



Salazar: No More Free Candy For Oil And Gas Industry

By: [Amy Mowry](#)

Interior Secretary Ken Salazar's January 6, 2010 Secretarial Order announced a number of reforms to the federal onshore oil and gas leasing program administered by the Bureau of Land Management, with the goal of improving protections for land, water and wildlife as well as reducing the potential for lease-related protests and litigation. Along with the reforms, Salazar also announced that an Energy Reform Team made up of several Bureau of Land Management (BLM) administrators will be tasked with an investigation of federal onshore oil and gas leasing practices. The team will identify areas in need of reform by scrutinizing BLM planning, leasing, and permitting practices and will report its findings and recommendations to Wilma Lewis, Assistant Secretary for Land and Minerals Management. According to Salazar, the policy changes "will help bring clarity, consistency, and public engagement to the onshore oil and gas leasing process while balancing the many resource values that the Bureau of Land Management is entrusted with protecting on behalf of the American people."

See http://www.doi.gov/news/doinews/BLM_energy_reform.cfm.

According to the newly reformed onshore leasing policy, BLM will now include a comprehensive analysis of all proposed leasing, particularly in previously undeveloped areas having substantial leasing potential. BLM Field Offices will expand their analyses of leasing and development impacts in the proposed areas, emphasizing the effects of development on air quality, watersheds, wildlife and competing land uses and identifying mitigation measures appropriate to each specific site. Public involvement in the analysis and review will be expanded and encouraged. Secretary Salazar did not explain how these new reforms will be integrated with existing and newly issued resource management plans (RMPs), which designate lands open to leasing and applicable stipulations and mitigation measures.

While areas may continue to be proposed for new leasing and development by industry, the reforms will now require an Interdisciplinary Team to carry out a comprehensive review of any proposed lease parcel. RMPs will still provide guidance for lease sale management, although conformance with the appropriate RMPs will be under greater scrutiny and public involvement will be expanded to include participation in finalizing Master Leasing and Development Plans. The comprehensive review of proposed development areas will involve on-site visits by BLM Field Office personnel, input of interested groups or individuals in the proposed area, and the issuance of a draft environmental review document listing any necessary stipulations for the particular conditions at the site. Although the public is already involved in the development of RMPs and site-specific development proposals and may also protest leasing decisions, the public will be afforded, as well, a specific additional comment period on the draft leasing document. This “public input” will be considered in finalizing any required additional mitigation measures.

The new federal oil and gas program reforms announced by the Secretary will also change BLM’s use and interpretation of statutory categorical exclusions passed in the Energy Policy Act of 2005 (Section 390). Although the Secretary did not issue the formal guidance for the new categorical exclusion policy, the reforms now require BLM to evaluate each categorical exclusion, or areas where oil and gas development may be approved based on existing environmental or planning analysis, for the presence of “extraordinary circumstances” involving potentially significant impacts to protected species, historic and cultural resources, or human health and safety. It is unclear whether BLM will still utilize the “rebuttable presumption” standard as stated in the language of Section 390.

“The change here is that public lands are no longer the candy store for the oil and gas industry to come in and take whatever they want,” explained Salazar. “The previous Administration’s ‘anywhere, anyhow’ policy on oil and gas development ran afoul of communities, carved up the landscape, and fueled costly conflicts that created uncertainty for investors and industry,” said Salazar. “We need a fresh look – from inside the federal government and from outside – at how we can better manage Americans’ energy resources.”

Salazar’s comments, unsurprisingly, drew praise from a number of environmental groups while rankling many in the oil and gas industry. Notably, the Independent Petroleum Association of America urged Salazar to reconsider implementing what it believes are “duplicative and unnecessary” regulations that are likely to restrict “access to vital oil and natural gas resources our nation needs.” U.S. Representative Dan Boren (D-O.K.), railing

against Salazar's portrayal of the oil and gas industry as "kings of the world" during the Bush years, pointed out that most wells in the United States are drilled by small independent producers.

Senate Energy and Natural Resources Chairman Jeff Bingaman (D-N.M.) said the change will "return to practices that are consistent with Section 390 [of the 2005 Energy Act] as Congress actually passed it and that will lead to the best outcome for energy development and the environment." Natural Resources Defense Council (NRDC) was among a number of environmental groups that applauded Salazar's announcement. "The Obama administration is working to restore balance to the process and protect clean water, clean air and America's wildlife," said NRDC's Amy Mall. "It's no wonder that industry is whining. For eight long years, the oil and gas industry practically wrote the rules. Communities, wildlife habitat, and some of America's wildest lands were devastated during that time. Today's actions are the right thing to do and important first steps as we move toward a clean energy future and away from dirty fuels. We will be watching closely over the implementation and the specifics."

The new oil and gas leasing and categorical exclusions guidance will be implemented with the completion of BLM's final internal reviews and issuance of BLM Instruction Memorandum.

For additional information, please contact [Bret Sumner](#) or [Bill Sparks](#).



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