for Reciprocity
3. Format for Notice Acknowledging Receipt of Power of Attorney Unrelated to a Specific Oil and Gas Lease Action
4. Qualifications Audit System Work Flow Diagram

5. Format for Notice of Audit Sent by Wyoming State Office to Selected Proprietor Requesting Submission of Lease Interest Holdings Information for Oil and Gas Lessee Qualifications Audit
6. Example Format of the Acreage Audit Table
7. Format for Memorandum to State Office Advising of Initiation of Qualifications Audit of Selected Proprietor
8. Format for Memorandum to State Office Transmitting Reports for Reconciliation
9. Format for Letter to Proprietor Advising That Proprietor's Data Has Been Sent to State Office for Reconciliation
10. Format for Memorandum from State Office to Central Audit Office With Notification That Audit/Reconciliation is Completed
11. Format for Memorandum from State Office to Central Audit Office With Notification That Audit Indicates Proprietor Noncompliance With Acreage Limitations

Appendix

1. Listing of ALMRS (Case Recordation) Data Element (DE) 2960 and 2910 Action Codes Applicable to H-3102-1 and Case Type 310220

Index by Keywords

H-3102-1 - QUALIFICATIONS OF LESSEES

Introduction

Effective February 26, 1982 (47 FR 8544), rulemaking eliminated the requirement for the routine submission of qualifications documents for Federal oil and gas lessees. Entities or persons submitting a noncompetitive lease offer, competitive bid, assignment, transfer, or a request for approval of an assignment or transfer are no longer routinely required to submit separate documentation of their qualifications. However, they must still be in compliance with the Mineral Leasing Act (MLA) of 1920, as amended and supplemented, and pertinent regulatory provisions. Bidders, offerors, assignees, and transferees now certify by signature on the Bureau-approved forms which are submitted to the proper BLM office that they are qualified to hold leases or interests therein, and do not need to submit additional evidence of their qualifications to hold lease interests unless formally requested to do so by the authorized officer.

Unsolicited qualifications documents received from persons or entities involved only in the oil and gas industry should be returned under a preprinted notice indicating that oil and gas qualifications files are no longer being maintained by the BLM (see Illustration 1).

When oil and gas corporate qualifications documents are intermingled with qualifications documents for other BLM leasing activities, e.g., coal, oil shale, or other solid leasable minerals, etc., the files should be maintained only to the extent necessary for the other leasing activities.

Powers of attorney documents should continue to be maintained and, ideally, should be kept in a separate file in the State Office (SO) Lease Adjudication Section.

H-3102-1 - QUALIFICATIONS OF LESSEES

I. Requirements

A. General Requirements

Keywords

LESSEE
QUALIFICATIONS

All potential lessees, all other parties who hold an interest (as defined by 43 CFR 3000.0-5(1)), and all persons who are members of an association that is the party who holds or controls more than 10 percent of the stock in a lessee which is a corporation or association must meet the following criteria:

1. Be a citizen of the United States or be a qualified stockholder in a lessee that is incorporated under the laws of the United States or of any State or territory thereof. See 43 CFR 3102.2.

2. Be in compliance with the Federal acreage limitations. See 43 CFR 3101.2.

3. Not be a minor in the State in which the lands are located. See 43 CFR 3102.3.

4. Except for an assignment or transfer of an oil or gas lease, be in compliance with the provisions of Section 2(a)(2)(A) of the MLA, 30 U.S.C. 201(a)(2)(A). See 43 CFR 3102.5-1(d).

5. Be in compliance with the reclamation provisions of Section 17(g) of the MLA. See 43 CFR 3102.5-1(f).

6. Not be in violation of Section 41 of the MLA concerning schemes, arrangements, plans, or agreements, or fraud and misuse of the oil and gas leasing procedures.

Keywords

B. Who May Hold Leases

WHO MAY HOLD LEASE INTERESTS

Federal oil and gas leases or interests therein may be held by:

1. Citizens of the United States.

CITIZENS

2. Associations (including partnerships and trusts) of such citizens. To be in compliance with the MLA, it is necessary that all associations of companies, individuals, etc., ensure that their members are complying with the MLA. Just as stockholders owning more than 10 percent of the stock in a corporation are charged with their proportionate ownership of the corporation's leased acreage, beneficial owners of more than 10 percent of an association must include their pro rata share of the association's total acreage in computing the acreage chargeable to them individually.

ASSOCIATIONS

NOTE: Occasionally a bid or noncompetitive offer may be received showing two or more names with a percentage of unequal portions, e.g., Jane Doe with 60 percent and John Doe with 40 percent. A bid form or lease form signed by two or more persons is prima facie a bid or application by an "association" within the meaning of Section 27 of the MLA (see Edward Lee, 515 I.D. 299 (1925)). Thus, the bid or offer is acceptable and should be treated as an association. However, both parties must sign the bid form/lease form certifying as to qualifications by each to hold the lease as members of the association.

A sole proprietorship is not authorized to hold a lease or interests therein since it is not an alter ego of an individual, but is a specific independent entity. See J.F.C. Oil and Gas, 60 IBLA 191 (1981).

SOLE PROPRIETORSHIPS NOT ALLOWED TO HOLD LEASES

NOTE: A bid or offer received from an entity identified as "Jim Jones and Jan Jones, d/b/a Jones Enterprises" is an indication of a sole proprietorship. The "dba" (doing business as) likely reflects that an individual or group of individuals are a sole proprietorship. Although a sole proprietorship may not hold a lease, in the case of "Jones Enterprises," if the bid or lease form was signed by both Jim Jones and Jan Jones, the bid or offer is acceptable since it is possible to determine the full names of the interest holders; the "Jones Enterprises" is surplusage (see McClain Hall,Arthur R. Frank, 61 IBLA 202 (1982)).

Keywords

TRUSTS

3. Trusts. Lease interests should be held in the name of the trust/trustee, e.g., William H. Glenn, Jr., Trust/John Doe et al., Trustee; or Estate of Mary Smith, Trust/5th National Bank of Utah, Trustee. Trustees or guardians and their beneficiaries must all be either United States citizens or qualified corporations. See 43 CFR 3000.0-5(1) and 3102.1. Like any other holder of Federal leases or interests therein, trusts may not exceed maximum allowable acreage holdings. See 43 CFR 3101.2.

CORPORATIONS

4. Corporations organized under the laws of the United States or of any State or Territory thereof. Qualifications to hold Federal oil and gas leases or interests therein are applicable equally for profit and nonprofit corporations, provided the corporation's charter authorizes the acquisition of leases. This includes banks or other fiduciary corporations.

MUNICIPALITIES

5. Municipalities (city, town, etc.).

MINORS

6. Minors may not acquire or hold Federal oil and gas leases or interests therein, except through a legal guardian or trustee acquiring a lease or interest therein on behalf of the minor. The trustee or guardian must be either a United States citizen or qualified corporation. As with other nonqualifying lessees, minors may hold a Federal lease for up to 2 years if it is acquired through inheritance, judgment, or decree. See 30 U.S.C. 184(g) and 43 CFR 3102.3.

HEIRS AND DEVISEES

7. Heirs and Devisees. When a bidder, offeror, lessee, assignee, or transferee dies, the lease rights transfer to the heirs, devisees, executor, or administrator, whichever is appropriate, provided the person or entity is qualified to hold Federal leases or interests therein in their own right. If the person or entity is not qualified to hold a Federal lease or interest therein, they may still obtain the lease, but only for a period not to exceed 2 years. The unqualified person or entity must transfer the lease before the end of the 2-year period or the lease will become subject to cancellation. See 43 CFR 3106.8-1(b).

Keywords

JOINT TENANTS

8. Joint tenants are not prohibited from holding oil and gas leases. Bids and offers may not be rejected and requests for approval of an assignment or transfer may not be disapproved because bidders, offerors, or assignees call themselves "joint tenants." However, in approving actions involving joint tenants, the Bureau recognizes each tenant as owning a proportionate share of the lease, as if each were a co-lessee. See Turner C. Smith, Jr., Signe D. Smith, 89 I.D. 386 (1982), regarding joint tenancies. When a lease is held jointly by persons as joint tenants or tenants-in-common, the acreage contained in the lease is charged to the joint tenancy or tenancy-in-common, which is the lessee. Moreover, each joint tenant or tenant-in-common is charged personally with his/her proportionate share of lease acreage. Neither the individual tenants nor tenancy-in-common may exceed maximum allowable acreage holdings.

ALIENS

9. Aliens may acquire Federal oil and gas leases or interests therein only through stock ownership, holding, or control in a lessee or potential lessee that is incorporated under the laws of the United States or any State or territory thereof, but only if the laws, customs, or regulations of their country do not deny similar or like privileges to United States citizens. Thus, if an individual who is a citizen of a foreign country applies or bids for a Federal oil and gas lease or requests approval of an assignment or transfer, the bid or offer must be denied. Foreign firms that are not incorporated under the laws of the United States or a State or territory thereof also are not qualified to hold Federal lease interests. Aliens may not acquire an interest in a Federal oil and gas lease through the ownership of depository units (similar to corporate shares of stock) issued by a master limited partnership. Holders of depository units have neither control nor liability with respect to the operation of the partnership. Such master limited partnerships are not corporations.

MASTER LIMITED PARTNERSHIPS

Keywords

10. Entities in violation of Section 2(a)(2)(A) of the MLA, 30 U.S.C. 201(a)(2)(A)), may not be issued any additional mineral leases. Section 2(a)(2)(A) requires that any entity that holds and has held a Federal coal lease for 10 years beginning on or after August 4, 1976, and who is not producing coal in commercial quantities from each such lease, cannot qualify for the issuance of any other mineral lease granted under the MLA. This deadline was extended to December 31, 1986, by the Department of the Interior Appropriations Act for Fiscal Year 1986. In accordance with Solicitor's Opinion M-36951 (February 12, 1985), however, such entities may obtain Federal mineral leases issued under the MLA through assignment or transfer, except transfers of Federal coal leases. Any entity who has filed an action that would bring it into compliance with Section 2(a)(2)(A), e.g., arms-length assignment of the coal lease, is qualified for issuance of leases while the action is pending BLM review.

MLA
SECTION 2(a)(2)(A) COMPLIANCE

a. The BLM Washington Office prepares a listing of entities in violation of Section 2(a)(2)(A), including any subsidiairies, affiliates, or persons controlled by or under common control of the noncomplying entity, which is transmitted to all State Offices. The listing of entities is issued by the Washington Office whenever any changes or updates are made.

SECTION 2(a)(2)(A) VIOLATORS LIST

b. Prior to issuing any oil and gas lease, the most recent listing must be checked by SO Lease Adjudication to see if the bidder or offeror appears as a noncomplying entity. See H-3110-1 and H-3120-1. If a competitive sale bid or noncompetitive lease offer has been made, such bid or offer must be rejected. In the event of an improper rejection, i.e., the entity is able to submit conclusive evidence of compliance with Section 2(a)(2)(A), the decision of rejection is to be vacated and the lease bid or offer shall be processed to completion. This approach should avoid any unneccessary appeals.

SECTION 2(a)(2)(A) LIST CHECKED PRIOR TO LEASE ISSUANCE

c. When a lease is erroneously issued to a noncomplying entity during the effective period when the entity was on the list, the lease is required to be cancelled.

CANCELLATION ACTION

Keywords

MLA SECTION 17(g) RECLAMATION COMPLIANCE

11. Effective December 22, 1987, entities in violation of Section 17(g) of the MLA (added by the Federal Onshore Oil and Gas Leasing Reform Act of 1987) who have failed or refused to comply with reclamation requirements with respect to any prior oil or gas lease, may not be issued, or receive by assignment, any additional oil or gas lease until the entity complies with the reclamation requirements. See Manual Section 3102.5 and 43 CFR 3102.5-1(f).

a. Noncompliance with the reclamation requirements begins on the effective date of the imposition of a civil penalty by the Field Office operations authorized officer under the provisions of 43 CFR 3163.2 or when the bond is attached by the BLM. When an entity is identified by the Field Office as being in violation of the reclamation requirements, the Field Office must notify the SO Lease Adjudication promptly, and the State Director must notify the BLM Washington Office (WO-620) in writing. The SO Lease Adjudication also must issue a decision to the entity notifying it of the reclamation violation and prohibition on the issuance of additional oil and gas leases or approval of any oil and gas assignments until the period of noncompliance is ended.

MLA SECTION 17(g) VIOLATORS LIST

b. The BLM Washington Office shall prepare a nationwide listing of all such entities, also identifying all subsidiaries, affiliates, or persons controlled by or under common control of each such entity, and transmit the listing to all State Offices. The listing of entities is issued by the Washington Office whenever any changes, additions, or deletions are made. All State Offices are to ensure that this reclamation violation list is made available to all Field Office operations personnel promptly.

AFFILIATES NOTIFIED OF PROHIBITION

c. Because the reclamation noncompliance also affects any subsidiary, affiliate, or person controlled by or under common control of an entity, the State Office also must notify all such related entities of the prohibition on lease issuance and assignment approval.

Keywords

d. Prior to issuing any oil and gas lease or approving any lease assignment, the most recent listing must be checked by SO Lease Adjudication to see whether the bidder, offeror, or assignee appears as a noncomplying entity. If a competitive sale bid or noncompetitive lease offer has been made, such bid or offer must be rejected. In the event of an improper rejection, (i.e., the entity can submit conclusive evidence of compliance with Section 17(g)), the rejection decision is to be vacated and the lease bid or offer is to be processed to completion. This approach should avoid any unnecessary appeals. No transfers of record title or of operating rights are to be approved to any name appearing on the list.

SECTION 17(g) VIOLATORS LIST CHECKED PRIOR TO LEASE ISSUANCE

e. When a lease is erroneously issued to a noncomplying entity that appears on the listing at the time such lease was issued by the authorized officer, the lease is required to be cancelled.

CANCELLATION ACTION

f. The noncompliance shall end when the United States has been reimbursed for all costs incurred as a result of the specific infraction. When such noncompliance ends, the Washington Office must be notified immediately by the State Office as to the date the noncompliance ended. The violation list will be modified accordingly and transmitted to all State Offices.

C. Reciprocity

Keywords

1. Prior to 1982, the BLM maintained a list of nations that, with respect to mineral leasing, had been determined to grant reciprocal privileges to United States citizens. Under new procedures set forth in the Federal Register (47 FR 27622, June 25, 1982), the reciprocal nations list was eliminated and replaced with a list of nations that deny United States citizens or corporations privileges similar to or like those that the United States accords aliens under the MLA. Currently, no nations are placed on such a list of nonreciprocal countries.

RECIPROCAL COUNTRIES LIST ELIMINATED

a. Upon request, the Assistant Secretary, Land and Minerals Management (A/S-LMM), will determine whether a nation denies similar or like privileges to United States citizens or firms. This is done in conjunction with BLM staff, and in coordination with the Solicitor's Office, the State Department, and other concerned Federal agencies. Final determinations are normally made by the A/S-LMM with the Solicitor's concurrence. See Illustration 2, Page 1, for a list of those nations reviewed under the procedures to-date and the results of such reviews.

RECIPROCAL STATUS REVIEW PROCEDURES

b. Reviews are conducted upon request by a private party or the Federal Government. The request must be accompanied by supporting factual and legal analysis or a summary of the laws, customs, and regulations of a foreign country. Requests submitted with insufficient factual material will not be reviewed. Public comment may be requested by the Department of the Interior through a Federal Register notice, particularly in instances where the information submitted, although detailed, is not comprehensive or where it appears based on the evidence that the foreign country may, in fact, deny similar or like privileges.

c. Requests for review should be submitted directly to the A/S-LMM. If a State or Field Office receives a request, forward the request to the Washington Office to the attention of the Assistant Director, Energy and Mineral Resources.

REQUEST FOR REVIEW FOR RECIPROCITY

2. The reciprocity provision of Section 1 of the MLA does not mandate that the Department find a nation "reciprocal" before its citizens may own, hold, or control stock in a firm which holds an interest in mineral leases when the firm is incorporated in the United States or a State or territory thereof.

II. Signatures

Keywords

A. General

The original of a lease offer or competitive bid form must be manually signed in ink by the present or potential lessee or person authorized to sign on behalf of the present or potential lessee. For noncompetitive offers, only the original of the offer must be manually signed. The original and two copies of each offer to lease, with each copy showing that the original has been signed, must be filed in the proper BLM office. Copies of the offer must be exact reproductions on one page of both sides of the official Bureau-approved form, without additions, omissions, or other changes, or advertising.

SIGNATURE IN INK MANUALLY

As required by the MLA (30 U.S.C. 187a), an assignment of record title or transfer of operating rights (sublease), must be manually signed in triplicate by the assignor/transferor, or person authorized to sign on behalf of the assignor/transferor. However, an assignee/transferee is required to manually sign only one original request for approval of the assignment or transfer.

Machine or rubber-stamped signatures on an offer or bid will result in rejection on that offer or bid. If an assignment or transfer is submitted with a machine or rubber-stamped signature by the assignor/transferor on any of the triplicate originals, or by the assignee/transferee on the one request for approval, the assignment or transfer must be returned unapproved requesting that the defect be corrected.

STAMPED SIGNATURES

B. Relationship to Signatory

Keywords

RELATIONSHIP TO SIGNATORY

1. Documents signed by any party on behalf of the present or potential lessee (i.e., is not a member of the corporation or association) shall be rendered in a manner to reveal the name of the present or potential lessee, the name of the signatory and their relationship. See Section IID, below, concerning power of attorney provisions.

2. A signatory who is a member of the organization that constitutes the present or potential lessee (e.g., officer of a corporation, partner of a partnership, etc.) is not required to indicate a relationship to the bidder/offeror, assignor/transferor, or assignee/transferee. However, if the relationship is not clear, the authorized officer may request the entity to clarify his/her membership.

3. In processing any leasing actions, whenever the relationship of the signatory to the present or potential lessee needs further clarification, additional information or evidence in accordance with 43 CFR 3102.5-3 should be obtained by the authorized officer before further processing of the action.

C. Dating of Signature

Keywords

1. An oil and gas lease offer, assignment or transfer, or request for approval of an assignment or transfer should reflect the date it was actually signed. The competitive bid Form 3000-2 does not have to reflect the date it was actually signed. The 10-day time limit provided in 43 CFR 1821.2-2(a) and (c) is not applicable to oil and gas lease actions.

DATING OF SIGNATURES

2. A noncompetitive offer filed under 43 CFR 3110 should be dated. However, failure to date the offer is not per se disqualification of the offeror, since the critical date is that date when the offer is filed in the proper BLM office. See Henry W. Odlozil, Sr., 96 IBLA 286 (1987).

FAILURE TO DATE NONCOMPETITIVE OFFER

INTERIM GUIDANCE (EXPIRES 09/30/92)

INTERIM GUIDANCE (EXPIRES 09/30/92)

D. Power of Attorney

Keywords

POWER OF ATTORNEY

When a power of attorney (POA) unrelated to case processing is submitted with a request for review, its receipt should simply be acknowledged with an indication that no review and approval will be given until submission of a lease offer, competitive bid, assignment, transfer, etc., which will cause the POA to be reviewed in conjunction with the pending action (see Illustration 3).

When a specific action such as a competitive bid, noncompetitive offer, assignment or transfer, or request for approval of an assignment or transfer is submitted under the signature of an attorney-in-fact, examine the POA or other documents showing that the person signing has the authority to do so on the date the document was executed. Normally, the POA document will specify that the attorney-in-fact was appointed on a certain date. This date must be the same as or earlier than the date the bid, offer, assignment or transfer, or request for approval of the assignment or transfer was signed.

NOTE: At the end of the POA, there should be a completed certificate indicating that the POA is still valid on a certain date. Also check the POA to determine if it is limited to certain conditions. If the POA is no longer valid on the date the document was signed, or excludes the type of action being submitted, the bid or offer must be rejected, or disapproval of the assignment or transfer, or request for approval of the assignment or transfer must be made by the authorized officer.

III. Evidence of Qualifications

Keywords

A. Certification of Compliance

CERTIFICATION OF COMPLIANCE

Signature on the competitive bid form, noncompetitive lease offer, assignment of record title, transfer of operating rights, and request for approval of an assignment or transfer constitutes certification of compliance with the regulations and the MLA. Certification of compliance with Section 2(a)(2)(A) of the MLA, 30 U.S.C. 201(a)(2)(A), is made for lease offers directly on the Bureau-approved lease Form 3100-11 and for competitive bids directly on the competitive bid Form 3000-2 which both have been revised to incorporate the necessary language addressing the provisions of Section 2(a)(2)(A). The certification language contained on the lease Form 3100-11, assignment of record title Form 3000-3, transfer of operating rights Form 3000-3a, and the competitive bid Form 3000-2 also has been revised to incorporate the reclamation requirements of Section 17(g) of the MLA, and the provisions in Section 41 of the MLA addressing the use of schemes, arrangements, plans, and agreements to circumvent or defeat the oil and gas leasing laws and regulations. Signature on the assignment of record title Form 3000-3 requesting approval of an assignment of less than 640 acres outside of Alaska or 2,560 acres in Alaska also provides acceptable certification that the assignment would further the development of oil and gas in accordance with the requirements of Section 30A of the MLA.

B. Additional Information

ADDITIONAL EVIDENCE REQUIRED BY AUTHORIZED OFFICER

Any additional evidence needed by the authorized officer to show compliance with the regulations and the MLA may be required from anyone seeking to acquire or anyone holding a Federal oil and gas lease or interest therein. See 43 CFR 3102.5-3. Such a request is to be made by decision or notice, providing a compliance period of at least 30 days for receipt of the response.

IV. Oil and Gas Lessee Qualifications Audit System — Keywords

The qualifications of entities currently holding Federal oil and gas leases are checked for compliance with the MLA through a systematic audit for acreage holdings as described in Section IVA, below. In addition, oil and gas lessees are subjected to an audit to ensure compliance with Section 2(a)(2)(A) of the MLA which was added by Section 3 of the Federal Coal Leasing Amendments Act of August 4, 1976. This section of the MLA prohibits certain holders of Federal coal leases from acquiring new mineral leases (see Section IB10, above). Section IVB, below, describes an annual audit process to verify that current lessees are not in violation of the MLA Section 2(a)(2)(A) prohibition.

A. Qualifications Audit System for Acreage Holdings

QUALIFICATIONS AUDIT SYSTEM - ACREAGE HOLDINGS

The Oil and Gas Lessee Qualifications Audit System, with the centralized qualifications audit functions located in the BLM Wyoming State Office, performed in conjunction with all the BLM State Offices, routinely selects a sample of oil and gas lessees for audit on an annual basis to ensure that unqualified persons or entities do not hold leases or interests therein. See Illustration 4 for a diagram of work flow.

1. Information from Case Recordation System

CASE RECORDATION INFORMATION

Relying heavily on the Automated Land and Mineral Record System (ALMRS) Case Recordation System, the Oil and Gas Lessee Qualifications Audit System checks the following qualifications criteria:

CHARGEABLE ACREAGE

a. Holdings in excess of the maximum allowable acreage for leases in the lower 48 States, as established by 43 CFR 3101.2. Acreage chargeable to a proprietor includes leases held under option, record title ownership, and operating rights ownership. Leases committed to any unit or cooperative plan or subject to an operating, drilling, or development contract, other than communitization agreements, shall not be included in computing accountable acreage. Overriding royalty interests are not chargeable against acreage limitations. Lease applications and competitive bids which have not yet been issued as leases also are not to be included against acreage limitations. Separate acreage limitations per geographic State apply to public domain (PD) minerals and acquired (ACQ) lands minerals.

Keywords

b. Lease interests held by aliens of nonreciprocal countries. Currently there are no countries deemed to be nonreciprocal, i.e., that do not grant reciprocal privileges to United States citizens. Accordingly, this portion of the audit process is not currently performed.

2. Information from Private Publications

INFORMATION FROM PRIVATE PUBLICATIONS

To ensure compliance with pertinent regulatory and statutory requirements relating to qualifications, various non-Government publications, including Directory of Corporate Affiliations, Who Owns Whom (National Register Publishing Co.), and Standard & Poor's Corporation Records (Standard & Poor's Corporation, Publishers), are used by the Central Audit Office in the Wyoming State Office to identify:

INTERRELATED CORPORATIONS

a. Links among corporate proprietors so that leaseholdings by interrelated corporations can be identified and calculated against allowable acreage. The Central Audit Office requests those proprietors who are potentially in violation of 43 CFR 3102 and 3101.2 to submit documentation concerning their qualifications, including their leaseholdings.

NONRECIPROCAL COUNTRIES

b. Corporate lessees owned or controlled by foreign citizens of nonreciprocal countries, whenever this provision should become necessary. However, since none of the nations reviewed to-date by the Department of the Interior has been determined to be nonreciprocal under the MLA, the focus of the Qualifications Audit System currently is on lease acreage holdings of entities.

3. Qualifications Audit Sampling by Central Office

RANDOM AUDIT SELECTION - ACREAGE HOLDINGS

a. Oil and gas lessees are randomly selected for audit by the Central Audit Office. In addition, those proprietors reported to be suspect by the public, State, and Federal agencies, or considered to be suspect by BLM personnel, automatically are to be audited.

Keywords

b. The Central Audit Office conducts stratified random sampling of lessees to select those lessees to be subjected to an audit. Lease offers and applications are not included in the acreage subject to audit (see 43 CFR 3101.2-3). By the end of the first quarter of each calendar year, the Central Audit Office selects the entities to be audited and initiates the audit procedure with each selected entity. Initially, the total population of lessees is divided into two groups (strata) based on their apparent acreage in leaseholdings according to the Case Recordation System. Each group (strata) is subjected to the sampling procedures discussed below.

RANDOM SAMPLING CONDUCTED BY WYOMING STATE OFFICE

4. Defining and Sampling Strata No. 1

a. Using the most current Public Land Statistics, the Central Audit Office identifies those geographic States, excluding Alaska, in which there are more than 500,000 acres of either PD or ACQ minerals under oil and gas lease. (In 1989, there were 11 States with more than 500,000 acres of PD minerals and 3 States with more than 500,000 acres of ACQ lands minerals under oil and gas lease.)

AUDIT SAMPLING STRATA NO. 1

b. For each of these geographic States, the Central Audit Office runs the Case Recordation Acreage Holding by Proprietors M14 Report using the following selection criteria:

ALMRS M14 REPORT

(1) Case Type: Select either "2" for Public Domain, or "3" for Acquired, depending on which type of minerals has more than 500,000 acres under lease in that geographic State. In some States, a report needs to be run for each type.

AUDIT SELECTION CRITERIA

(2) Acreage Level: Enter "050000," i.e., the threshold of 50,000 acres per entity.

(3) Type of Acreage: Select "1" for Chargeable Acres, i.e., leases not committed to a cooperative agreement or plan.

c. Step IVA4b, above, yields Strata No. 1, comprised of approximately 400 names of lessees. The Central Audit Office manually, sequentially numbers each of these named lessees. Lessees whose names appear in more than one acreage report receive more than one number.

Keywords

d. Using a computer random number generator program, the Central Audit Office selects 51 numbers from 1 to the total number of numbered names in step IVA4c, above (from 1 to approximately 400). The selections are made without replacement. The 51 numbers generated are matched with the numbered names. The 51 names selected are the sample for audit from Strata No. 1.

e. If the chargeable acreage indicated on the Acreage Holding by Proprietors M14 Report for the selected sample name is equal to or greater than 200,000, the proprietor is subject to a full audit of leases of that type (PD or ACQ) in that geographic State.

f. If the chargeable acreage is less than 200,000, the proprietor's name is located in the Directory of Corporate Affiliations. The Central Audit Office lists all affiliates of the proprietor which have Standard Industrial Classification (SIC) codes of 1300, 1400, 2900, and 5500. The affiliates are located in the Case Recordation Special Proprietor List M06 Report by the Central Audit Office to see if the affiliates hold any lease interests in the same geographic State in which the proprietor is being audited. A Case Recordation Acreage Figures by Proprietor M07 Report is run for each affiliate in the geographic State for which the proprietor is being audited. If the sum of the acreage held by the affiliates and the proprietor is less than 200,000, the audit for that proprietor stops at this phase.

ALMRS M06 REPORT

ALMRS M07 REPORT

However, if the sum of the chargeable acreage (PD and ACQ lands minerals separately) for the proprietor and its affiliates is 200,000 acres or more, a full audit of the proprietor is required to be conducted.

ALMRS Entry - (1) Case Type 310220 - O&G LESSEE QUAL FILE

AUTOMATED NOTATION

(2) Enter Action Date: Date Case Established and Serialized by Central Audit Office in Wyoming State Office; DE 2960 Action Code 001/DE 2910 Action Code 387; Action Remarks: Optional.

5. Defining and Sampling Strata No. 2

Keywords

AUDIT
SAMPLING
STRATA No. 2

Proprietors not identified by the Case Recordation System as having more than 50,000 chargeable acres in their own name are not likely to be in violation of the acreage limitation. The number of such proprietors is about 11,000. To perform an audit of a statistically valid sample, assuming an incidence of violation of 10 of every 2,000 (plus or minus 5), would require a sample size of 796. Auditing such a large sample with such a small expected incidence of violation is not cost effective or warranted. Therefore, a smaller, varying number of proprietors is selected to be audited in order to provide a reasonable level of deterrence from violating any of the qualifications criteria. The following method is used to select proprietors from this group for audit:

a. The Central Audit Office runs the Special Proprietor List M06 Report to provide a listing of all proprietors in the Case Recordation System, the number of leases in which they have an interest, and the administrative State in which the leases are located. There are approximately 700 double pages presently in the proprietor index, each containing 47 names. The Central Audit Office must sequentially number each double page from 1 to 700.

b. Using a computer random number generator program, the Central Audit Office selects 33 odd numbers from 1 to 700 (plus or minus, depending on the number of pages). Again, using the computer, The Central Audit Office selects one random number between 1 and 94 and choses the proprietor for that number from each group. For example, if the number generated is 18, the 18th name is selected in each group of 94 names. This yields the names of 33 proprietors' to audit. If any of the 51 names drawn was selected previously for audit in Strata No. 1 due to acreage holdings, such proprietors are to be deleted from this Strata No. 2 sample, with a new name randomly drawn from the same group of 94 as a replacement for each such case.

Keywords

c. Using the Special Proprietor List M06 Report, the Central Audit Office identifies the administrative State in which the proprietor has the greatest number of leases. If the proprietor has an interest in 24 or fewer leases [246,080 (maximum allowable acreage) = 245,760 acres divided by 10,240 (maximum noncompetitive lease size) = 24 (nearest whole number)] in any administrative State, the audit is complete and stops at this phase. If the proprietor has an interest in more than 24 leases, the Central Audit Office runs a Acreage Figures by Proprietor M07 Report by proprietor name.

d. The selection criteria for the Acreage Figures by Proprietor M07 Report in Step IVA5c, above, are the following:

AUDIT SELECTION CRITERIA

(1) Administrative State: A report for the administrative State in which the proprietor has an interest in more than 24 leases is run by the Central Audit Office. The Central Audit Office then determines the geographic State in which the proprietor has the greatest number of leases.

(2) Geographic State: The Central Audit Office then runs a report for each geographic State in which the proprietor has more than 24 leases and more than 500,000 acres of PD or ACQ minerals under lease in the administrative State selected.

(3) Disposition code selected is "5" (Authorized Cases).

(4) Case group/case type selected is "31" (Oil and Gas).

(5) Proprietor: The Central Audit Office examines the various name entries found in the Special Proprietor List M06 Report for the name selected.

NOTE: The beginning of the name entry that is common to all or most of the name entries for that proprietor is entered, e.g., if ABC CORP. is listed as ABC CO., ABC INC., ABC PROD. CO., and ABC OIL, enter only ABC.

Keywords

(6) Name Category: Select all. If this report shows that the proprietor may have chargeable acreage of 200,000 or more acres in a geographic State (PD and ACQ minerals separately), the proprietor is required to be subjected to a full audit.

e. If the chargeable acreage is less than 200,000, the proprietor's name is to be researched using the Standard and Poor's, Dun & Bradstreet, etc., publications indicated in Step IVA4f, above, to identify affiliated entities. An Acreage Figures by Proprietor M07 Report is run by the Central Audit Office for each affiliate in the State for which the proprietor is being audited. If the sum of the total acreage held by the proprietor and all related entities is less than 200,000, the audit for that proprietor stops at this phase.

If the sum of the chargeable acreage (PD and ACQ minerals separately) for the proprietor and its affiliates is 200,000 or more acres, a full audit on the proprietor is required to be conducted.

f. A serialized case file is established by the Wyoming State Office for each selected entity (proprietor) to whom a Notice of Audit is sent (see Illustration 5). A listing of all proprietors sampled is maintained by geographic State and sample data.

CASE FILE ESTABLISHED BY WYOMING STATE OFFICE

ALMRS Entry - (1) Case Type 310220 - O&G LESSEE QUAL FILE

AUTOMATED NOTATION

(2) Enter Action Date: Date Case Established and Serialized by Central Audit Office in Wyoming State Office; DE 2960 Action Code 001/DE 2910 Action Code 387; Action Remarks: Optional.

NOTE: All the above steps (Steps IVA1 through IVA5) are to be initiated and completed during the first quarter of every calendar year.

6. Proprietor Submissions

Keywords

NOTICE OF AUDIT

To ensure compliance with 43 CFR 3101.2, all sampled proprietors which appear to have interests in oil and gas leases in excess of 200,000 acres of PD and ACQ minerals separately, in any single State in the lower 48 States, automatically are to be audited. Those proprietors who are audited due to their acreage holdings will be requested by the Central Audit Office, pursuant to 43 CFR 3102.5, to provide the following in response to a Notice of Audit (see Illustration 5).

PROPRIETOR DOCUMENTS SUBMITTED

a. An itemized list of all holdings in Federal oil and gas leases for the specific geographic State, including operating rights and options (but not overriding royalty interests).

b. Information as to whether leases are included in unit or cooperative plans, or are subject to an operating, drilling, or development contract approved by the authorized officer (see Illustration 6).

NOTE: When a lease overlaps the unit boundaries and part is in and part is outside of the unit, due to contraction of the unit, when the audit information is submitted, the lease serial number should be shown twice, listing the acreage which is inside the unit boundary and the acreage which is outside. The acreage in the unit is not chargeable.

c. The data requested from the subject proprietor is required to be current as of the date that the Acreage Figures by Proprietor M07 Report is run by the Central Audit Office.

d. Documentation verifying qualifications with respect to alien interests (when appropriate).

e. Submission of the requested information to the BLM Wyoming State Office within 60 days, with an extension of an additional 30 days granted if the proprietor makes such a request prior to the termination of the 60-day period.

AUTOMATED NOTATION

ALMRS Entry - Enter Action Date: Date Acreage Audit Information is Requested from Proprietor; DE 2960 Action Code 112/DE 2910 104; Action Remarks: AC Int State).

7. Notification to State Office of Audit

Keywords

At the same time the notice of audit is sent to the proprietor, the Central Audit Office notifies the appropriate State Office that an audit is being initiated (see Illustration 7).

STATE OFFICE NOTIFIED OF PROPRIETOR AUDIT

8. Central Audit Office Review

a. Upon receipt of the requested documentation from the proprietor, the Central Audit Office reviews the lease interests indicated by the proprietor, including that of all other related entities, to determine if additional information is required. When all relevant information is received, the Central Audit Office compares the gross acreages submitted by the subject proprietor with those identified on the Acreage Report M07. This review and comparison is to be completed within 30 days of receipt of the information from the proprietor.

COMPARISON OF PROPRIETOR DATA SUBMITTED WITH ALMRS M07 REPORT

ALMRS Entry - Enter Action Date: Date Information Received from Proprietor in Central Audit Office; DE 2960 Action Code 113/DE 2910 Action Code 103; Action Remarks: AC Int.

AUTOMATED NOTATION

b. If the review of the gross acreages provided by the proprietor indicates that the entity is likely to be in compliance with acreage limitations, the information is forwarded to the appropriate State Office so that its records and the Case Recordation System can be reconciled with the data submitted by the proprietor (see Illustration 8).

DATA FROM PROPRIETOR SENT TO STATE OFFICE TO RECONCILE RECORDS

ALMRS Entry - Enter Action Date: Date Report Requested from State Office by Central Audit Office; DE 2960 Action Code 152/DE 2910 Action Code 910; Action Remarks: Compliance Likely.

AUTOMATED NOTATION

c. The proprietor is informed by the Central Audit Office of the preliminary results of the audit, and that the appropriate State Office may contact it to reconcile records (see Illustration 9).

NOTIFY PROPRIETOR OF PRELIMINARY RESULTS

NOTE: Except where the reconciliation by the State Office indicates significant problems with the information submitted, to the extent that an audit may be justified, this step will end the review by the Central Audit Office.

Keywords

d. If the review of the gross acreages provided by the proprietor indicates a likely violation of the acreage limitations, the data is forwarded to the appropriate State Office for audit, including the reconciliation and determination of chargeable acreage. The appropriate State Office must contact the subject proprietor for any additional information relating to reconciliation of data or divestiture of acreage. When the audit is complete, the appropriate State Office must inform the Central Audit Office (see Illustration 10). For procedures for divestiture of excess acreage, see H-3101-1.

DATA FROM PROPRIETOR FORWARDED FOR STATE OFFICE AUDIT

ALMRS Entry - Enter Action Date: Date Report Requested from State Office by Central Audit Office; DE 2960 Action Code 152/DE 2910 Action Code 910; Action Remarks: Compliance Violation Likely.

AUTOMATED NOTATION

9. State Office Adjudicative Action

a. The Central Audit Office forwards the data received from the subject proprietor to the appropriate State Office for either reconciliation or audit. Such reconciliation or audit must be completed by not later than the end of the third quarter of each calendar year.

b. If the file is forwarded for reconciliation purposes only, the appropriate State Office has the discretion to conduct a lease-by-lease comparison of the data submitted by the subject proprietor against that contained in the Acreage Figures by Proprietor M07 Report. Only data for which the BLM maintains accurate case file documentation will be verified and corrected in the Case Recordation System. If questions arise during the reconciliation process, the State Office is to directly contact the subject proprietor as necessary. The proprietor will already have been informed by the Central Audit Office that an initial review of data indicates compliance with acreage limitations. Therefore, further communication relating to that topic is not necessary from the State Office unless a large discrepancy between the proprietor data and State Office records is discovered.

RECONCILIATION COMPARISON OF DATA BY STATE OFFICE

Keywords

c. Upon completion of the State Office reconciliation of records and the Case Recordation System, the State Office is to notify the Central Audit Office that the review is completed (see Illustration 10).

ALMRS Entry - Enter Action Date: Date Report is Received from State Office that Compliance Review is Completed; DE 2960 Action Code 153/DE 2910 Action Code 911; Action Remarks: In compliance or not in compliance. — AUTOMATED NOTATION

NOTE: If in compliance - Enter Action Date: Date Case Closed Upon State Office Report Indicating Compliance Met; DE 2960 Action Code 967/DE 2910 Action Code 967; Action Remarks: Optional.

d. In the event that State Office reconciliation finds a discrepancy that indicates violations of acreage limitations, the State Office is to inform the Central Audit Office that the State Office will conduct an audit. The audit is to be conducted as described in Step IVA9e, below. — REQUEST BY STATE OFFICE FOR AUDIT

e. When a possible violation of the acreage limitations is indicated in the Central Audit Office review of the data submitted by the proprietor and all related entities, the data from the Central Audit Office is forwarded to the State Office for an audit. The audit by the State Office initially involves verification of approximate chargeable acreages. Record title interests, options, and operating rights are to be verified. Overriding royalty interests and pending lease offers or competitive bids are not chargeable against acreage limits. Verification means comparison of the proprietor-submitted records with data contained in the case files and/or the Case Recordation System, although abstracting by the State Office may be appropriate in certain specific cases (except no abstracting of operating rights transfers should be made). Also, verification does not imply reconciliation of very minor variances in reported data (either from the proprietor or the Central Audit Office), unless it is likely to materially affect compliance with the regulations and the MLA. Verification by the State Office is to be made by the following procedures: — AUDIT - VERIFICATION AND RECONCILIATION BY STATE OFFICE

Keywords

(1) The lease serial numbers submitted by the proprietor are compared against the Acreage Figures by Proprietor M07 Report. Case abstracts of the serial numbers on the M07 Report that are not on the proprietor submission are to be run from the Case Recordation System. If the proprietor does not have a present interest in the lease, the chargeable acreage is to be subtracted from the M07 Report total. Check the case file of any lease serial number on the proprietor submission that is not on the M07 Report. If necessary, correct the Case Recordation System by adding the acreage to the M07 Report acreage total.

(2) The audit stops at this phase if the proprietor-submitted acreage total and the M07 Report's adjusted acreage total both are less than 246,080 acres (including all related entities' acreages).

(3) Upon completion of the State Office audit of records and the Case Recordation System, the State Office is to notify the Central Audit Office that the audit is completed (see Illustration 10).

(4) If the M07 Report's adjusted acreage is more than 246,080 acres, the case files of those leases with the largest acreage discrepancies between the M07 Report and the proprietor's submission are to be reviewed, with corrections made to the Case Recordation System as necessary. In accordance with 43 CFR 3101.2-3, leases committed to any unit or cooperative plan, other than communitization agreements, and leases subject to an operating, drilling, or development contract are not included in computing chargeable acreage. After any such subtractions, if the M07 Report's adjusted acreage is decreased below 246,080 acres, the audit stops at this phase.

(5) Upon completion of the State Office audit of records and the Case Recordation System, the State Office is to notify the Central Audit Office that the audit is completed (see Illustration 10).

Keywords

ALMRS Entry - Enter Action Date: Date Report is Received from State Office that Audit is Completed; DE 2960 Action Code 153/DE 2910 Action Code 911; Action Remarks: In compliance or not in compliance. — AUTOMATED NOTATION

NOTE: If in compliance - Enter Action Date: Date Case Closed Upon State Office Report Indicating Compliance Met; DE 2960 Action Code 967/DE 2910 Action Code 967; Action Remarks: Optional.

(6) If significant discrepancies in the data cannot be reconciled, the State Office is to contact the proprietor to resolve the problem as necessary.

NOTE: Normally it will not be necessary to reconcile data, such as options or operating rights, which are not maintained precisely in the Case Recordation System.

(7) If the audit reveals that a proprietor is exceeding the acreage limitations, the State Office is to initiate action to require divestiture to bring the proprietor into compliance (see H-3101-1). Initiation of this action by the State Office is to be made not later than by the end of October each year. — DIVESTITURE

(8) Upon conclusion of the audit, the State Office must inform the Central Audit Office of the results and of the efforts underway or completed which would bring a violator into compliance with the MLA (see Illustration 11). This State Office report is to be completed by the end of November each year. — NOTIFICATION OF AUDIT RESULTS TO CENTRAL AUDIT OFFICE

10. Central Audit Office Adjudicative Action

ALMRS Entry - (1) Enter Action Date: Date Compliance Report Initiated by State Office for Proprietor to Divest Excess Acreage; DE 2960 Action Code 120/DE 2910 Action Code 040; Action Remarks: Optional. — AUTOMATED NOTATION

Keywords

(2) Enter Action Date: Date Report is Received from State Office that Proprietor Completed Compliance Requirements; DE 2960 Action Code 121/DE 2910 Action Code 041; Action Remarks: Optional.

NOTE: When Proprietor in Compliance - Enter Action Date: Date Case Closed When State Office Reports Compliance Met; DE 2960 Action Code 967/DE 2910 Action Code 967; Action Remarks: Optional.

11. Annual Report to Washington Office

a. The Central Audit Office is to prepare an annual summary report on all audit and reconciliation activities conducted by the State Offices each year. This report is to be transmitted to the Washington Office (620) by not later than the end of each December.

ANNUAL AUDIT REPORT TO WASHINGTON OFFICE

b. A copy of each notice and memorandum prepared by the Central Audit Office and each State Office concerning the acreage reconciliation and audit for each entity selected also must be provided to Washington Office (620) in order to monitor the activities and progress of the Oil and Gas Lessee Qualifications Audit System.

COPIES OF NOTICES AND MEMORANDUMS PROVIDED TO WASHINGTON OFFICE

c. A final report concerning the annual activities of the Qualifications Audit System is to be prepared by Washington Office (620), with transmittal to the Assistant Director, Energy and Mineral Resources not later than January each year.

FINAL REPORT TO ASSISTANT DIRECTOR ANNUALLY

B. Qualifications Audit of Federal Coal Lessees and Related Entities

Keywords

1. General

Annual audits have been conducted beginning with calendar year 1988 to ascertain whether certain holders of Federal coal leases and related entities are in compliance with the provisions of Section 2(a)(2)(A) of the MLA (see Section IB10, above). These audits are conducted solely by the Central Audit Office.

ANNUAL AUDITS OF COAL LESSEES

Section 2(a)(2)(A) of the MLA requires that any entity that holds and has held a Federal coal lease for 10 years beginning on or after August 4, 1976, and who is not producing coal in commercial quantities from each such lease, cannot qualify for the issuance of any other mineral lease granted under the MLA. This deadline was extended to December 31, 1986, by the Department of the Interior Appropriations Act for Fiscal Year 1986.

By a Federal Register notice published on December 19, 1986 (51 FR 45559), the public was advised that the Bureau-approved oil and gas lease Form 3100-11 has been modified so that prospective oil and gas lessees now certify by signature that they are in compliance with the qualifications requirement of Section 2(a)(2)(A) of the MLA.

Keywords

2. Audit Procedures for Section 2(a)(2)(A)

The following methodology is used in conducting the annual audits of self-certification to determine if oil and gas leases were acquired in violation of Section 2(a)(2)(A) of the MLA. As the prohibition was effective beginning on December 31, 1986, the first audit, as initiated in January 1988, covered the preceding calendar year. Annual audits are conducted by the Wyoming State Office Central Audit Office in January of each year for leases acquired by entities in the previous year.

LIST OF POTENTIALLY PROHIBITED ENTITIES - MLA SECTION 2(a)(2)(A)

a. The initial identification of firms and related entities potentially prohibited from holding other Federal mineral leases is prepared by the Washington Office using an auxiliary file to the Solid Leasing Minerals System (SLMS). This file contains the current total number of coal lessees and coal leases which are estimated to have the greatest potential of violating Section 2(a)(2)(A) of the MLA. The Washington Office updates this file on a monthly basis with information submitted by the Bureau Field Offices. The type of information submitted includes whether the subject leases: (1) went into qualifying production; (2) were included in a Logical Mining Unit (LMU) or have such applications pending; (3) were relinquished or have such requests pending; or (4) were involved in an arms-length transaction or have such applications pending. Leases/lessees which fall into any one or more of these categories are not subject to the prohibitions and are removed from the file.

b. The Central Audit Office takes a 5 percent random sample of the firms which have appeared during the previous year on the list described in Step IVB2a, above.

c. With the 5 percent sample taken in Step IVB2b, above, the Central Audit Office identifies the subsidiaries, affiliates, and other related entities of those firms not qualified to be issued leases pursuant to Section 2(a)(2)(A) of the MLA. Identification of the firms and all related entities is done using the source materials identified in Step IVA2, above, and the Keystone Coal Industry Manual (McGraw-Hill Publications). Each identified coal company is estimated to have approximately 4 to 5 subsidiaries, affiliates, or other related entities.

Keywords

d. The Central Audit Office verifies whether any of the firms identified in Step IVB2c, above, actually hold or have held oil and gas leases. This involves a manual check of each company against the Special Proprietor List M06 Report. — CENTRAL AUDIT OFFICE VERIFICATION

e. An Acreage Figures by Proprietor M07 Report is run for each of the prohibited companies in each State in which it has acquired an interest in oil and gas leases during the previous year. This report lists the proprietors' names and the serial numbers of those leases held, but does not differentiate whether the lease interests were acquired through record title or operating rights transfers. A second Case Recordation Report, either the Multiple Serial Register Page S03 Report or the Case Listing S04 Report, is run for those leases in which the company has a record title interest. This report displays the date the lease was issued and whether it was acquired directly or through a lease transfer. This step is necessary because Federal oil and gas leases interests acquired by transfer are not in violation and will not have to be audited. Those leases directly acquired are to be reviewed to see if any were obtained after the effective date of the prohibitions, i.e., January 1, 1987. If the case abstract indicates that the proprietor being audited directly acquired the lease on or after January 1, 1987, the Central Audit Office must forward the information to the appropriate State Office for adjudicative action.

f. The appropriate State Office is to audit any leases identified in Step IVB2e, above, to decide if a company was in violation of Section 2(a)(2)(A) of the MLA at the time the subject lease was acquired. This State Office audit must be completed promptly. The company is to be requested to submit information relating to the status of such a lease. Upon receipt, this information is to be used in conjunction with BLM records to determine if a violation has occurred. — STATE OFFICE AUDIT

g. If a violation occurred, the appropriate State Office must initiate cancellation action for each subject lease. — CANCELLATION ACTION

H-3102-1 - QUALIFICATIONS OF LESSEES

Format for Notice Returning Unsolicited Qualifications Documents

IN REPLY REFER TO

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

3102 (Office Code)

NOTICE

The material you recently submitted to this office related to oil and gas lessee qualifications is enclosed. The Bureau no longer routinely maintains or requires such information since this is no longer a Federal onshore oil and gas leasing regulatory requirement. Therefore, it is being returned. The material has not been reviewed and no determination of your firm's qualifications to hold interest in Federal oil and gas leases has been made.

Submission to the Bureau of any oil and gas competitive bid, noncompetitive lease offer, assignment record title, or transfer of operating rights (sublease) constitutes a representation that the bidder, offeror, assignee, transferee, or other party-in-interest is qualified to hold the lease interest and is in compliance with the acreage limitations. Should any question of qualifications arise, the Bureau has the authority to require additional information, in accordance with 43 CFR 3102.5, either before or after approval of an competitive bid offer, noncompetitive lease offer, assignment, or transfer.

Authorized Officer

Enclosure

Distribution:

INTERIM GUIDANCE (EXPIRES 09/30/92)

H-3102-1 - QUALIFICATIONS OF LESSEES

Current Leasing Procedures with Regard to Nations Reviewed for Reciprocity

Those nations thus far reviewed by the Department of the Interior under the procedures as set forth in 47 FR 27622 (June 25, 1982) are:

1. Canada - Decision issued February 2, 1982
   (no Federal Register notice issued)
2. Sweden - (47 FR 45091, October 13, 1982)
3. Cyprus - (47 FR 45091, October 13, 1982)
4. Finland - (49 FR 29849, July 24, 1984)
5. Kuwait - (48 FR 16348, April 15, 1983)
   (49 FR 50310, December 27, 1984)
   (50 FR 11249, March 20, 1985)

The above listed nations have been determined by the Department not to deny similar or like privileges to citizens or corporations of the United States within the meaning of the MLA, Section 1 (30 U.S.C. 181).

Initially, however, the laws, customs, and regulations of Kuwait were determined by the Secretary to deny United States citizens or corporations privileges that are like or similar to the privileges that the United States accords foreign citizens under the MLA. In a decision issued on March 10, 1983, the Secretary concluded that the policy followed by the Government of Kuwait when it nationalized its petroleum industry in the 1970's resulted in de facto discrimination against citizens and corporations of the United States This discrimination occurred when Kuwait nationalized two petroleum concessions owned in whole or part by United States corporations, but allowed a Japanese company to retain an interest in an offshore concession. The Secretary made no finding of intentional discrimination, stating at page 8 of the March 10 decision:

> Section 1 does not require a showing that such "similar or like privileges" may be purposefully abridged. Rather, effective discrimination only is sufficient to lead to the conclusion that a country is nonreciprocal.

In light of this decision, it became the Department's policy that citizens of Kuwait generally may not, through stock ownership, stockholding, or stock control, own interests in "petroleum" leases and permits (including oil and gas leases, combined hydrocarbon leases, gilsonite permits and leases, and oil or gas pipeline right-of-way permits) issued pursuant to the MLA or the Mineral Leasing Act for Acquired Lands.

H-3102-1 - QUALIFICATIONS OF LESSEES

On July 2, 1984, a decision was issued by the United States District Court for the District of Delaware in Santa Fe International et al. v. Watt, 591 F. Supp. 929 (D. Del. 1984), in which Santa Fe International Corporation, a United States corporation wholly owned by Kuwait Petroleum Corporation (KPC), two of its subsidiaries, and KPC (United States Holdings) Inc. challenged the Secretary's March 10, 1983, determination that Kuwait was a nonreciprocal nation. According to the court, the Secretary lacked a proper basis for his decision since the MLA allows disqualification of a foreign nation only if that country discriminates against United States citizens because of their citizenship. The court remanded the matter to the Department for a determination of whether Kuwait treated United States citizens or corporations differently than citizens or corporations of other nations.

In response to the remand, the Department requested public comment on the issue of intent by Kuwait to discriminate against United States citizens and corporations based on their nationality, 49 FR 50310 (December 27, 1984).

On February 7, 1985, the Secretary signed a decision on the status of Kuwait stating:

> The record reflects that Kuwait did in fact have legitimate and objective business reasons for allowing the Japanese company retention of its interest while nationalizing those concessions with interests owned by United States corporations. There is no evidence of a nationalization policy directed at United States citizens and corporations because they were American. Consistent with the court's decision, the March 10, 1983, determination that the laws, customs or regulations of Kuwait deny similar or like privileges to United States citizens and corporations within the meaning of section 1 of the Act must be, and it hereby is reversed.
>
> . . . .
>
> Therefore, citizens and corporations of Kuwait may, through stock ownership, stock holding or stock control, own interests in Federal mineral leases issued under that Act.

H-3102-1 - QUALIFICATIONS OF LESSEES

Format for Notice Acknowledging Receipt of Power of Attorney

Unrelated to a Specific Oil and Gas Lease Action

IN REPLY REFER TO

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

3102 (Office Code)

NOTICE

This office recently received a power of attorney relating to Federal oil and gas holdings your firm may obtain in the future, requesting our review with respect to its being in proper form to meet Bureau of Land Management Federal onshore oil and gas leasing regulatory requirements.

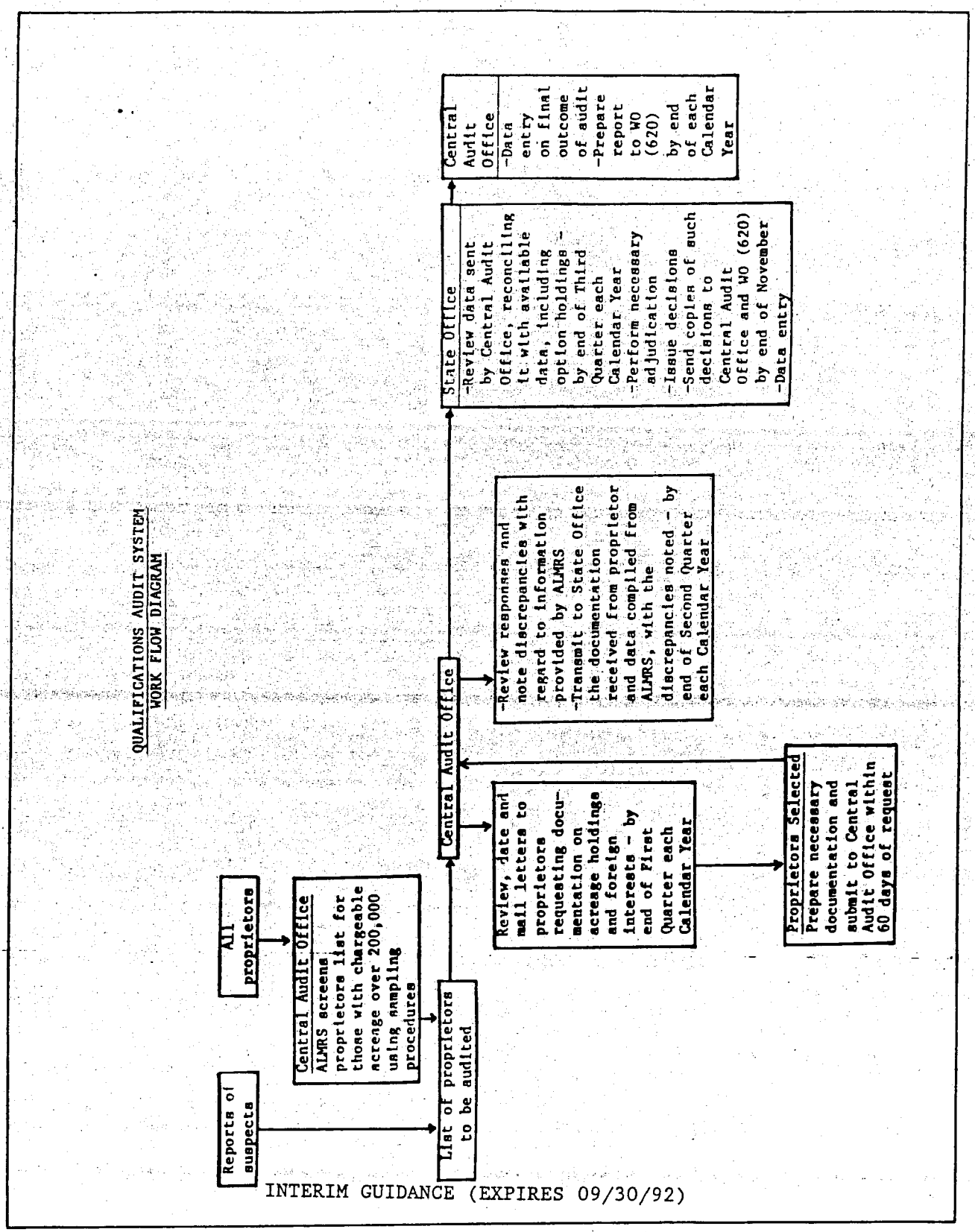
This notice serves to acknowledge receipt of the power of attorney. However, we will not review the materials submitted until such time as a submission of a specific competitive bid, noncompetitive lease offer, assignment of record title, transfer of operating rights (sublease), or a request for approval of an assignment or transfer is received for processing that may necessitate our reference to the power of attorney.

Authorized Officer

INTERIM GUIDANCE (EXPIRES 09/30/92)

H-3102-1 - QUALIFICATIONS OF LESSEES

Qualifications Audit System Work Flow Diagram



H-3102-1 - QUALIFICATIONS OF LESSEES

Format for Notice of Audit Sent by Wyoming State Office to Selected Proprietor Requesting Submission of Lease Interest Holdings

IN REPLY REFER TO

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

3102 (Office Code)

*CERTIFIED MAIL—RETURN RECEIPT REQUESTED

NOTICE

Oil and Gas Lease Acreage Qualifications Audit

A Federal Register notice published on May 30, 1986 50 FR 23080) informed the public that the Bureau of Land Management's (BLM) Qualifications Audit System for oil and gas leasing is operational. The BLM has eliminated the regulatory requirement that documents relating to acreage chargeability be routinely submitted (47 FR 8544). In lieu of submitting such documents, selective audits will be performed to verify a company's compliance with the oil and gas lease acreage limitations imposed by Sec. 1 of Mineral Leasing Act of 1920 (30 U.S.C. 181, et seq.) and the Federal Code of Regulations, 43 CFR 3101.2. In accordance with 43 CFR 3101.2-1(a), there is an acreage limitation of 246,080 acre per entity per geographic State. This limitation is separately applicable for public domain and acquired lands mineral acreage holdings in any one State.

(Name of proprietor) has been selected for an audit of acreage holdings as of (Date), in the State of (Name). In accordance with 43 CFR 3101.2-6, please submit to the Wyoming State Office at the above address the following information, in the format shown on Attachment 1, current as of (Date):

1. A list of all affiliates, subsidiaries, and other related entities of (Proprietor name), with the interest relationship to (Proprietor name) and the percentage of ownership or interest in each. The "interest relationship" refers to whether you own, or are owned by, the proprietors, affiliates, subsidiaries, or other entities. The listing must include present ownership as well as future options to acquire, and is only for proprietors, affiliates, or subsidiaries holding acreage in the State of (Name).

2. For your company and for each of the entities in number 1 above, a list of interests in leases, as defined in 43 CFR 3000.0-5(1), that your company, its affiliates, subsidiaries, or other related entities hold in the State of (Name).

INTERIM GUIDANCE (EXPIRES 09/30/92)

Interests include, but are not limited to, record title interests, operating rights, options, or any agreement covering such interests. The listing must include the lease serial number, acreage, and percentage of ownership or interest held in every lease. Since public domain and acquired lands mineral lease holdings are computed separately, list those acreages separately. Also indicate leases that are committed to a unit agreement and leases subject to operating, drilling, or development contracts, (other than communitization agreements), since this acreage will not be charged, as stated in 43 CFR 3101.2-3.

You have 60 days from receipt of this notice in which to furnish the requested information. Even though you may take the full 60 days to submit information, for administrative purposes, we request that you submit the above-described information within 10 days of your compilation. You must advise this office, prior to the expiration of the 60 days, if you are unable to submit the data. We will then consider your request for an extension of time.

The relevant regulations are enclosed for your information. A party owning an undivided interest in a lease is charged only the proportionate share of the total lease acreage. (Example: Two lessees hold a 50-50 interest in a 640-acre lease. Each is calculated to hold only 320 acres for computation purposes.)

If you have any questions concerning this audit, contact (Name) at the Wyoming State Office, (Telephone).

Authorized Officer

Enclosures:
1 - 3100 regulations
2 - Attachment 1

cc:
Appropriate State Office
Washington Office (620)

INTERIM GUIDANCE (EXPIRES 09/30/92)

H-3102-1 - QUALIFICATIONS OF LESSEES

Example Format of the Acreage Audit Table

EXAMPLE ACREAGE AUDIT TABLE

	A	B	C	D	E	F	G
1	COMPANY	RELATIONSHIP		COMPANY	INTEREST		
2	ABC Oil	Subject		100%			
3							
4	LEASE	SERIAL	ACREAGE	ACREAGE	INTEREST	INTEREST	CHARGEABLE
5	TYPE	NUMBER	UNIT	NOT UNIT	TYPE	PERCENT	ACREAGE
6	PD	W-87770	0.00	640.00	Record	100%	640.00
7	PD	W-078845	320.00	0.00	Record	100%	0.00
8	PD	W-56622	0.00	1456.00	Record	50%	728.00
9	PD	W-56622	0.00	1456.00	Oper	35%	0.00
10	PD	W-56676	0.00	40.00	Option Record	25%	10.00
11	PD	W-90352	0.00	1240.00	Oper	100%	1240.00
12	PD	W-100737	320.00	320.00	Record	100%	320.00
13							
14	Total PD		640.00	5152.00			2938.00
15							
16	Acq.	W-7575	0.00	5689.23	Oper	5%	284.46
17		W-89344	1280.00	0.00	Record	70%	0.00
18							
19	Total Acq.		1280.00	5689.23			284.46
20							
21							
22	COMPANY	RELATIONSHIP		COMPANY	INTEREST		
23	DEF Oil	Subsidiary		45%			
24							
25	LEASE	SERIAL	ACREAGE	ACREAGE	INTEREST	INTEREST	CHARGEABLE
26	TYPE	NUMBER	UNIT	NOT UNIT	TYPE	PERCENT	ACREAGE
27	PD	W-87771	0.00	640.00	Record	100%	288.00
28	PD	W-076845	320.00	0.00	Record	100%	0.00
29	PD	W-46622	0.00	1456.00	Record	50%	327.60
30	PD	W-56768	40.00	0.00	Oper	25%	0.00
31	PD	W-91352	0.00	1240.00	Option Oper	100%	558.00
32							
33	Total PD		360.00	3336.00			1173.60
34							
35	Acq.	W-7575		5689.23	Oper	5%	128.01
36		W-89344		1280.00	Record	70%	403.20
37							
38	Total Acq.		0.00	6969.23			531.21
39							

ATTACHMENT 1-1

INTERIM GUIDANCE (EXPIRES 09/30/92)

EXPLANATION for EXAMPLE ACREAGE AUDIT TABLE

COMPANY: A1
In A2, put the name of the company whose leases are being listed in the block below

RELATIONSHIP: B1
This is the SUBJECT or the relationship of the COMPANY to the SUBJECT of the audit. Terms here would be proprietor, subsidiary, or subject.

COMPANY INTEREST: D1
The percentage of the COMPANY which is attributable to the SUBJECT of the audit.

LEASE TYPE: A5
Public Domain (PD) or Acquired Lands (Acq).

SERIAL NUMBER: B5
The Federal serial number of the lease.

ACREAGE UNIT: C5
If any or all of the acreage in the lease is included within an approved unit agreement, list that acreage in the lease in this column. See for example Row 12 in the Table

ACREAGE NOT UNIT: D5
For leases not within a unit, list the entire acreage here.

INTEREST TYPE: E5
Designate here the nature of the interest of the COMPANY in the lease. Terms should be record title or operating rights (includes working interests), and options or agreements for them. Other interests are not chargeable. If more than one INTEREST TYPE is owned, specify each on a separate line.

INTEREST PERCENT:F5
The percentage of the INTEREST TYPE in the lease. If more than one INTEREST TYPE exists for the same acreage in the same lease, all INTEREST TYPES should be reflected, but carry over to Column G only the interest which is greatest. See for example Rows 8 and 9 in the Table.

CHARGEABLE ACREAGE: G5
Product of COMPANY INTEREST (D1), ACREAGE NOT UNIT(D5), and INTEREST PERCENT (F5). Unit acreage, COLUMN C, is not chargeable.

ATTACHMENT 1-2

H-3102-1 - QUALIFICATIONS OF LESSEES

Format for Memorandum to State Office Advising of Initiation of Qualifications Audit of Selected Proprietor

IN REPLY REFER TO

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
3102 (Office Code)

Memorandum

To: Chief, Minerals Adjudication (Code), (Name State Office)

From: Supervisory Land Law Examiner, Wyoming State Office

Subject: Oil and Gas Lessee Qualifications Audit

As stated in the enclosed notice, (Name of proprietor) has been selected for a qualifications audit in (State).

Guidance concerning the Oil and Gas Qualifications Audit System is found in H-3102-1. When (Name of proprietor) has submitted the required documentation, this office will make a preliminary review of the data to determine whether the company is in apparent compliance with the acreage limitations imposed by 43 CFR 3102.2. All documents submitted and Case Recordation Report M07, Acreage Figures by Proprietor, will then be forwarded to you for processing in accordance with H-3102-1, Step IVA9.

If you have any questions concerning the Qualifications Audit System, please contact (Name) at (FTS Telephone number).

Authorized Officer

Attachments

Distribution:
Washington Office (620)

INTERIM GUIDANCE (EXPIRES 09/30/92)

H-3102-1 - QUALIFICATIONS OF LESSEES

Format for Memorandum to State Office Transmitting Reports

for Reconciliation

IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

3102 (Office Code)

Memorandum

To: Chief, Minerals Adjudication (Code), (Name State Office)

From: Supervisory Land Law Examiner, Wyoming State Office

Subject: Oil and Gas Lessee Qualifications Audit

Attached is the oil and gas acreage and interest holdings documentation submitted to this office by (Proprietor/company) in response to our (Date), notice (also attached).

This office has made a preliminary comparison of the data submitted and the corresponding ALMRS Report No. M07, Acreage Figures by Proprietor. We have evaluated subsidiary and proprietary interests as well as gross acreage and interest holdings for (Proprietor/company). This review shows (Proprietor/company) is in apparent compliance with the qualification requirements imposed by 43 CFR 3101.2 and 3102.5. Accordingly, you should conduct a lease-by-lease comparison of the respective data in order to reconcile any discrepancies concerning acreage and interests.

If, during the reconciliation process, it is revealed that (Proprietor/company) is exceeds the acreage limitation, you are required to conduct an audit. An audit involves reconciliation as well as vertification of chargeable acreages on a case-by-case basis. Where coordination between you and (Proprietor/company) fails to rectify discrepancies and bring (Proprietor/company) into compliance with the acreage limitations, you should initiate action toward divestiture.

(Proprietor/company) has been informed of our initial determination (see attached letters) and that your office will be conducting a lease-by-lease comparison of the respective data in order to reconcile any discrepancies concerning lease acreage or interests. They have also been told that you may be contacting them during the reconciliation process on questions concerning discrepancies.

If there are any questions concerning the Oil and Gas Lessee Qualifications Audit System, please call (Name) at (FTS Telephone number).

Authorized Officer

Attachments

Distribution:
Washington Office (620)

INTERIM GUIDANCE (EXPIRES 09/30/92)

H-3102-1 - QUALIFICATIONS OF LESSEES

Format for Letter to Proprietor Advising That Proprietor's Data Has Been Sent to State Office for Reconciliation

IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
3102 (Office Code)

Proprietor/company and Address

Dear _____:

On (Date), we received documentation of (Proprietor/company) oil and gas acreage/interest holdings in the State of (Name).

A preliminary comparison of your data and our record shows that (Proprietor/company) is in apparent compliance with the acreage limitations imposed by Code of Federal Regulations 43 CFR 3101.2. Your information and our records have been forwarded to the BLM (Name) State Office for a lease-by-lease review to reconcile any discrepancies between our respective data.

The (Name) State Office will contact you where questions arise during this reconcilation process.

Sincerely,

Authorized Officer

Distribution:
Washington Office (620)

H-3102-1 - QUALIFICATIONS OF LESSEES

Format for Memorandum from State Office to Central Audit Office

With Notification That Audit/Reconciliation is Completed

IN REPLY REFER TO

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

3102 (Office Code)

Memorandum

To: Supervisory Land Law Examiner, Wyoming State Office

From: Supervisory Land Law Examiner, (Name) State Office

Subject: Oil and Gas Lessee Qualifications Audit, (Proprietor/Company)

This office was required to perform a lease-by-lease comparison of acreage and holdings data provided by (Proprietor/company) and our BLM lease records. We have verified this data and have reconciled data inconsistencies and minor discrepancies in our Case Recordation System. We have determined that (Proprietor/company) holds (Number) acres in the State of (Name) and, thus, is within the acreage limitations and, therefore, is in compliance with the regulations. We completed this reconciliation/audit on (Date).

If you have further questions, please contact (Name), at (FTS Telephone number).

Distribution:
Washington Office (620)

INTERIM GUIDANCE (EXPIRES 09/30/92)

H-3102-1 - QUALIFICATIONS OF LESSEES

Format for Memorandum from State Office to Central Audit Office With Notification That Audit Indicates Proprietor Noncompliance With Acreage Limitations

IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

3102 (Office Code)

Memorandum

To: Supervisory Land Law Examiner, Wyoming State Office

From: Supervisory Land Law Examiner, (Name) State Office

Subject: Oil and Gas Lessee Qualifications Audit, (Proprietor/Company)

By memorandum dated (Date), you forwarded documentation of acreage holdings for (Proprietor/company) and related entities to this office for an audit.

We have completed this audit on a lease-by-lease basis and have determined that (Proprietor/company), together with its related entities, holds (Number) acres in the State of (Name), a total that is in excess of the acreage limitation for (Public domain/Acquired lands) minerals. This acreage figure includes record title and various interests of operating rights and acreage included in communitization agreements, as determined by checking the case files, but excludes acreage committed to units and held in development contracts. We have verified this data and have reconciled the data inconsistencies and minor discrepancies in our Case Recordation System.

We have determined that (Proprietor/company) is not in compliance with the acreage limitations. We have advised them by decision on this date that the excess acreage must be divested in accordance with 43 CFR 3101.2.

We will keep you advised of the status of this acreage divestiture action and will notify you when (Proprietor/company) is determined to be in compliance with the acreage limitation provisions established by the law.

Authorized Officer

Distribution:
Washington Office (620)

INTERIM GUIDANCE (EXPIRES 09/30/92)

H-3102-1 - QUALIFICATIONS OF LESSEES

Listing of ALMRS (Case Recordation) Data Element (DE) 2960 and 2910 Action Codes Applicable to H-3102-1 and Case Type 310220

DED 2960		DED 2910	
001	Apln Recd/Case Established*	387	Case Established*
008	Action Suspended*	127	Action Suspended*
112	Additional Information Rqstd*	104	Additional Information Rqstd
113	Additional Information Recd	103	Additional Information Recd
120	Compliance Exam/Report Requested/Initiated*	040	Compliance Exam/Report Requested/Initiated*
121	Compliance Exam/Rpt Completed	041	Compliance Exam/Rpt Completed
152	Report Requested*	910	Report Requested
153	Report Received	911	Report Received
230	Extension of Time Requested*	122	Extension of Time Requested
231	Extension of Time Granted*	203	Extension of Time Granted*
232	Extension of Time Denied	---	No comparable code
233	Extension of Time Terminated	951	Extension of Time Terminated
247	Future Action Suspense	247	Future Action Suspense
301	Notice of Noncompliance*	474	Compliance Failure Notice Issued
350	Qualification Approved/Accepted	254	Corp Qual Approved-Accepted
355	Records Noted	600	Records Noted
449	Total Acreage	497	Total Acreage
718	Decision Issued	393	Decision Issued
960	Case Sent To	042	Case Sent
961	Case Received/Returned	149	Case Received
967	Closed without action	967	Closed without action
970	Case Closed	970	Case Closed
974	Automated Record Verified	974	Automated Record Verified

* Pending Action Required

H-3102-1 - QUALIFICATIONS OF LESSEES

Index by Keywords

	Page
Additional Evidence Required by Authorized Officer	13
Affiliates Notified of Prohibition (Section 2(a)(2)(A) Provisions)	6
Aliens	4
ALMRS M06 Report	18
ALMRS M07 Report	18
ALMRS M14 Report	17
Annual Audit Report to Washington Office (Acreage Audit)	28
Annual Audits of Coal Lessees	29
Associations	2
Audit Sampling Strata No. 1	17
Audit Sampling Strata No. 2	19
Audit Selection Criteria (Strata No. 1)	17
Audit Selection Criteria (Strata No. 2)	20
Audit - Verification and Reconciliation by State Office	25
Automated Notation (Audit Case File Established - Strata No. 1)	18
Automated Notation (Audit Case File Established - Strata No. 2)	21
Automated Notation (Proprietor Information Received)	23
Automated Notation (Proprietor Information Requested)	22
Automated Notation (State Office Audit Report Completed)	27
Automated Notation (State Office Audit Report Requested)	24
Automated Notation (State Office Compliance/Divestiture Request)	27
Automated Notation (State Office Reconciliation Report Completed)	25
Automated Notation (State Office Reconciliation Report Requested)	23
Cancellation Action (Section 2(a)(2)(A) Violation)	5,31
Cancellation Action (Section 17(g) Violation)	7
Case File Established by Wyoming State Office	21
Case Recordation Information	15
Central Audit Office Verification (Section 2(a)(2)(A) Provisions)	31
Certification of Compliance	13
Chargeable Acreage	15
Citizens	2
Comparison of Proprietor Data Submitted with ALMRS M07 Report	23
Copies of Notices and Memorandums Provided to Washington Office	28
Corporations	3
Data from Proprietor Forwarded for State Office Audit	24
Data from Proprietor Sent to State Office to Reconcile Records	23
Dating of Signatures	11
Divestiture	27
Failure to Date Noncompetitive Offer	11
Final Report to Assistant Director Annually	28
Heirs and Devisees	3
Information from Private Publications	16
Interrelated Corporations	16
Joint Tenants	4
Lessee Qualifications	1
List of Potentially Prohibited Entities - MLA Section 2(a)(2)(A)	30

H-3102-1 - QUALIFICATIONS OF LESSEES

	Page
Master Limited Partnerships	4
Minors	3
MLA Section 2(a)(2)(A) Compliance	5
MLA Section 17(g) Reclamation Compliance	6
MLA Section 17(g) Violators List	6
Municipalities	3
Nonreciprocal Countries	16
Notice of Audit	22
Notification of Audit Results to Central Audit Office	27
Notify Proprietor of Preliminary Results	23
Power of Attorney	12
Proprietor Documents Submitted	22
Qualifications Audit System - Acreage Holdings	15
Random Audit Selection - Acreage Holdings	16
Random Sampling Conducted by Wyoming State Office	17
Reciprocal Countries List Eliminated	8
Reciprocal Status Review Procedures	8
Reconciliation Comparison of Data by State Office	24
Relationship to Signatory	10
Request by State Office for Audit	25
Request for Review for Reciprocity	8
Section 2(a)(2)(A) List Checked Prior to Lease Issuance	5
Section 2(a)(2)(A) Violators List	5
Section 17(g) Violators List Checked Prior to Lease Issuance	7
Signature in Ink Manually	9
Sole Proprietorships Not Allowed to Hold Leases	2
Stamped Signatures	9
State Office Audit (Section 2(a)(2)(A) Provisions)	31
State Office Notified of Proprietor Audit	23
Trusts	3
Who May Hold Lease Interests	2