

BLM Revisions to Oil Shale Commercial Leasing Regulations

May 2016

Background: BLM issued commercial oil shale leasing regulations on November 18, 2008; they became effective on January 18, 2009, despite opposition from Colorado's Governor and leaders in Congress. Conservation groups sued, and BLM agreed to issue revised final regulations by November 19, 2012. BLM missed that deadline, issuing revised draft regulations in March 2013. The final regulations are still pending.

Scope of proposed changes: BLM proposed three modest changes to the leasing regulations:

- **Environmental protections** – Require lessees to specify in their Plans of Development (POD) how they will:
 - Protect watersheds, groundwater, air quality, wildlife and other interests
 - Manage waste streamsImportantly, PODs are standard requirements; the revised regulations simply clarify the specific information a lessee needs to include in an oil shale POD.
- **BLM authority** – Reinforce BLM's statutory authority to deny commercial licenses to protect public resources. This provision aligns with current research leases that allow the BLM to deny a commercial development permit if development would cause "unacceptable environmental consequences."
- **Royalty rate** – Change the currently royalty rate. The draft rule provides the rate will be set by the BLM in the notice of sale. The BLM asked for comment on four options, including a minimum royalty rate of 12.5%, with Secretarial discretion to go higher.
 - 12.5% places oil shale on par with other fossil fuels developed on federal land, but below market rates for non-federal lands.
 - 2008 regulations – 5% for the first five years, then increases of 1% per year until the rate is 12.5%.

Federal research leases and regulatory exemptions: The only oil shale leases that have been issued are for oil shale research. Four companies abandoned their efforts, and AMSO and Enefit have a contractual right to operate under the 2008 leasing regulations, or other regulations the BLM may adopt. The only other company still pursuing oil shale research on federal land—Simple Oil—would be required to operate under the revised rules.

Sen. Bennet statement on release of draft leasing regulations: "Colorado enjoys an abundance of energy resources that, when developed responsibly, can help us diversify our energy portfolio. The Interior Department's finalized plan for oil shale marks a continued commitment to research and development of new technologies. Our state is well aware of what can happen if we rush into oil shale development. This plan will help ensure that any future commercial development of oil shale in Colorado will be done in a way that protects the environment and the surrounding communities. Any development of energy resources must consider the importance of our precious water resources, which are critical to farmers, ranchers, and our state's economy." <https://www.bennet.senate.gov/?p=release&id=1390>