



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

December 2022

BLM Recent Oil & Gas Instruction Memoranda





Agenda

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- Overview of each Instruction Memorandum (IM)
 - IM 2023-006 - Implementation of Section 50265 in the Inflation Reduction Act for Expressions of Interest for Oil and Gas Lease Sales
 - IM 2023-007 - Evaluating Competitive Oil and Gas Lease Sale Parcels for Future Lease Sales
 - IM 2023-008 - Impacts of the Inflation Reduction Act of 2022 (Pub. L. No. 117-169) to the Oil and Natural Gas Leasing Program
 - IM 2023-009 - Discretion to Grant Oil and Gas Lease Reinstatements
 - IM 2023-010 - Oil and Gas Leasing – Land Use Planning and Lease Parcel Reviews
 - IM 2023-011 - Approved Application for Permit to Drill Extensions
 - IM 2023-012 - Suspensions of Operations and/or Production
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Introductions



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See factsheet here -

https://www.blm.gov/sites/default/files/docs/2022-11/Fact%20Sheet_Oil%20and%20Gas%20Leasing%20Guidance_%2011.21.22.pdf



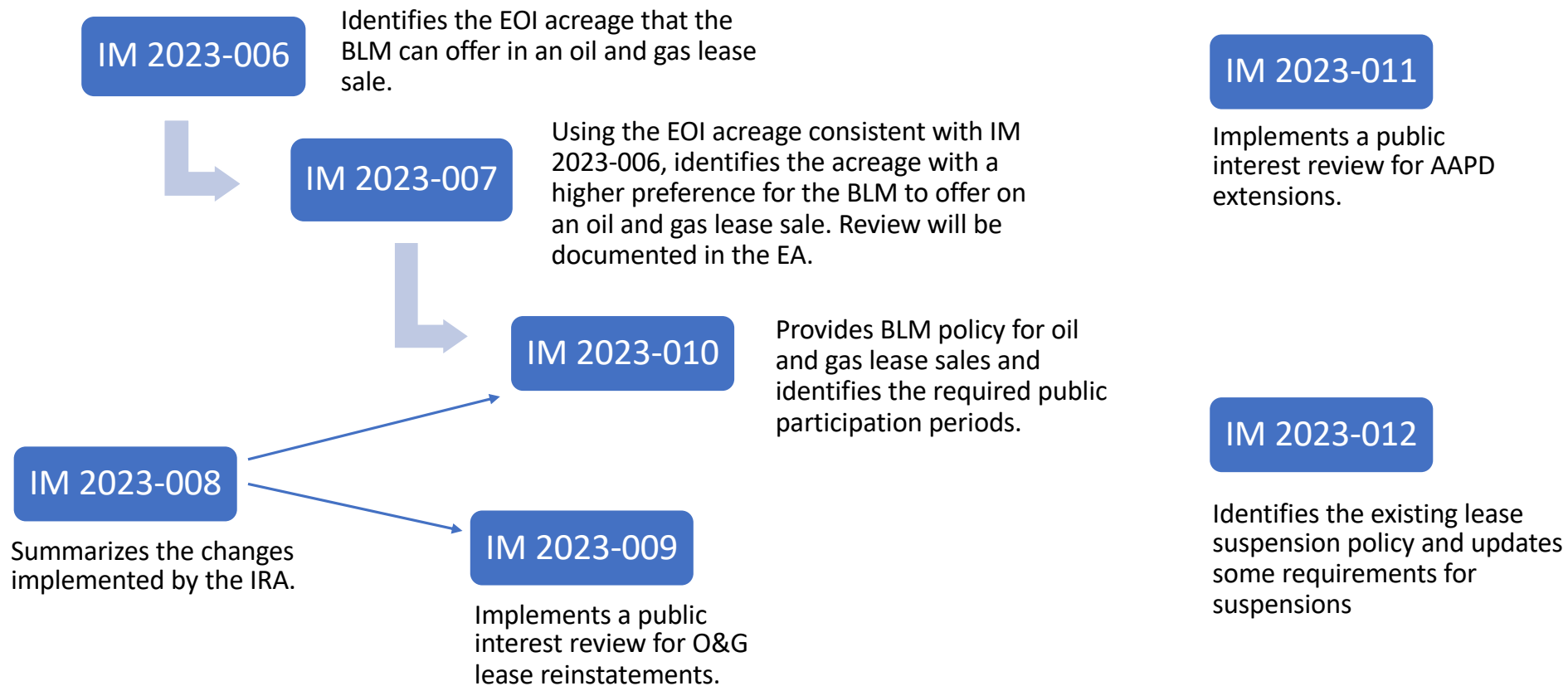
Issuance of Updated Oil and Gas Leasing Guidance

The BLM has issued updated guidance to its field professionals, through a series of Instruction Memoranda, that will enable consistent implementation of the [Inflation Reduction Act](#)'s changes to the agency's oil and gas programs.

In addition, the BLM issued guidance to address some of the findings from Department of Interior's November 2021 [Report on the Federal Oil and Gas Leasing Program](#).



Interaction of IMs





Inflation Reduction Act, Section 50265

(1) the Secretary may not issue a right-of-way for wind or solar energy development on Federal land unless--

(A) an onshore lease sale has been held during the 120-day period ending on the date of the issuance of the right-of-way for wind or solar energy development; and

(B) the sum total of acres offered for lease in onshore lease sales during the 1-year period ending on the date of the issuance of the right-of-way for wind or solar energy development is not less than the lesser of--

(i) 2,000,000 acres; and

(ii) 50 percent of the acreage for which expressions of interest have been submitted for lease sales during that period;



IM 2023-006 - Implementation of Section 50265 in the Inflation Reduction Act for Expressions of Interest for Oil and Gas Lease Sales

- Provides the formula to verify compliance:
(Number of acres offered in 1 year period) \geq (Numbers of EOI acres submitted in 1 year period) * 50%
 - Or... essentially dividing acres of submitted EOIs in half to make sure that number is less than or equal to the acres offered in sales for the previous year from date of ROW issuance
- Provides a timeframe for the calculation to ensure there is an accurate count of expressions of interest at the end of each quarter.
- The BLM will calculate the EOI acreage submitted by removing the acreage in EOIs that cannot be offered because they are in one of the following statuses:
 - Deferred by a court order;
 - Duplicate acreage that is already in an upcoming sale;
 - Acreage already leased;
 - Acreage that the BLM is unable to process or the BLM determines is unavailable;
 - Acreage withdrawn by the person who submitted the EOI.



The BLM will calculate the EOI acreage submitted by removing the acreage in submitted EOIs that are for lands that cannot be offered because they are in one of the following statuses:

- 1. Deferred** – Acreage that is affected by a court order that prevents the BLM from offering the acreage in a lease sale.
- 2. Duplicate** – Acreage that is duplicative of acreage already nominated for an upcoming lease sale.
- 3. Leased** – Acreage that is currently within an authorized lease.
- 4. Unable to Process or Unavailable** – Acreage that is either unable to be processed by the BLM or not subject to disposition for a specific reason, which includes, but is not limited to:
 - The acreage is covered by the Act of May 21, 1930, 30 U.S.C. 301-306 (i.e., the BLM must lease the lands under 43 CFR 3109)
 - BLM needs additional information about the acreage
 - The submitter did not pay all necessary money (i.e., missing filing fee)
 - The acreage is closed to leasing or not open to leasing
 - The FWS requires proof of drainage
 - The EOI is missing Surface Owner Information
 - The acreage contains no federal mineral rights
 - Surface Management Agency (SMA) consent was not provided
 - SMA consent was withdrawn
 - The acreage was conveyed to a State as part of a land exchange
 - The acreage is under BIA jurisdiction
 - The locality information is unclear
 - The acreage is within a Wilderness Study Area
 - The acreage is within an incorporated city, town, or village
 - The acreage is within a National Conservation Area
 - The acreage is within a National Wildlife Refuge
- 5. Withdrawn** – Acreage in an EOI, which has been withdrawn by the person who submitted the EOI.



IM 2023-007 - Evaluating Competitive Oil and Gas Lease Sale Parcels for Future Lease Sales

Preference for moving forward oil and gas expressions of interest onto a sale will be based upon:

1. Proximity to existing oil and gas development,
2. Minimizing conflict with important habitats or connectivity corridors,
3. Minimizing conflict with high cultural resource values,
4. Minimizing conflict with resources or other uses surrounding or within the parcel, and
5. High potential for development.



IM 2023-007 - Evaluating Competitive Oil and Gas Lease Sale Parcels for Future Lease Sales

Additional improvements to oil and gas nomination management include:

1. A summary of the existing law, regulations, and policy that govern oil and gas nominations;
2. Direction to close out expressions of interest older than three years; and
3. Guidance on tracking a parcel's preference within the National Fluids Lease Sale System (NFLSS).



IM 2023-008 - Impacts of the Inflation Reduction Act of 2022 (Pub. L. No. 117-169) to the Oil and Natural Gas Leasing Program

Reflect the Inflation Reduction Act (IRA) provisions, which includes:

Royalty: 16.67 percent. (IRA Sec. 50262)

Rental: \$3.00 per acre, or fraction thereof, for the first 2 years; \$5.00 per acre, or fraction thereof, for lease years 3 through 8; and \$15.00 per acre, or fraction thereof, thereafter. (IRA Sec. 50262)

Minimum Bonus Bid: \$10 per acre, or fraction thereof.* (IRA Sec. 50262)

Expressions of Interest (EOI): Nonrefundable filing fee of \$5 per acre. (IRA Sec. 50262)

Ties wind and solar energy rights-of-way to oil and gas leasing. (IRA Sec. 50265)

Class II Reinstatements: Limited to competitive leases and noncompetitive acquired leases.

Royalty: Not less than 20 percent. (IRA Sec. 50262)

Rental: \$20 per acre, or fraction thereof. (IRA Sec. 50262)

Noncompetitive leasing: Eliminated. (IRA Sec. 50262)



IM 2023-008 - Impacts of the Inflation Reduction Act of 2022 (Pub. L. No. 117-169) to the Oil and Natural Gas Leasing Program

In addition, the IM provides:

- Information and templates for BLM offices to address pending leases that have not been issued.
- Direction on the royalty rate of 16.67 percent for new leases or CRAs under 30 USC 301-306 (Special Act Right-of-Way Leases, 43 CFR 3109).
- Direction on the royalty rate of 16.67 percent for new Unleased Land Accounts (ULAs) and to update existing ULAs to the increased royalty rate.



IM 2023-009 - Discretion to Grant Oil and Gas Lease Reinstatements

Going forward, the BLM will not grant a reinstatement if it is not in the public interest. The public interest review includes the following criteria:

- Current proposed or ongoing operations on the terminated lease,
- The terminated lease's potential for oil and gas development,
- The terminated lease's proximity to existing federal or non-federal oil and gas development or operations,
- The existing habitats or connectivity surrounding or within the terminated lease,
- The existing cultural resource values and areas surrounding or within the terminated lease,
- The other existing resources surrounding or within the terminated lease, and
- Other considerations by the AO.



IM 2023-009 - Discretion to Grant Oil and Gas Lease Reinstatements

Additional improvements to reinstatement management include:

1. A summary of the governing law, regulations, and case law on reinstatements,
2. A checklist for BLM Offices to use when reviewing a petition for reinstatements (Attachment 1), and
3. A template Notice to provide to new lease interest owners when issuing a lease or approving an assignment or transfer of a lease interest (Attachment 2).



IM 2023-010 - Oil and Gas Leasing – Land Use Planning and Lease Parcel Reviews

Going forward, the BLM's lease sale process will include:

Public Participation/Coordination

- Scoping period (minimum 30 days);
- Draft NEPA document review and comment period (minimum 30 days);
and
- Protest period (30 days)

Ensure Identification of Potential Lease Sale Parcels are in compliance with:

- Section 50265 of the IRA (IM 2023-006)
- Preference criteria (IM 2023-007)



IM 2023-010 - Oil and Gas Leasing – Land Use Planning and Lease Parcel Reviews

Additional advancements to lease issuance include:

1. Improving the BLM's process to issue leases within 60 days from the sale.
2. A template notice to the successful bidder when the BLM cannot resolve the protests within the 60-day timeframe and provide the successful bidder an opportunity to decline the lease (Attachment 1).



IM 2023-011 - Approved Application for Permit to Drill Extensions

Going forward, the BLM will not grant a request for an approved application for permit to drill (AAPD) extension if it is not in the public interest. The public interest review includes the following criteria:

- The impact of the extension on conservation of resources;
- Additional NEPA analysis needed based upon the resources and local environment;
- Consistency with the current resource management plan, statutes, regulations, and policy;
- Adequate bonding is held by the operator; and
- The operator is not on the List of Entities in Noncompliance with Reclamation Requirements of Section 17(g) of the Mineral Leasing Act.



IM 2023-011 - Approved Application for Permit to Drill Extensions

Additional policy for AAPD extensions include:

- The earliest the BLM should grant an extension is three months prior to the original expiration date of the AAPD.
- The BLM should not approve more than one extension for an AAPD.
- The BLM must determine the appropriate length for the extension.
- Under extenuating circumstances, the BLM may grant a request for a variance beyond the two-year extension provided in Onshore Oil and Gas Order No. 1.
- Extensions must be consistent with the statutory timing requirements for Section 390 CXs.
- The BLM will need to enter information into AFMSS on the extensions granted.



IM 2023-012 - Suspensions of Operations and/or Production

The IM includes the following items for offices to consider when reviewing requests for suspensions of operations and/or production:

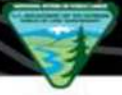
- The BLM has discretion when determining whether a suspension is warranted.
- It reminds offices of the specific regulations, handbook, and manual addressing suspensions.
- It reminds offices that suspension requests must be executed by all operating rights owners.
- It explains the difference between a suspension of operations and production provided for by Section 39 of the Mineral Leasing Act, and suspensions of operations or production provided for in Section 17(i) of the Mineral Leasing Act.



IM 2023-012 - Suspensions of Operations and/or Production

The IM includes the following items for offices to consider when reviewing requests for suspensions of operations and/or production:

- It addresses suspension requests based on Applications for Permit to Drill that operators file late in the primary term of the lease; APDs must be filed more than 90 days prior to lease expiration.
- It addresses considerations for suspensions based on leasing delays.
- It addresses termination of suspensions and encourages offices to consider a definite term rather than an indefinite term.



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Questions

