



UNITED STATES
DEPARTMENT OF THE INTERIOR BUREAU OF LAND
MANAGEMENT

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CHAPTER 1 INTRODUCTION

This handbook covers interest requirements and qualifications of lessees and other parties. The handbook provides guidance regarding who can hold interest in leases, evidence required to demonstrate compliance with the Mineral Leasing Act of 1920 (MLA), and what to do when a person or entity who is not qualified to hold interest in a lease acquires lease interest through successions that occur through operation of law. Finally, this handbook covers acreage limitations, how acreage holdings are calculated, and when audits are performed on acreage limitations.

The responsibilities covered by the processing steps may vary between offices and their organizational structure. The illustrations are provided as an example and can be modified as needed.

The BLM uses the following handbooks in conjunction with this handbook: H-3100-1 *Oil and Gas Leasing Handbook* (rel. 3-122); H-3101-1 *Issuance of Leases Handbook* (rel. 3-127); H-3106-1 *Assignments, Sublease, or Otherwise Handbook*, (Rel. 3-295); H-3108-1 *Relinquishments, Terminations and Cancellations Handbook* (rel. 3-301) and H-3120-1 *Competitive Leases Handbook* (rel. 3-338).

The BLM included references to case law in this handbook to provide historical information to the reader. Before referencing any case law in a decision, the BLM must coordinate with the Solicitor's Office to ensure the BLM references the appropriate case law in its decision.

CHAPTER 2 REQUIREMENTS

A. General

Only responsible and qualified lessees may own, hold, or control an interest in a lease, and the Bureau of Land Management (BLM) will issue a lease only to the highest responsible and qualified bidder.

As defined in 43 CFR 3100.5, a responsible and qualified lessee is any person who:

- is in compliance with the laws and regulations governing the BLM issued leases held by that person,
- has not defaulted on previous winning bids,
- is capable of fulfilling the requirements of onshore Federal oil and gas leases, and
- is in compliance with statutes applicable to oil and gas development or the terms of a BLM-issued oil and gas lease.

The term “responsible bidder” does not include persons who bid with no intention of paying a winning bid or persons who default on a winning bid. Refer to H-3100-1.

B. Parties Who May Hold Leases

Anyone who is a potential lessee, or a party in interest (as defined by 43 CFR 3000.5), must meet the criteria of at least one of the following:

1. **Citizen of the United States (U.S.).** 43 CFR 3102.10. Refer to item 3 under other parties in interest, listed below, for criteria under which non-citizens may qualify to hold leases.
2. **Associations.** Associations (including partnerships and trusts) must all be either U.S. citizens or qualified corporations. 43 CFR 3102.10.

Occasionally the BLM will receive a bid showing two or more names with unequal ownership shares, e.g., Jane Doe with 60 percent and John Doe with 40 percent. A bid form signed by two or more persons is *prima facie* a bid or application by an "association" within the meaning of Section 27 of the MLA (refer to *Edward Lee*, 515 I.D. 299 (1925)). The bid is therefore acceptable as a bid by an association, but *both* parties must sign the bid form certifying that each individual qualifies to hold a lease.

A sole proprietorship is not authorized to hold a lease or interests therein. Black's Law Dictionary defines sole proprietorship as a form of business, usually unincorporated, in which one or more persons owns all the assets of the business. The MLA does not authorize—nor do the regulations contemplate—that a sole proprietorship may hold mineral leases. Refer to *J.F.C. Oil and Gas*, 60 Interior Board of Land Appeals (IBLA) 191 (1981).

NOTE: A bid received from an entity identified as "Jim Jones and Jan Jones, d/b/a Jones Enterprises" is indication of a sole proprietorship. The "dba" (doing business as) likely indicates that an individual or group of individuals are a sole proprietorship. In the above example, if the bid or lease form was signed by *both* Jim Jones and Jan Jones, the bid is acceptable: the inclusion of two signatures renders the "Jones Enterprises" as surplusage (refer to *McClain Hall, Arthur R. Frank*, 61 IBLA 202 (1982)).

3. **Trusts.** Lease interests should be held in the name of the trust/trustee, e.g., William H. Glenn, Jr., Trust/John Doe et al., Trustee; or Estate of Mary Smith, Trust/Fifth National Bank of Utah, Trustee. Trustees or guardians and their beneficiaries must all be either U.S. citizens or qualified corporations. 43 CFR 3000.5 and 3102.10. Like any other holder of Federal leases or interests therein, trusts may not exceed maximum allowable acreage holdings. 43 CFR 3101.21 and .22.
4. **Corporations.** Corporations organized under the laws of the U.S. or of any State or Territory thereof. 43 CFR 3102.10. Qualifications to hold Federal oil and gas leases or

interests therein are applicable equally to profit and nonprofit corporations, including universities, charities, churches, banks or other fiduciary corporations.

5. **Municipalities (city, town, etc.).** 43 CFR 3102.10.

Other parties in interest can include the following:

1. **Heirs and Devisees.** When a bidder, lessee, assignee, or transferee dies, the lease rights transfer to the heirs, devisees, executor, or administrator, whichever is appropriate, provided the person or entity is qualified to hold Federal leases or interests therein in their own right. If the person or entity is not qualified to hold a Federal lease or interest therein, they may still obtain the lease, but only for a period not to exceed 2 years. The unqualified person or entity must transfer the lease before the end of the 2-year period or the lease, or interest therein, will become subject to cancellation. Refer to 43 CFR 3106.81(c) and 43 CFR 3120.11(c) and H-3108-1. After the lease interest is cancelled and until the lease interest is re-offered for lease, the interest in the lease technically reverts to the U.S. Refer to the current MLRS data entry standards and H-3120-1 for re-offering the interest in an existing lease on a lease sale.
2. **Joint Tenants.** Joint tenants are not prohibited from holding oil and gas leases. In approving actions involving joint tenants, the BLM recognizes each tenant as owning a proportionately equal share of the lease, as if each were a co-lessee. Refer to *Turner C. Smith, Jr., Signe D. Smith*, 89 I.D. 386 (1982), regarding joint tenancies. Each lessee, or joint tenant/tenant-in-common, is charged with his/her proportionately equal share of lease acreage.
3. **Non-U.S. Citizens.** Non-U.S. citizens may acquire Federal oil and gas lease interests only through stock ownership, holding, or controlling a corporation that is incorporated or established under the laws of the U.S. or any State or territory thereof, if the laws, customs, or regulations of their country do not deny similar or like privileges to U.S. citizens. Thus, if an individual who is a citizen of a foreign country bids for a Federal oil and gas lease or requests approval of an assignment or transfer, the bid or transfer must be denied, unless the above conditions are met.
 - a. Foreign firms that are *not* incorporated under the laws of the U.S. or a State or territory thereof are not qualified to hold Federal lease interests.
 - b. Non-U.S. citizens may *not* acquire an interest in a Federal oil and gas lease through the ownership of depositary units (which are similar to corporate shares of stock or book entry form) issued by a master limited partnership. Holders of depositary units have neither control nor liability with respect to the operation of the partnership. Such master limited partnerships are not corporations.

The Office of Investment Security, Department of the Treasury, issued a final rule, effective February 13, 2020, establishing regulations to implement the provisions relating to real estate transactions in section 721 of the Defense Production Act of 1950, as amended by the Foreign Investment Risk Review Modernization Act of 2018. The final rule was published at 85 FR 3158 (Jan. 17, 2020) and codified at 31 CFR part 802. The new rule sets forth the process relating to the national security review by the Committee on Foreign Investment (CFIUS) of certain transactions, referred to in the rule as “covered real estate transactions,” that involve the purchase or lease (including an assignment or other transfer) by, or concession to, a foreign person of certain real estate in the U.S. Covered real estate transactions could include some transactions involving the Federal mineral estate. The CFIUS looks not only at the entities that are lessees, but also to any legal person with the ability to exercise control, as defined by the statute and its implementing regulations, over the lessee. CFIUS is authorized to review covered real estate transactions and to mitigate any risk to the national security of the U.S. that may arise from such transactions. This could result in the modification, suspension, or prohibition on the issuance of a lease or interest therein. Please consult the Solicitor’s Office if you believe that a lease area, or a present or potential lessee, may be subject to 31 CFR part 802.

4. **Minors.** Minors may not acquire or hold Federal oil and gas leases or interests therein, except through a legal guardian or trustee acquiring a lease or interest therein on behalf of the minor. The trustee or guardian must be either a U.S. citizen or qualified corporation. As with other nonqualifying lessees, minors may hold a Federal lease for up to 2 years if it is acquired through inheritance, judgment, or decree. 30 U.S.C. §184(g) and 43 CFR 3102.30. The unqualified person must transfer their interest in the lease before the end of the 2-year period or their interest in the lease will become subject to cancellation. 43 CFR 3106.81(c), 3120.11(c); also refer to H-3108-1. After the lease interest is cancelled and until the lease interest is re-offered for lease, the interest in the lease technically reverts to the U.S. Refer to the current MLRS data entry standards and H-3120-1 for re-offering the interest in an existing lease on a lease sale.

Parties who are qualified to hold leases must:

1. Be in compliance with the Federal acreage limitations. 43 CFR. 3101.21 and .22.
2. Except for an assignment or transfer of an oil or gas lease, be in compliance with Section 2(a)(2)(A) of the MLA, 30 U.S.C. §201(a)(2)(A)). Section 2(a)(2)(A) requires that any entity that holds and has held a Federal coal lease for 10 years beginning on or after August 4, 1976, and who is not producing coal in commercial quantities from each such

lease, cannot qualify for the issuance of any other mineral lease granted under the MLA. This deadline was extended to December 31, 1986, by the Department of the Interior (DOI) Appropriations Act for Fiscal Year 1986. In accordance with Solicitor's Opinion M-36951 (February 12, 1985), however, such entities may obtain Federal mineral leases issued under the MLA through assignment or transfer, except transfers of Federal coal leases.

3. Not be in violation of Section 41 of the MLA, (30 U.S.C. §195) including (1) to organize or participate in any schemes, arrangements, plans, or agreements, or fraud to circumvent or defeat the provisions of the MLA or its regulations, or (2) to seek to obtain or to obtain any money or property by means of false statements of material facts or by failing to state material facts concerning: (A) the value of any lease or portion thereof issued or to be issued under the MLA; (B) the availability of any land for leasing under the MLA; (C) the ability of any person to obtain leases under the MLA; or (D) the provisions of the MLA and its implementing regulations. 43 CFR 3102.51(e).
4. Not be suspended or debarred from doing business with the Federal government. Refer to 43 CFR 3102.51(h) as well as H-3101-1, and H-3106-1 for more information.
5. Not be entities in violation of Section 17(g) of the MLA, (30 U.S.C. §226(g)) who have failed or refused to comply with reclamation requirements with respect to any prior oil or gas lease. Entities will not be issued, or receive by assignment, any additional oil or gas lease or interest in a lease until the entity complies with the reclamation requirements. 43 CFR 3102.51(f). Entities are any subsidiary, affiliate, or person, association, or corporation controlled by or under common control with the signatory, as defined in 43 CFR 3400.0-5(rr). Listing on the section 17(g) list of the MLA is (1) only for Federal onshore oil and gas leases, and (2) an entity can only be placed on the list when they fail or refuse to perform required reclamation and that failure has resulted in imposition of civil penalties or bond collection.
 - a. For purposes of determining whether section 17(g) is implicated, noncompliance with reclamation requirements begins on the effective date of the imposition of a civil penalty by the authorized officer (AO) under the provisions of 43 CFR 3163.2, or when the bond is collected (or attempted to be collected) by the BLM. When an entity is identified as being in violation of the reclamation requirements, the AO must notify the State Office (SO) Lease Adjudication promptly, forwarding all documentation regarding the lack of compliance and documents about the civil penalty or bond collection. The SO determines if the entity meets the requirements to be placed on the list of Entities in Noncompliance with Reclamation Requirements of Section 17(g) of MLA. The entity meets those requirements if:

- 1) The bond is collected but monies are still due because the bond did not cover all costs. The balance due has been billed to the entity and the entity has not paid the balance due; or
- 2) A written Order with civil penalties has been assessed and provided to the entity. The entity has not paid the civil penalties, appealed the Order, or completed reclamation requirements.

The SO will notify each entity (including persons controlled by or under common control with the entity that is in violation) by certified mail of the effective date when the entity failed or refused to comply with the reclamation requirements. The SO will advise the entity that no oil and gas leases will be issued, or assignments or transfers of lease interest will be granted to the entity until the BLM AO has determined that full compliance with the reclamation requirements and reimbursement of any costs incurred by the U.S. has occurred (refer to Illustration 1).

The SO will transmit to Headquarters (HQ) Division of Fluid Minerals (HQ-310) by email copies of the following documents:

- 1) Written Order(s) sent to entities (if applicable);
 - 2) First Incident of Noncompliance (INC) sent to entities;
 - 3) Second INC (if any) sent to entities;
 - 4) Notice of Proposed Civil Penalties sent to entities;
 - 5) Notice of Increased Civil Penalties sent to entities;
 - 6) Bill for civil penalties sent to entities;
 - 7) Notification letter sent to entities;
 - 8) Any responses from the entities;
 - 9) Any decisions related to bond collection; and
 - 10) Memorandum to HQ-310 requesting the entity to be posted to the list of Entities in Noncompliance with Reclamation Requirements of Section 17(g) of MLA (refer to Illustration 2 and 3).
- b. The BLM HQ Office will update the nationwide listing of all such entities and post the list on the Adjudicator website whenever any changes, additions, or deletions are made. HQ-310 will send a message on the BLM Fluids Forum notifying state offices of an entity's listing. HQ-310 will forward the entity's name to the DOI Office of Acquisition and Property Management using the BLM Exclusion Log spreadsheet for inclusion on SAM.GOV as a disqualified entity, and to the Office of Inspector General, Administrative Remedies Division, to determine whether they should receive governmentwide suspension or debarment.

Between the date that BLM adds an entity to the list of Entities in Noncompliance with Reclamation Requirements of Section 17(g) of MLA and the date that the BLM removes them from the list, the BLM will not issue to the entity an oil and gas lease or approve a transfer/assignment of an interest in a lease.

- 1) The BLM may not deny assignments/transfers because the transferring party is on the list of Entities in Noncompliance with Reclamation Requirements of Section 17(g) of MLA.
 - 2) The BLM will reject an application made to transfer lease interests to a listed entity. The filing fee of any returned transfer is nonrefundable.
 - 3) The SOs may give a 60-day timeframe within which, if the entity becomes compliant, the entity may re-file the transfer under the retained filing fee.
 - 4) Any lease issued, or assignment or transfer approved to a noncompliant entity, is subject to administrative cancellation (43 CFR 3108.30).
 - 5) Bona fide purchaser protection cannot be given to a subsequent transferee because either the official case record will contain a copy of the AO's default determination, or the BLM Case Recordation System will record the default.
- c. Prior to issuing any oil and gas lease or approving any lease assignment, the most recent Section 17(g) listing must be checked by SO Lease Adjudication to identify whether the bidder or assignee is listed. If a listed entity has made a competitive sale bid, the bid must be rejected. In the event of an improper rejection (i.e., if the entity submits conclusive evidence of compliance with Section 17(g) within an appropriate time period, such as 60 days), the rejection decision is to be vacated and the lease bid or transfer is to be processed to completion. This approach should avoid any unnecessary appeals.
- d. When a lease is erroneously issued to a noncomplying entity that appears on the list at the time such lease was issued by the AO, the lease is required to be cancelled.
- e. The noncompliance will end when the act or omission causing the noncompliance has been remedied to the satisfaction of the SO. When such noncompliance ends, the SO will notify the HQ-310 by email the date the noncompliance ended. HQ-310 will place the entity on the historical tab of the 17(g) list and send a message on the BLM Fluids Forum notifying SOs that an entity has been removed from the active list. HQ-310 will notify the Office of Acquisition and Property Management and the Office of Inspector General, Administrative Remedies Division, that the entity is in compliance and removed from the 17(g) list. An entity is in compliance when:
- 1) The entity has paid the civil penalty and performed the required reclamation.

- 2) The AO accepts the required reclamation performed under contract, and the entity reimburses the Federal Government for all costs associated with the required reclamation. Costs include (a) issuing a performance contract and (b) overseeing that contract during its life.
- 3) The SO receives the amount demanded under bond. If the bond is insufficient to cover the total cost, the SO will send the entity a bill for the balance. Until the entity pays the entire balance, and the BLM accepts compliance, the BLM will not remove the entity from the list.

C. Denying Similar or Like Privileges to U.S. Citizens or Corporations

Prior to 1982, the BLM maintained a list of nations that, with respect to mineral leasing, had been determined to grant reciprocal privileges to U.S. citizens. Under procedures set forth in the Federal Register (47 FR 27622, June 25, 1982), the reciprocal nations list was eliminated and replaced with a list of nations that deny U.S. citizens or corporations' privileges similar to those that the U.S. accords non-U.S. citizens under the MLA. Currently, no nations are on such a list of nonreciprocal countries.

Nations reviewed and determined by the DOI to not deny similar or like privileges to citizens or corporations of the U.S. within the meaning of the MLA are:

Canada - Decision issued February 2, 1982
 Sweden - (47 FR 45091, October 13, 1982)
 Cyprus - (47 FR 45091, October 13, 1982)
 Finland - (49 FR 29849, July 24, 1984)
 Kuwait - (48 FR 16348, April 15, 1983)
 (49 FR 50310, December 27, 1984)
 (50 FR 11249, March 20, 1985)

- a. Upon request, the Assistant Secretary for Land and Minerals Management (ASLM) will determine whether a nation denies similar or like privileges to U.S. citizens or firms. Final determinations are normally made by the ASLM with the Solicitor's concurrence, and in consultation with BLM staff and the State Department.
- b. Reviews may be conducted upon request by a private party or the Federal government. The request must be accompanied by supporting factual and legal analysis or a summary of the laws, customs, and regulations of the foreign country. Requests submitted with insufficient factual material will not be reviewed. Public comment may be requested by the DOI through a Federal Register notice, particularly in instances where the information submitted, although detailed, is not comprehensive or where, based on the evidence, it appears that the foreign country may, in fact, deny similar or like privileges.
- c. Requests for review should be submitted directly to the ASLM. If a SO or FO receives a request, forward the request to the HQ Office to the attention of the Assistant Director, Energy and Mineral Resources.

The reciprocity provision of Section 1 of the MLA does *not* mandate that the DOI must first find that a nation is "reciprocal" before its citizens may own, hold, or control stock in a firm which holds an interest in mineral leases when the firm is incorporated in the U.S. or a State or territory thereof.

CHAPTER 3 SIGNATURES

A. General

Lessees and bidders for Federal oil and gas lessees do not need to routinely submit documents demonstrating their qualification to hold a Federal lease. (47 FR 8544, February 26, 1981) However, entities or persons must be in constant compliance with the MLA of 1920, as amended, and the implementing regulations. Bidders, assignees, and transferees certify their qualification by their signature on the Bureau-approved forms. The lease Form 3100-11, assignment of record title Form 3000-3, transfer of operating rights Form 3000-3a, and the competitive bid Form 3000-2 has been revised to clarify that a signature on the form certifies compliance with all the applicable regulations. Unsolicited qualifications documents received with applications should be returned along with the form notice indicating that oil and gas qualifications files are no longer being maintained by the BLM (refer to Illustration 4). The BLM retains the authority to request submission of documentation demonstrating the ability to hold a lease, 43 CFR 3102.53, providing a compliance period of at least 30 days for receipt of the response.

The competitive bid form must be signed by the potential lessee or person authorized to sign on behalf of the potential lessee. Bids may be made to the BLM by other arrangements, such as electronically, when specifically authorized by the BLM.

As required by the MLA (30 U.S.C. §187a), an assignment of record title or transfer of operating rights (sublease) must be manually signed in triplicate by the assignor/transferor or person authorized to sign on behalf of the assignor/transferor. However, an assignee/transferee is required to manually sign only one original request for approval of the assignment or transfer. The BLM will not require triplicate copies of the assignment or transfer when it is electronically submitted through the BLM's automated systems, in accordance with the Government Paperwork Elimination Act (GPEA), Pub. L. No. 105-227. Section 1707 of the GPEA specifically states, "Electronic records submitted or maintained in accordance with procedures developed under this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, must not be denied legal effect, validity, or enforceability because such records are in electronic form." The signature on the assignment of record title Form 3000-3 requesting approval of an assignment of less than 640 acres outside of Alaska or 2,560 acres in Alaska also constitutes acceptable certification that the assignment would further the development of oil and gas in accordance with the requirements of Section 30A of the MLA.

Machine or rubber-stamped signatures on a bid will result in rejection of that bid. If an assignment or transfer is submitted with a machine or rubber-stamped signature by the assignor/transferor, or by the assignee/transferee, the assignment or transfer must be returned unapproved with a request that the defect be corrected.

B. Relationship to Signatory

Documents signed by any party on behalf of the current or potential lessee (i.e., someone who is not officially associated with the corporation or association) must indicate the name of the current or potential lessee, the name of the signatory, and their relationship to the association. For example, an attorney-in-fact, or a trustee to a bankruptcy.

In processing any leasing actions, whenever the relationship of the signatory to the current or potential lessee requires further clarification, the AO should require additional information or evidence before further processing of the action, as provided by 43 CFR 3102.53.

C. Dating of Signature

An oil and gas lease bid, assignment or transfer, or bond should reflect the date it was actually signed. However, failure to date a form is not per se a disqualification, since the critical date is the date when the application is filed in the proper BLM office. Refer to *Henry W. Odlozil, Sr.*, 96 IBLA 286 (1987).

D. Power of Attorney (POA)

When a POA unrelated to any particular application or case action is submitted with a request for review, it should be acknowledged and include a response that no review will be given until submission of a competitive bid, assignment, transfer, etc., which will cause the POA to be reviewed in conjunction with the pending action (refer to Illustration 5).

When a specific action, such as a competitive bid, bond, assignment or transfer, or request for approval of an assignment or transfer, is submitted under the signature of an attorney-in-fact, the SO Lease Adjudication should examine the POA or other documents showing that the person signing has the authority to do so on the date the document was executed. Normally, the POA document will specify that the attorney-in-fact was appointed on a certain date and may also indicate a date when such authorization is no longer valid. The date of appointment must be the same as or earlier than the date the bid, bond, assignment or transfer, or request for approval of the assignment or transfer was signed.

NOTE: At the end of the POA, there should be a completed certificate indicating that the POA is still valid on a certain date. Also check the POA to determine if it is limited to certain actions or conditions. If the POA is no longer valid on the date the document was signed or excludes the type of action for which it has been submitted, the AO must reject the bid or transfer, or return the bond unapproved.

CHAPTER 4 OIL AND GAS LESSEE QUALIFICATIONS AUDIT

A. Qualifications Audit for Acreage Holdings

BLM HQ-310 conducts a systematic audit on an annual basis by the end of the first quarter of each calendar year to ensure entities do not hold leases in excess of the allowable acreage holdings. Acreage chargeable to an interest in a lease includes the qualified holder's record title ownership and operating rights ownership. Overriding royalty interests are not chargeable against acreage limitations. The acreage limitations under the MLA do not apply to leases or agreements issued under any of the Indian Mineral Acts.

1. **Information from MLRS.** Reports from the Mineral and Land Records System (MLRS) are generated to ensure that entities holding lease interest are not exceeding acreage limitations for leases in the lower 48 States and Alaska. Separate acreage limitations per geographic State apply to public domain (PD) minerals, 43 CFR 3101.21, and acquired (ACQ) lands minerals, 43 CFR 3101.22.

Reports and audits from MLRS that cover lease interests held by non-U.S. citizens who acquire Federal oil and gas lease interests through stock ownership, holding, or controlling a corporation of nonreciprocal countries are not generated because there are currently no countries deemed to be nonreciprocal (i.e., that do not grant reciprocal privileges to U.S. citizens). Reports and audits of this nature may resume, if nonreciprocal countries are identified according to procedures set forth in 47 FR 27622, June 25, 1982, and described within this handbook in Chapter 2, Section C.

2. **HQ-310 Responsibility.** HQ-310 generates the Acreage Holding by Customer report for each geographic State and selects Oil and Gas PD or Oil and Gas ACQ as a parameter in the report. A report does not need to be generated for a geographic State when the oil and gas statistics show that there are fewer than 246,080 acres leased in that geographic State, or 300,000 acres in Alaska. Initially, both land types can be selected to identify if an entity holds more than 246,080 acres in any geographic State. If the combined results identify an entity that has exceeded the acreage limits, generate separate reports for PD and ACQ lands.

If there are no entities returned in the report, document the findings so that the record reflects that the audit was performed. If an entity is identified as having more than 246,080 acres of PD or ACQ lands in any one state, send a copy of the report to the SO to proceed with reconciliation and audit.

3. **SO Responsibility.** When contacted by the HQ Office that an entity has been identified that exceeds the acreage limitation, and to ensure compliance with the acreage holdings limitations, the SO generates the Leasable Mineral Acreage Figures by Customer report to get an itemized list of all holdings in Federal oil and gas leases for the specific geographic State. When any report shows an entity has chargeable acres equal to or

greater than 246,080 acres, then each such entity is subject to a full audit of its oil and gas lease interest holdings for that type of land in that geographic state. The SO should also run reports to identify if there are any pending leases or reinstatements that have not been issued, as these will need to be identified in the notice to the entity. Refer to Illustration 6.

4. **SO Adjudicative Action.** The SO Lease Adjudication staff must send a notice to inform the entity that the BLM's records show they exceed the acreage limitations and should list actions that can be taken by the entity to come into compliance with the acreage limitations within thirty days of receipt of the notice. If additional time is required by the entity to complete the divestiture, the entity must submit a letter of petition to the proper BLM SO requesting additional time and providing a complete justification for the additional time. The petition must be received prior to the end of the time allowed. If the entity or person does not relinquish the excess acreage holdings within the time allowed, the excess acreage that is in violation of the acreage limitations is to be cancelled by the BLM in the inverse order of lease acquisition or interests therein. Refer to Illustration 6. Notice to the lessee is not necessary if a large discrepancy between the entity's data and SO records is discovered and can be corrected in the MLRS.

When, as a result of a merger, a corporation exceeds the allowed acreage, issue a notice informing the entity that 180 calendar days are allowed from the date of the merger or purchase within which to divest the excess acreage (refer to 43 CFR 3101.24).

At any time, the AO may issue a notice that requires a lessee or operator to file a statement with the BLM SO indicating the leases they hold as of a specified date in a geographic State by the lease serial number and the date each lease was issued or acquired through assignment or transfer.

B. Acreage Limitation Requirements

Options on lease transfer applications or bids are not chargeable. However, options on leases are chargeable and are treated as leases if the lease is unitized or is in a development contract.

The acreage in PD mineral leases is charged separately from ACQ lands mineral leases since the MLA for Acquired Lands of 1947 is a separate leasing authority from the initial leasing authority for PD minerals, i.e., the MLA of 1920.

Acreage held in leases issued under the Act of May 21, 1930, are not chargeable since such leases are not subject to the acreage limitation provisions of the MLA of 1920.

Competitive lease bids are not charged against the acreage limitation until a lease is issued.

Acreage in a future interest lease does not count against the acreage limitation until the mineral interest vests in the U.S. Prior to that date, the acreage in such a lease is not chargeable.

Fractional mineral interest owned by the U.S. in lands is charged to a lessee as a proportionate share of the total. For example, if the U.S. owns 75 percent of the mineral interest in 320 acres contained in a lease, the lessee will be charged with only 240 acres in that lease.

An entity holding an undivided interest in a lease, for example, a 10 percent undivided interest, will be charged for 10 percent of the acreage covered by the lease. In this example, the entity would be charged for 64 acres of a lease containing 640 acres.

A stockholder who owns or controls more than 10 percent of the stock of a corporation has his/her share of the acreage computed based on the stockholder's proportionate share of the corporation's stock. For example, if an individual stockholder holds 20 percent of the stock in the XYZ Oil Corporation, and that corporation has 200,000 chargeable acres, the individual stockholder is charged with 40,000 chargeable acres. The individual stockholder's chargeable acreage is separate and is not in addition to the corporation's chargeable acreage.

Associations (including partnerships and trusts) must ensure that their stockholders, partners, trustees and/or officers are complying with the MLA. Just as stockholders in a corporation owning more than 10 percent of the stock are charged with their proportionate ownership of the corporation's leased acreage, beneficial parties owning more than 10 percent of an association are also charged with their proportionate ownership of the association's leased acreage. The individual partner's chargeable acreage is separate and is not in addition to the association's chargeable acreage.

Parties holding only operating rights in leases, when the operating rights have been severed from record title ownership, will be chargeable for the lease acreage held solely through operating rights interests. However, the acreage chargeable due to the operating rights holdings will not exceed the total acreage contained in the lease.

Leases committed to an approved oil and gas agreement (such as an approved Federal communitization agreement, an approved Federal unit, or an approved gas storage agreement) are not counted in acreage chargeability computations. Acreage becomes chargeable when it is eliminated from such an agreement.

Leases subject to an operating, drilling, or development contract approved by the Secretary, as provided in 43 CFR 3105.32, are not counted in acreage chargeability computations.

Leases for which royalty (including compensatory royalty or royalty in-kind) was paid in the preceding calendar year are not counted in acreage chargeability computations, 43 CFR 3101.23(a)(2).

Illustration 1 – Format for Decision for Noncompliance

3102 (Office Code)

Serial No.

Certified Mail – Return Receipt Requested

DECISION

Name : Oil and Gas Lease
Address : (Serial Number)
:

Future Leasing and Record Title Assignments Prohibited

On (date), the (Name) Field Office of the Bureau of Land Management ordered (Name of entity) to properly plug and abandon the (name of well) well on lease (serial number). The return receipt card for the letter containing the orders indicates the operator received the letter on (date). A demand for the full amount of \$(amount) (individual/statewide) bond number (BLM bond number) was made because (Name of entity) did not comply with the orders.

Section 17(g) of the Mineral Leasing Act prohibits the Secretary of the Interior from issuing oil and gas leases or approving any assignments or transfers of oil and gas leases to any entity (including each individual officer) that has failed or refused to comply with the BLM's reclamation requirements.

You are hereby advised that (Name of entity), (Name of persons controlled by or under common control with the entity that is in violation), and (Name of persons controlled by or under common control with the entity that is in violation) are prohibited from acquiring any Federal oil and gas lease interests.

(Insert the standard appeal paragraph (refer to Handbook 3100-1)).

If you have any questions regarding this decision, please call *(author's name)*, at *(telephone number)*, or write to the attention of *(office code)*, at the address shown on the letterhead or send questions electronically to *(author's e-mail address)*.

Authorized Officer

Enclosure

Form 1842-1

Distribution

Case file

Illustration 2 – Format for Memorandum to HQ-310 Regarding Noncompliance with 17(g)

Memorandum

To: Division of Fluid Minerals

From: Deputy State Director, Lands, Energy and Minerals

Subject: Entities in Noncompliance with Reclamation Requirements Section 17(g) of the MLA

Title 43 CFR 3102.51(f) states that an entity is in noncompliance with the reclamation provisions of the MLA effective the date the Bureau of Land Management (BLM) imposes a civil penalty or collects a bond for reclamation purposes.

On (date), the BLM made a demand against (Name of entity) (*state what was done – bond collected – civil penalties assessed*) for failure to plug (name of well) on oil and gas lease (serial number).

Add (Name of entity) to the list of Entities in Noncompliance with Reclamation Requirements of Section 17(g) of the MLA.

Please direct any questions regarding this memorandum to (Name) at (phone number), or email (email address).

Attachment(s)

- 1 – Letter dated _____ to entity(s)
2. - Written Order sent to entities (if applicable)
3. - First Incident of Noncompliance (INC) sent to entities
4. - Second INC sent to entities
5. - Notice of Proposed Civil Penalties sent to entities
6. - Notice of Increased Civil Penalties sent to entities
7. - Bill for civil penalties sent to entities
8. - Notification letter sent to entities
9. - Any responses from the entities
10. - Any decisions related to bond collection
11. – Worksheet

Illustration 3 – Worksheet for Entities in Noncompliance with Reclamation Requirements of Section 17(g) of MLA

Date Reclamation Corrected _____
Effective Date Civil Penalty _____
Or Bond Collection _____
Lease Serial Number _____
Well Number(s) _____

Assessed Dollar Amount _____
Field Office and State _____

Name (person, association, corporation, or any subsidiary or affiliate)

Address _____
City, State, Zip Code _____

Entity Contact Name		
Name	Pres/Vice Pres/Sec/Treas/etc.	Phone
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Remarks:

Illustration 4 – Format for Notice Returning Unsolicited Qualifications Documents

3102 (Office Code)

NOTICE

The material you recently submitted to this office related to oil and gas lessee qualifications is enclosed. The Bureau of Land Management (BLM) no longer routinely maintains or requires such information.

Submission to the BLM of any oil and gas competitive bid, assignment record title, or transfer of operating rights (sublease) on an approved BLM form constitutes a certification that the bidder, assignee, transferee, or other party-in-interest is qualified to hold the lease interest and is in compliance with the Mineral Leasing Act. Should any question of qualifications arise, the BLM has the authority to require additional information, in accordance with 43 CFR 3102.53, either before or after approval of a competitive bid offer, assignment, or transfer.

Authorized Officer

Enclosure

Return of qualification documents

Distribution

Case file

Illustration 5 – Format for Notice Acknowledging Receipt of Power of Attorney Unrelated to a Specific Oil and Gas Lease Action

3102 (Office Code)

NOTICE

This office recently received a power of attorney relating to Federal oil and gas holdings that your firm may obtain in the future, requesting our review regarding whether it is in an appropriate form to meet the Federal onshore oil and gas leasing regulatory requirements.

This notice serves to acknowledge receipt of the power of attorney. However, we will not review the materials submitted until submission of a specific competitive bid, assignment of record title, transfer of operating rights (sublease), or a bond is received for processing that may necessitate our reference to the power of attorney.

Authorized Officer

Enclosure

Distribution

Illustration 6 – Format for Notice to Entity Exceeding Acreage Limitations

3102 (Office Code)

Serial No.

Certified Mail – Return Receipt Requested

NOTICE

Name : Oil and Gas Lease
Address : (Serial Number)
:

Oil and Gas Lease Acreage Qualifications Audit

Each year, the Bureau of Land Management (BLM) verifies compliance with the oil and gas lease acreage limitations imposed by Sec. 1 of Mineral Leasing Act of 1920 (30 U.S.C. §181 *et seq.*) and codified in the Code of Federal Regulations, 43 CFR 3101.21 and 3101.22. There is an acreage limitation of 246,080 acres (300,000 acres for Alaska) per entity per geographic State for each public domain and acquired lands mineral acreage holdings.

Information obtained from our Mineral and Land Records System (MLRS) has identified (Name of entity) as exceeding the allowable acreage holdings in the State of (Name) for (public domain or acquired) lands totaling (number) acres. This is an excess of (number) acres more than the acreage limitation allows. Leases that are within the “excepted acreage” parameter outlined in 43 CFR 3101.23 are not included in computing accountable acreage. Therefore, pursuant to 43 CFR 3102.53, we are conducting an audit of (Name of entity’s) acreage holdings in the State of (Name), as of (date of notice).

Attached are two reports compiled from the BLM’s MLRS database. The first report, Leasable Mineral Acreage Figures by Customer, outlines authorized leases and the chargeable acreage by percentage of interest for each lease. This report does not include leases containing excepted acreage. The second report identifies leases and reinstatements pending issuance and authorization. If (Name of entity) does not bring their acreage limitations into compliance, these leases may not be issued or authorized.

In accordance with 43 CFR 3101.53, please submit to the BLM (Name) State Office, at the above address, a statement showing the lease serial number and the acreage held in each lease for which (Name of entity) has any interest so that we can reconcile our records.

You have 60 days from receipt of this notice in which to furnish the requested information. Even though you may take the full 60 days to submit information, you should allow time to resolve any discrepancies between your records and the BLM’s. If you do not believe you can submit the requested information within 60 days, you must submit a request for an extension of time to this office prior to the end of the 60 days. We will consider your request for an extension of time.

Upon examination and reconciliation of the submitted information, if (Name of entity) is found to hold accountable acreage in violation of the regulations, (Name of entity) will be allowed 90 days from the date on which the BLM provided you such notice to reduce the holdings to the prescribed limitation, and to file proof of the reduction with this office. If the acreage limitation is not met within the time allowed lease(s) and/or interests will be subject to cancellation or forfeiture in their entirety as it relates to the entity's ownership within the lease and/or interest, until sufficient acreage has been eliminated to comply with the acreage limitation. If this happens, excess acreage or interest will be cancelled in the inverse order of acquisition, per 43 CFR 3101.24(b).

Any questions concerning this audit, should be directed to (Name) at the (Name) State Office, (telephone) or (email).

Authorized Officer

Enclosures

Leasable mineral acreage figures by customer report
Leases/reinstatements pending authorization

Distribution

Case file
HQ-310