



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

2024 Oil and Gas Rules Overview

September 4, 2024





Agenda

- Waste Prevention Rule Overview
- Leasing Rule Overview





Effective June 10, 2024

WASTE PREVENTION, PRODUCTION SUBJECT TO ROYALTIES, AND RESOURCE CONSERVATION



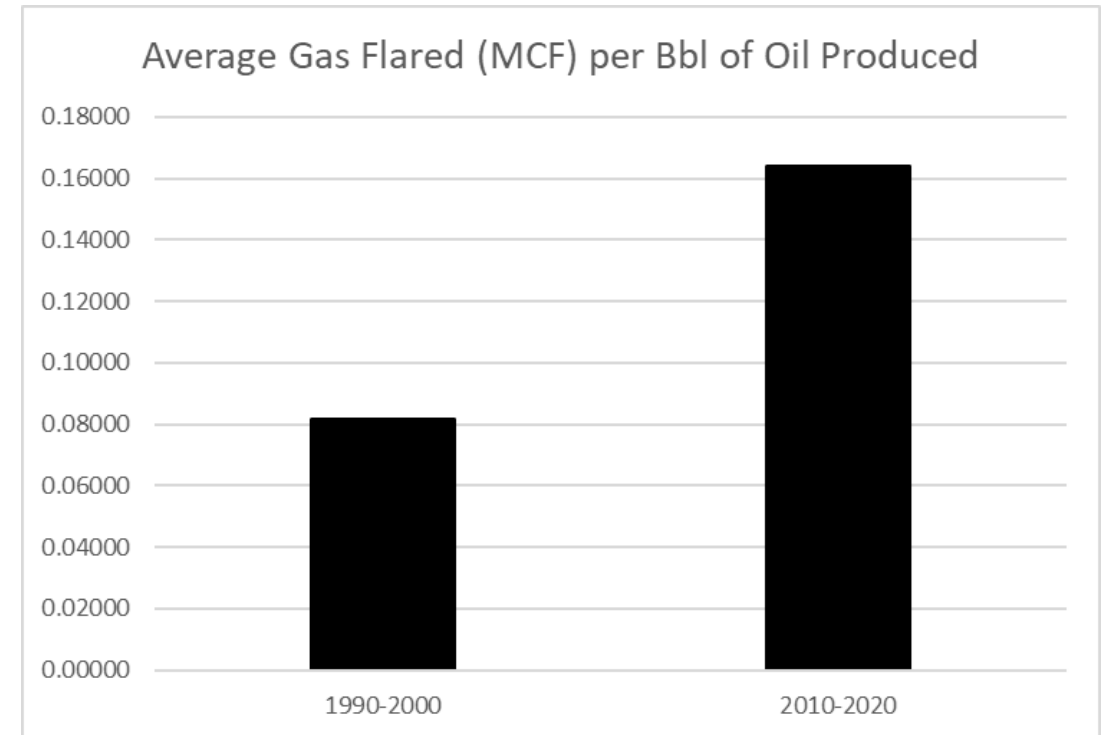
Background

- The rule regulates the waste of Federal and Indian gas through venting, flaring and leaks.
- The rule replaces Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases (NTL-4A) Royalty or Compensation for Oil and Gas Loss, issued in 1979
- BLM issued prior rules in 2016 and 2018
- The 2016 rule was vacated (Wyoming v. DOI)
- The 2018 rule was vacated (California v. Bernhardt)
- This rule is designed to reduce wasteful venting and flaring while responding to developments in the case law.



Background Continued

- Venting and flaring from Federal and Indian leases has increased dramatically from the 1990s to the 2010s.
 - Between 1990 and 2000, the total venting and flaring reported by Federal and Indian onshore lessees averaged approximately 0.08 mcf/bbl
 - Between 2010 and 2020, in contrast, the total venting and flaring reported by Federal and Indian onshore lessees averaged approximately 0.16 mcf/bbl





Rule Scope

- In general, the rule applies to Federal and Indian leases (except Osage), and to other tracts committed to a federally approved unit or communitization agreement (CA).
- However, certain provisions only apply when production is on Federal or Indian surface estate:
 - Thief hatch closure (Immediate assessment)
 - Leak Detection and Repair (LDAR)



Final Rule Provisions

- Require a Self-Certification Statement or a Waste Minimization Plan (WMP) with the Application for Permit to Drill (APD) for an oil well.
- Define the unavoidable loss of gas.
- Provide flaring limits for an avoidable loss (to curb associated gas flaring from oil wells).
- Include flare measurement requirements for flaring $> 1,050$ Mcf per month.
- Require that operators use reasonable precautions to prevent waste.
- Establish flaring limits for new completions and recompletions.
- Establish flaring limits for subsequent well testing.
- Define emergency flaring consistent with the IRA.
- Establish LDAR requirements for production operations on Federal/Indian surface estate.



Self-Certification Statement

- Operator may choose to submit a self-certification statement instead of a WMP
 - Self-certification statement obligates operator to capture 100% of the oil-well gas produced
 - All flared gas will be an avoidable loss with a royalty obligation



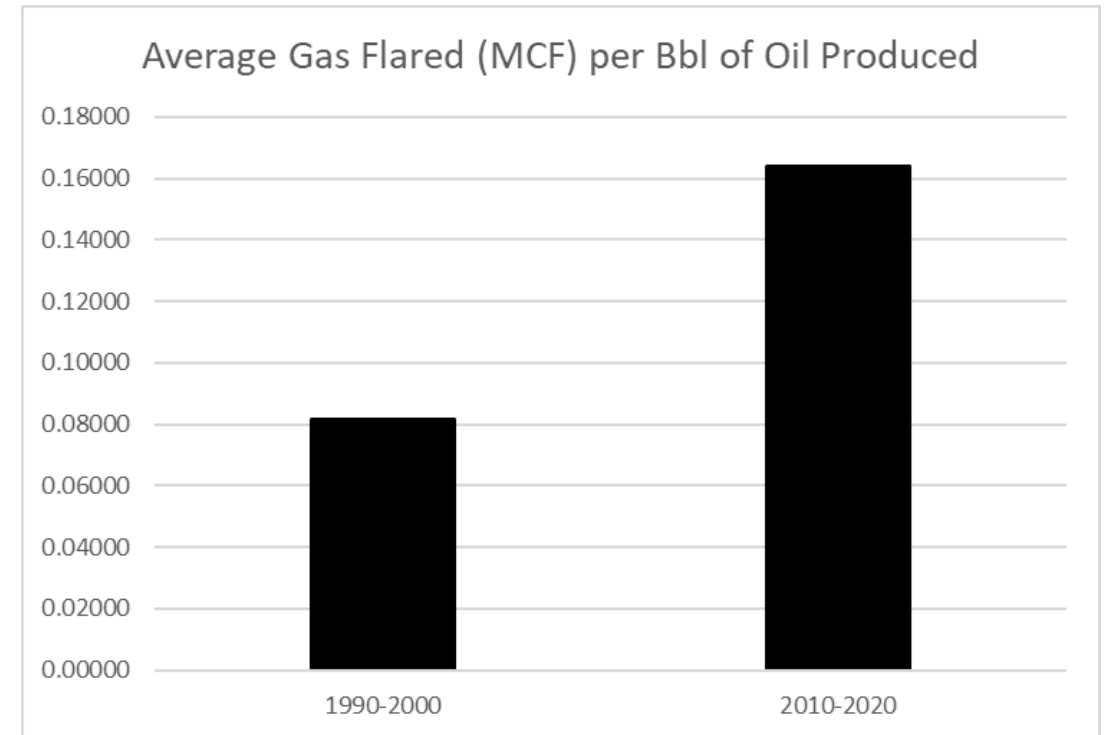
Waste Minimization Plan

- Waste minimization plans for oil-well APDs require the following information:
 - Initial oil production rate and 3-year production decline information
 - Initial oil-well gas production and 3-year production decline information
 - Certification that the operator has a valid, executed gas sales contract to sell 100% of gas produced
 - Any other information demonstrating the operator's plans to avoid waste of gas production from any source
- WMP flaring is subject to avoidable loss limits in §3179.70



Avoidable Loss Flaring Limits

- The final rule starts with the avoidable loss flaring limit of 0.08 Mcf/bbl produced and decreases to 0.05 Mcf/bbl produced over a 4-year period and maintains this flaring limit
- Initial avoidable loss flaring limit returns BLM to the industry flaring average reported from 1990 to 2000
- Flaring above those limits will be avoidably lost and royalty bearing.





Deferring or Delaying Action

- BLM can defer action on an APD if the self-certification statement or WMP is not administratively and technically complete in the interest of preventing waste
- If the applicant does not address deficiencies within 2 years of submission of the APD, the BLM will disapprove the APD.

Other Actions BLM Can Take

- Once operations start, if an operator flares in excess of 1 mcf/bbl for 3 consecutive months, then the BLM may shut-in operations to prevent waste



Measurement Requirements

- Operators may commingle gas from multiple agreements to a single flare without BLM approval
- Requires measurement of flares combusting $\geq 1,050$ mcf per month, estimation of flares combusting $< 1,050$ Mcf per month

Requires use of orifice or ultrasonic metering systems

- Phased-in measurement compliance deadline based on the flare flow category ranging from 6 months to 18 months
- Provides required method for estimating flared volume based on 6-month production history and produced oil volume
- Provides allocation method for commingled flare based on oil production



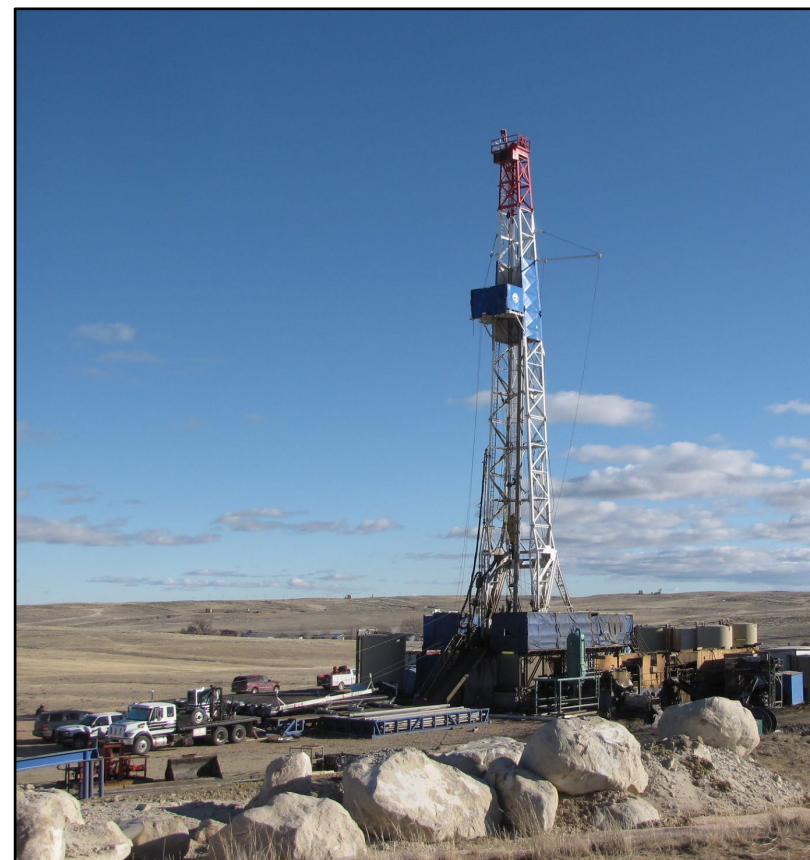
Effective June 22, 2024

FLUID MINERAL LEASES AND LEASING PROCESS RULE



Leasing Rule Presentation Overview

- Reason for regulatory action
- Changes dictated by the Inflation Reduction Act
- Changes to fixed filing fees
- Changes to bonding
- Competitive leasing process
- Onshore operational changes





Reason for this Regulatory Action

- Updated regulations to reflect changes made by the **Inflation Reduction Act** and the **Infrastructure Investment and Jobs Act**
- Reflected **GAO and OIG recommendations** in the following reports:
 - BLM Should Update Its Guidance and Review Its Fees (GAO-22-103968)
 - Onshore Competitive and Noncompetitive Lease Revenues (GAO-21-138)
 - BLM Could Improve Oversight of Lease Suspensions with Better Data and Monitoring Procedures (GAO-18-411)
 - Actions Needed to Improve BLM's Royalty Relief Policy (GAO-21-169T)
 - Oil and Gas: BLM Should Address Risks from Insufficient Bonds to Reclaim Wells (GAO-19-615)
 - Challenges to Ensuring a Fair Return for Federal Energy Resources (GAO-19-718T)
 - The BLM Did Not Review the Federal Exclusions List Before Issuing Federal Mineral Leases (OIG-2021-CR-007)
- Adopted certain recommendations, where appropriate, from **the DOI Report** on the Federal Oil and Gas Leasing Program (Nov. 2021)
- **Updated outdated requirements**, notably minimum **bonding** requirements
- Updated portions of the regulations that have not been updated since the 1950's or 1980's



Changes Dictated by the Inflation Reduction Act (IRA)

Term	Regulations Prior to IRA	Final Rule – Majority of the Changes Already Implemented by IRA
Royalty	Minimum of 12.5% (43 CFR 3103.3 1(a)(2))	16.67% for 10 years. Minimum of 16.67% after 8/16/2032.
Rental	\$1.50 per acre for the first 5 years of the lease term and \$2 per acre for any subsequent year (43 CFR 3103.2 2(a))	\$3.00 per acre for the first 2 years; \$5.00 per acre for lease years 3 through 8; and \$15.00 per acre thereafter. Adjust for inflation (every 4 years) after 8/16/2032.
Minimum Bonus Bid	\$2 per acre or fraction thereof (43 CFR 3120.1 2(c))	\$10 per acre. Adjust for inflation (every 4 years) after 8/16/2032.
Expressions of Interest (EOI)	Does not exist.	Nonrefundable filing fee of \$5 per acre. Due at time of EOI submission. Ties wind and solar energy rights-of-way to oil and gas leasing. Adjust for inflation (every 4 years).
Class II Reinstatements	Available to all types of leases. <i>Royalty:</i> Not less than 16.67 %. <i>Rental:</i> \$10 per acre, or fraction thereof.	Limited to competitive leases. Will not apply to existing noncompetitive leases issued prior to August 2022. <i>Royalty:</i> Not less than 20%. <i>Rental:</i> \$20 per acre, or fraction thereof. Adjust for inflation (every 4 years).
Noncompetitive leasing	Various provisions implementing the previous statutory authority. (43 CFR 3110)	Eliminate 43 CFR 3110.



Changes to Fixed Filing Fees

Description	Current Fee (FY24)	New Fee
Expression of Interest fee per acre or fraction thereof (per IRA). Will be adjusted every 4 years for inflation.	\$5 (set by IRA)	\$5
Competitive lease application.	\$195	\$3,100
Leasing under right-of-way.	\$505	\$660
Lease reinstatement, Class I.	\$100	\$1,260
Geophysical exploration permit application – all states.	\$30 (Alaska only)	\$1,150 (all states)
Final application for Federal unit agreement approval, Federal unit agreement expansion, Federal subsurface gas storage applications.	Does not exist	\$1,200
Designation of successor operator for Federal agreements, except for contracted unit agreements that contain no Federal lands.	Does not exist	\$120



43 CFR Subpart 3104

CHANGES TO BONDING



Eliminate Nationwide and Unit Operator Bonds

43 CFR 3104.90

- The BLM will no longer accept new bonds that cover all Federal leases nationwide or unit-wide.
- All existing **nationwide** and **unit operator bonds** must be replaced with statewide (\$500k) or individual lease (\$150k) bonds by **June 22, 2025**.
 - These can start being replaced at any time. Before the period of liability can be terminated on the existing bond, replacement bonds require an assumption of liability rider.
- Operators with existing bonds may continue to operate and submit new APDs under the existing bond amount until June 22, 2025.



Increased Minimum Bond Amounts

43 CFR 3104.1

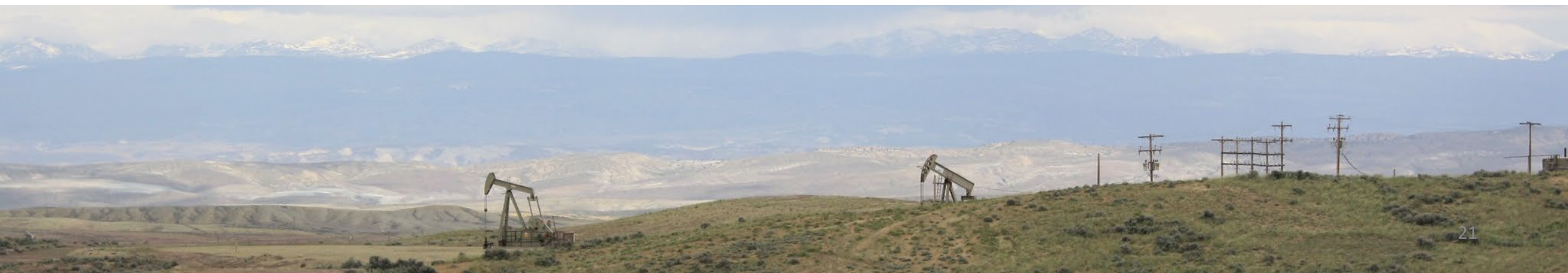
- The BLM will not accept new bonds lower than the new minimum bond amounts.
 - Minimum statewide bond amount increased to \$500k.
 - Minimum individual lease bond amount increased to \$150k.
- Existing bonds
 - All existing **statewide bonds** lower than \$500k must be increased to \$500k by **June 22, 2026**.
 - All existing **individual lease bonds** lower than \$150k must be increased to \$150k by **June 22, 2027**.
 - Existing bonds can start being increased at any time through a bond increase rider or a replacement bond with an assumption of liability rider.
- Operators with existing bonds may continue to operate and submit new APDs under the existing bond amount until the respective phase-in date.



Increased Minimum Bond Amounts, Continued

43 CFR 3104.1

- The BLM will adjust the minimum bond amounts based upon inflation every ten years.
- Under 43 CFR 3104.1(d), the BLM included a list of penalties that may occur if operators do not increase their bond amounts to the new minimum bond amounts. This may include:
 - Shut down orders,
 - Lease cancellation, and
 - Referral for a Federal Suspension and Debarment.





Bond Guarantee

43 CFR 3104.10

- Similar to the prior regulations.
- An operator (or lessee/operating rights owner) can provide a surety bond or a personal bond.
- Sureties must be approved by the Department of the Treasury.
- Personal bonds can be secured by:
 - Certificate of Deposit (CD),
 - Cashier's check,
 - Certified check,
 - Negotiable Treasury securities, or
 - Letter of credit (LOC).
- CD – The requirement for Secretarial approval prior to redemption may be accomplished through an assignment.
- LOC – If the financial institution does not renew and the principal does not extend the LOC or replace the bond, the BLM will collect the LOC within 30 days of the expiration without additional notice.



Surface Owner Protection Bond

43 CFR 3104.40

- Similar to the previous policy. Only required if unable to reach an agreement with the surface owner.
- Surface owner protection bonds were added to Subpart 3104 as required under 43 CFR 3171.19 (previously known as Onshore Oil and Gas Order 1).
- The surface owner protection bond must be:
 - Provided on a BLM-approved form (Form 3160-19),
 - Either a personal or surety bond (43 CFR 3104.10), and
 - Not less than \$1,000 (43 CFR 3104.10).
- The bond amount must be sufficient to “indemnify the surface owner for the reasonable and foreseeable damages to crops and tangible improvements.”
- The BLM will notify the surface owner of the proposed bond amount and determine the sufficiency of the bond amount if the surface owner objects.



43 CFR Part 3120

COMPETITIVE LEASING PROCESS



Competitive Leasing

- Removed the nomination process in Subpart 3120.3 (previous section), which has never been implemented.
- Added information on the submission of expressions of interest (EOI) as a new section 3120.30.
 - Submit electronically
 - Require a filing fee
 - Will not accept anonymous EOIs
- Require 30-day public participation periods for lease sale
NEPA: scoping, comment, and protest periods.



Leasing Preference Criteria

43 CFR 3120.32

The BLM will evaluate expressions of interest for leasing preference at scoping for leasing, like existing policy in IM 2023-007:

1. Proximity to existing oil and gas development, giving preference to lands upon which a prudent operator would seek to expand existing operations;
2. The presence of important fish and wildlife habitats or connectivity areas, giving preference to lands that would not impair the proper functioning of such habitats or corridors;
3. The presence of historic properties, sacred sites, and other high value cultural resources, giving preference to lands that do not contribute to the cultural significance of such resources;
4. The presence of recreation and other important uses or resources, giving preference to lands that do not contribute to the value of such uses or resources; and
5. Potential for development, giving preference to lands with high potential for development.



43 CFR Parts 3100, 3160, and 3170

ONSHORE OPERATIONAL CHANGES



Surface Use Rights and Lease Stipulations

43 CFR 3101

- **Surface Use Rights – 3101.12**
 - At a minimum, modifications that are consistent with lease rights include, but are not limited to, requiring relocation of proposed operations by up to 800 meters and prohibiting new surface disturbing operations for a period of up to 90 days in any lease year.
- **Modification, Waiver, or Exception – 3101.14**
 - Added definitions for Waivers, Exceptions, and Modifications
 - If a change to a lease term or stipulation is substantial or a stipulation involves an issue of major concern to the public, the changes will be subject to public review for at least 30 calendar days.
 - Can grant an exception for timing stipulations without public review if supported by data showing that the restrictions are unnecessary.



Valid Period of an Approved APD

43 CFR 3171.14

- For APDs approved after June 22, 2024, the APD approval is valid for three years instead of the previous two years.
- Removed the provision to request or grant an extension for an approved APD; however, APDs approved prior to June 22, 2024, are still eligible for a two-year extension.
- If the lease is suspended, the APD will be extended by the time that was remaining on the term of the approved APD on the effective date of the suspension.



Valid Period of an Approved APD, Continued

43 CFR 3171.14

- The APD will expire if the operator has not shown diligence in drilling the well. Diligence may include:
 - Has drilled the well to approximate total measured depth (TD), but not yet completed the well
 - Is drilling the well with a rig capable of drilling to TD
 - Has set surface casing and has submitted a plan, approved by the BLM prior to the expiration of the APD approval, for continuous drilling and completing the well and any extenuating circumstances that may delay the continuous drilling and completion of the well



Shut-In and Temporarily Abandoned Wells Definitions

43 CFR 3160.0-5

- *Shut-in well* means a nonoperational well that can physically and mechanically operate by opening valves or activating existing equipment
- *Temporarily abandoned well* means a nonoperational well that is not physically or mechanically capable of production or injection without additional equipment or without servicing the well, but that may have future beneficial use.



Temporarily Abandoned (TA) Wells

43 CFR 3162.3-4(d)

- Operator must:
 - Receive prior approval from the BLM for any well TA for more than 30 days; the operator must:
 - Provide adequate and detailed justification for the TA
 - Provide verification of the mechanical integrity
 - Isolate the completed interval
 - Receive prior approval for additional delays beyond 1 year; the AO may authorize additional delays, none of which may exceed an additional 1-year period
 - Complete one of the following within 4 years of TA:
 - Permanently abandon the well
 - Resume production in paying quantities or commence using well for injection or disposal
 - Provide detailed plan and timeline for future beneficial use
 - If the authorized officer determines that there is a legitimate future beneficial use for the well, the authorized officer may allow the operator to delay permanent abandonment by 1 additional year. The authorized officer may grant additional delays in 1-year increments, provided that the operator confirms the future beneficial use of the well and is making verifiable progress on returning the well to a beneficial use.



Shut-In (SI) Wells

43 CFR 3162.3-4(e)

- Operator must:
 - Notify the BLM of the well's SI status if the well will be SI for 90 or more consecutive days and provide the date the well was SI within 90 days of well SI.
 - Within 3 years of well SI, provide the BLM with verification of the mechanical integrity of the well and confirmation that the well remains capable of producing in paying quantities.
 - Within 4 years of SI, operator must complete one of the following:
 - Permanently abandon the well
 - Resume production in paying quantities
 - Provide detailed plan and timeline for future beneficial use
 - If the authorized officer determines that there is a legitimate future beneficial use for the well, the authorized officer may allow the operator to delay permanent abandonment by 1 additional year. The authorized officer may grant additional delays in 1-year increments, provided that the operator confirms the future beneficial use of the well and is making verifiable progress on returning the well to a beneficial use.



Lease Suspensions

43 CFR 3165.1

- Allows all the operating rights owners or the operator on behalf of the operating rights owner to apply for a suspension.
- The BLM will not approve an application for suspension of a lease where the applicant only cites, as the basis for the suspension, a pending APD filed less than 90 calendar days prior to the expiration date of the lease.
- Approved suspensions will not exceed one year. If the circumstances warrant, the operator may submit a request to extend the suspension prior to the end of the suspension; however, BLM-directed suspensions may exceed one year.