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Coal Operations

BLM has responsibility for coal leasing on approximately 570 million acres where the coal mineral estate is owned by the Federal Government. The surface estate of these lands could be controlled by BLM, the United States Forest Service, private land owners, state land owners, or other Federal agencies.

BLM receives revenues on coal leasing at three points:

- a bonus paid at the time BLM issues the lease
- an annual rental payment of \$3.00 per acre or fraction thereof
- royalties paid on the value of the coal after it has been mined

The Department of the Interior and the state where the coal was mined share the revenues.

Federal Coal Leasing

The Mineral Leasing Act of 1920, as amended, and the Mineral Leasing Act for Acquired Lands of 1947, as amended, give the BLM responsibility for coal leasing on approximately 570 million acres of the 700 million acres of mineral estate that is owned by the Federal Government, where coal development is permissible. The surface estate of these lands could be controlled by the BLM, United States Forest Service, private landowners, state landowners, or other Federal agencies. The BLM works to ensure that the development of coal resources is done in an environmentally sound manner and is in the best interests of the Nation.

Regulations that govern the BLM's coal leasing program may be found in Title 43, Groups 3000 and 3400 of the Code of Federal Regulations (CFR). This publication is available in law libraries and most large public libraries. The CFR is also available online from the Government Printing Office (www.access.gpo.gov).

Lands Available for Leasing

Public lands are available for coal leasing only after the lands have been evaluated through the BLM's multiple-use planning process. Leasing federal coal resources is prohibited on public lands such as military reservations, National Parks, or National Wildlife Refuges. In areas where development of coal resources may conflict with the protection and management of other resources or public land uses, the BLM may identify mitigating measures which may appear on leases as either stipulations to uses or restrictions on operations.

Suitable Lands for Coal Leasing

Not all public lands are available for coal exploration or leasing. There is a rigorous land use planning process through which all public lands are reviewed for potential coal leasing. Requirements for the land use plan include multiple use, sustained yield, protection of critical environmental areas, application of specific unsuitability criteria, and coordination with other government agencies. There are four specific land use screening steps that are unique to developing land use planning decisions for federal coal lands. These are:

- Identification of coal with potential for development
- Determination if the lands are unsuitable for coal development
- Consideration of multiple use conflicts
- Surface owner consultation

The purpose of the coal screening part of the land use planning process (43 CFR 3420.1-4) is to identify those federal lands that are acceptable for further consideration for coal leasing and development.

Lessee Qualifications and Limitations

You are qualified to hold a Federal coal lease if you are one of the following:

- A citizen of the United States
- An association of citizens organized under the laws of the United States or any state thereof

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- A corporation organized under the laws of the United States, or of any state thereof, including a company or corporation operating a common carrier railroad
- A public body, including municipalities

In addition to these general qualifications, you must also comply with several special leasing qualifications including:

- The aggregate acreage in leases and applications in which you can hold an interest, directly or indirectly, cannot exceed 75,000 acres in any one state and no more than 150,000 acres in the United States.
- You may not acquire any other mineral leases under the Mineral Leasing Act of 1920, as amended, if you hold or have held a federal coal lease for 10 or more years that has not produced commercial quantities of coal. Other minerals that can be leased under the Mineral Leasing Act of 1920 include oil, natural gas, sodium, potassium, phosphate, sulfur, and gilsonite.
- As a part of your application for a new coal lease, you must provide a self-certified statement that you are in compliance with all applicable laws and regulations.

An alien may hold interests in leases only by stock ownership in U.S. corporations holding leases and only if the laws of his/her country do not deny similar privileges to citizens of the United States. However, an alien may not hold a lease interest through units in a publicly traded partnership.

Types of Coal Leases

The Federal Coal Leasing Amendments Act of 1976 (FCLAA), which amended Section 2 of the Mineral Leasing Act of 1920, requires that all public lands available for coal leasing be leased competitively. There are two notable exceptions to this requirement: (1) preference right lease applications where a lease may be issued on a noncompetitive basis to owners of pre-FCLAA prospecting permits and (2) modifications of existing leases where contiguous lands of as much as 960 acres are added noncompetitively to an existing lease.

Competitive Leasing Process

There are two distinct procedures for competitive coal leasing: (1) regional leasing where the BLM selects tracts within a region for competitive sale and (2) leasing by application where the public nominates a particular tract of coal for competitive sale.

Regional coal leasing requires the BLM to select potential coal leasing tracts based on multiple land use planning, expected coal demand, and potential environmental and economic impacts. This process requires close consultation with local governments and citizens through a Federal/state advisory board known as a Regional Coal Team. However, because demand for new coal leasing in recent years has been associated with the extension of existing mining operation on authorized federal coal leases, all current leasing is done by application.

Leasing by application begins with BLM review of an application to lease a coal tract to ensure that it conforms to existing land use plans and contains sufficient geologic data to determine the "fair market value" of the coal. Upon review of the application and consideration of public comments, the BLM will reject, modify, or continue to process the application.

Once the BLM accepts an application, the agency begins either an Environmental Analysis (EA) or Environmental Impact Statement (EIS). When an EA or a draft version of an EIS has been prepared, the BLM seeks public comment on the proposed lease sale. At the same time, the BLM will also consult with other appropriate Federal, state, and tribal government agencies.

Preparations for the actual lease sale begin with the BLM formulating an estimate of the "fair market value" of the coal. This number is kept confidential and is only used to evaluate the bids received during the sale.

Sealed bids are accepted prior to the date of the sale and are publicly announced during the sale. The winning bid will be the highest bid that meets or exceeds the coal tract's presale estimated fair market value, assuming that all eligibility requirements are met and the appropriate fees and payments are attached (at a minimum, this amounts to the first year's annual rental payment and one-fifth of the amount bid).

Remittances associated with the coal leasing process may be made by personal check, cashier's check, or money order made out to the Department of the Interior. Although cash will not be accepted, VISA or MasterCard may be used.

Related Document: [June 20, 2013, MOU between the BLM and OVS re Valuation Processes under the BLM Coal Management Program.](#)

Processing Costs

The applicant for a new federal coal lease is required to reimburse the BLM for all processing costs that are incurred by the BLM. The BLM will provide an estimate of the total processing fee before any work begins. The applicant must make payment toward the total process fee in advance of the BLM initiating any work on the application. Any excess payments will be refunded to the applicant. The total actual processing cost that was incurred by the BLM will be disclosed in the lease sale notice. Entities other than the applicant that may desire to competitively bid on the prospective coal lease must provide, in addition to their competitive bid for the coal resource, funds equal to the total BLM processing cost that will be used to reimburse the applicant if the third-party entity is determined to be the successful high bidder.

Lease Terms and Conditions

A federal coal lease grants the right to explore for, extract, remove, and dispose of some or all of the coal deposits that may be found on the leased lands.

Coal leases are granted on the condition that the lessee will obtain the appropriate permits and licenses from the BLM, the Office of Surface Mining, and any affected state and local governments.

Revenues from Coal Leasing

The BLM receives revenues from coal leasing at three points:

- A bonus that is paid at the time BLM issues a lease.
- Rental Fees. The annual rental rate for coal leases is \$3 per acre (or fraction thereof). After the lease is issued, rentals must be received by the Department of the Interior's Office of Natural Resources Revenue (ONRR) on or before the lease anniversary date to prevent cancellation of the lease.
- Production Royalties. The royalty for federal coal has been established by law at 12.5% of the gross value of the

coal produced. The 12.5% royalty rate applies to coal severed by surface mining methods. For coal mined by underground methods, the statute provides that the Secretary may establish a lesser royalty rate. By regulation, the BLM requires an 8% royalty for coal severed by underground mining methods.

All receipts from a lease are shared equally with the state in which the lease is located.

Bonding

Before the BLM issues a coal lease, the lessee must furnish a bond in an amount determined by the agency to ensure compliance with the terms and conditions of the lease. At a minimum, a bond is required that will cover one-fifth of the bonus bid if there is any remaining unpaid balance, as well as one year of advance rental and one-quarter year of estimated royalties if the lease is in production. In addition, the Surface Mining Control and Reclamation Act of 1977 requires sufficient bonding to cover anticipated reclamation costs. This bond is submitted to the Office of Surface Mining Reclamation Enforcement or the state regulatory office.

The BLM may require a change in bond amount, either an increase or decrease, at any time the agency believes it is warranted.

Transfer or Sale of a Lease

The BLM must approve the assignment of a lease in whole or in part to another entity. The other entity must be qualified to hold a Federal coal lease. The rights of the entity receiving the lease, however, will not be recognized by the BLM until the assignment is approved. The original lessee remains responsible for all obligations of the lease until the assignment is approved by the BLM.

Under certain circumstances, an exchange of coal leases may be allowed for the purposes of compensation, or when the exchange is in the public interest.

Termination of a Lease

A federal coal lease has an initial term of 20 years, but it may be terminated in as few as 10 years if the coal resources are not diligently developed. A federal coal lease can also terminate if a lessee fails to pay any of the deferred bonus bid payments. In addition, if the lessee fails to comply with the provisions of the Mineral Leasing Act of 1920, as amended, or fails to comply with any applicable regulations, lease terms, or stipulations, the BLM may take legal steps to cancel the lease.

A lessee may, at any time, seek to surrender a lease in whole or in part by filing a written request for relinquishment with the jurisdictional BLM office. However, the lessee must be in compliance with all lease terms and conditions and have paid all payments and fees. The lease bond may be used to ensure compliance with the terms and conditions of the lease.

Logical Mining Units (LMU)

A logical mining unit (LMU) allows the lessee or operator to consolidate the diligent development and continued operations requirements for all the federal leases and other coal tracts within the boundaries of a mine. An LMU provides for continuity in management of the coal resource whenever the geologic characteristics of a coal seam cross property boundaries. In addition, LMUs allow development of the coal deposit as a unit in an efficient, economical, and orderly manner with due regard for conservation of the coal and other resources. The acreage of both federal and non-federal lands within an LMU cannot exceed 25,000 acres. Formation of an LMU requires an application and approval by BLM.