



Reducing the Backlog: Secretary Zinke Orders Department of the Interior to Identify Ways to Improve the Federal Onshore Oil and Gas Leasing Program

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On July 6, 2017, Interior Secretary Zinke issued [Secretarial Order No. 3354](#): Supporting and Improving the Federal Onshore Oil and Gas Leasing Program and Federal Solid Mineral Leasing Program. When issuing the Order, Secretary Zinke noted that as of January 31, 2017, 2,802 Applications for Permits to Drill (“APDs”) were pending, and 11 quarterly sales were cancelled in 2016. The Order is “intended to improve the internal management of the Department,” including developing ways to streamline APD approvals—seeking to process APDs within 30 days—and to ensure mandated quarterly lease sales are held.

The Mineral Leasing Act of 1920 requires that “Lease sales shall be held for each State where eligible lands are available *at least quarterly* and more frequently if the Secretary of the Interior determines such sales are necessary.” 30 U.S.C. § 226(b)(1)(A) (emphasis added). Despite this requirement, the Obama Administration cancelled or postponed numerous quarterly lease sales. Furthermore, during Obama’s last year in office, the average time to process an APD reached 257 days, despite requirements that BLM process APDs within 30 days.

While many members of [Congress](#) and [industry proponents](#) applauded Zinke’s move, environmental groups quickly admonished the Order. The Sierra Club noted that the Trump Administration is merely “giving Big Oil free rein on our publicly-owned lands.” The [Wilderness Society](#) echoed those sentiments, stating that “Secretary Zinke’s order offers a solution in search of a problem The real problem here is this administration’s obsession with selling out more of our public lands to the oil and gas industry at the expense of the American people.” The NGO further stated that many leases were not even being developed in 2015.

The criticism of the Order is notably fraught with misguided perception about how oil and gas leasing works. The Wilderness Society’s claim that many leases were not being developed ignores that fact that operators still need APDs to be approved before development can occur. Moreover, energy prices in 2015 made development uneconomical in many situations. Additionally, the criticism of the Order’s efforts to comply with the Mineral Leasing Act’s quarterly lease sale requirement fails to recognize that lease sales only occur after the Bureau of Land Management has decided to make lands available for leasing in a Resource Management Plan. By requiring compliance with the Mineral Leasing Act, the Trump Administration neither makes land available for leasing that would not be otherwise, nor removes stipulations or conditions of approval required on federal leases.

Finally, attacks on ensuring quarterly lease sales are held disregards the benefit of increased revenue for the government. Proponents of the proposed BLM venting and flaring rule have argued that the regulation is necessary and beneficial because it increases royalties recovered by the federal government. Similarly, increasing lease sales bring additional revenue to the federal government regardless of whether development actually occurs on the lease. A September 2015 lease sale in New Mexico generated more than [\\$145 million](#), and a February 2017 lease sale in Wyoming generated \$129.3 million. The government also receives additional royalty on any development that does occur on leased lands.

Importantly, Secretary Zinke recognizes that improving APD processing and holding lease sales is not something that can, or should, be taken lightly. The Order does not actually change how the Department will process APDs. Rather the Order requires Interior Department members to identify ways to improve the onshore oil and gas leasing program and to create a strategy to reduce the APD backlog that already exists.

For more information or updates on Secretarial Order 3354, please contact [Michael Cross](#).