



## Testimony

Before the Subcommittee on Energy  
and Mineral Resources, Committee on  
Natural Resources, House of  
Representatives

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# FEDERAL OIL AND GAS REVENUE

## Actions Needed to Improve BLM's Royalty Relief Policy

Statement of Frank Rusco, Director,  
Natural Resources and Environment

Accessilbe Version

# GAO Highlights

Highlights of [GAO-21-169T](#), a testimony before the Subcommittee on Energy and Mineral Resources, Committee on Natural Resources, House of Representatives

## Why GAO Did This Study

BLM manages the federal government's onshore oil and gas program with the goals of facilitating safe and responsible energy development while providing a fair return for the American taxpayer.

In April 2020, oil and gas producers faced financial challenges from a drop in demand for oil during the COVID-19 pandemic. If oil and gas prices decline, it places financial stress on oil and gas companies, thereby increasing bankruptcies and the risk of wells being shut down.

BLM developed a temporary policy to provide oil and gas companies relief from royalties that they owe to the federal government when they sell oil and gas produced on federal lands.

This testimony discusses (1) BLM's development of the temporary policy for royalty relief and what is known about the policy's effects, and (2) BLM's implementation of this policy across relevant states. To do this work, GAO reviewed BLM documents; analyzed royalty data; and interviewed BLM officials from headquarters and the five BLM state offices with jurisdiction over states that account for 94 percent of royalties from oil and gas production on federal lands.

## What GAO Recommends

GAO is making two recommendations. BLM should (1) evaluate the effects of its temporary royalty relief policy and use the results to inform its ongoing royalty relief program, and (2) update its guidance to provide consistent policies for royalty relief.

View [GAO-21-169T](#). For more information, contact Frank Rusco at (202) 512-3841 or [ruscof@gao.gov](mailto:ruscof@gao.gov).

October 6, 2020

## FEDERAL OIL AND GAS REVENUE

### Actions Needed to Improve BLM's Royalty Relief Policy

## What GAO Found

In reaction to falling domestic oil prices due to the COVID-19 pandemic, the Bureau of Land Management (BLM) developed a temporary policy in spring 2020 for oil and gas royalty relief. The policy aimed to prevent oil and gas wells from being shut down in way that could lead to permanent losses of recoverable oil and gas. During March through June 2020, BLM gave companies the opportunity to apply for a reduction in the royalty rates for certain oil and gas leases on federal lands. BLM approved reductions from 12.5 percent of total revenue on oil and gas sold from those leases to an average of less than 1 percent for a period of 60 days. However, BLM did not establish in advance that royalty relief was needed to keep applicants' wells operating, according to BLM officials. BLM also did not assess the extent to which the temporary policy kept oil and gas companies from shutting down their wells or the amount of royalty revenues forgone by the federal government. By evaluating the extent to which the policy met BLM's objective of preventing unrecoverable loss of oil and gas resources—and likely costs, such as forgone revenues—BLM could better inform its decisions about granting royalty relief that provides a fair return to the government, should the agency decide to consider such relief in the future.

BLM officials told GAO that BLM state offices implementing the temporary policy for royalty relief made inconsistent decisions about approving applications for relief because the temporary policy did not supply sufficient detail to facilitate uniform decision-making. The officials added that their state offices did not have recent experience in processing applications for oil and gas royalty relief. Several of the officials had never received or processed royalty relief applications. In addition, GAO found that ongoing guidance for processing royalty relief decisions—within BLM's *Fees, Rentals and Royalties Handbook*, last revised in 1995—also does not contain sufficient instructions for approving royalty relief. For example, the handbook does not address whether to approve applications in cases where the lease would continue to be uneconomic, even after royalty relief. As a result, some companies that applied for royalty relief were treated differently, depending on how BLM officials in their state interpreted the policy and guidance.

In particular, officials from two state offices told GAO they denied royalty relief to applicants because the applicants could not prove that royalty relief would enable their leases to operate profitably. However, two other state offices approved royalty relief in such cases. The fifth state office denied both of the applications it received for other reasons. BLM's existing royalty relief guidance did not address this issue, and BLM's temporary policy did not supply sufficient detail to facilitate uniform decision-making in these situations. BLM's directives manual states that BLM should provide BLM employees with authoritative instructions and information to implement BLM programs and support activities. Until BLM updates the royalty relief guidance, BLM cannot ensure that future relief decisions will be made efficiently and equitably across the states and provide a fair return to the federal government.

Chairman Lowenthal, Ranking Member Gosar, and Members of the Subcommittee:

I am pleased to be here today to discuss our work related to temporary royalty relief that the Department of the Interior's (Interior) Bureau of Land Management (BLM) provided for oil and natural gas companies operating on federal lands during the Coronavirus Disease 2019 (COVID-19) pandemic. In spring 2020, oil and gas producers faced financial challenges stemming from drops in commodity prices during the early days of the pandemic. The price drops stemmed from a precipitous decline in demand for crude oil—estimated by analysts to be about a 30-percent reduction in global crude oil consumption—because of the pandemic. Moreover, these price drops came when the industry was already facing low prices because of a prepandemic oil glut in the world market. Industry representatives said these conditions put companies at risk of going bankrupt or shutting down their oil and gas wells, many of which operate on federal lands.

In response, BLM developed a temporary policy to provide relief from the royalty payments that oil and natural gas companies must make when they sell oil and gas produced on federal lands. Royalty payments are an important source of revenues for the federal and state governments. In 2019, the federal government collected over \$8 billion in royalty revenues for oil and gas. About half of all such federal revenues are shared with the states in which the oil and gas is produced.<sup>1</sup> However, companies would not pay such royalties if low prices caused them to shut down their oil and gas wells or to go bankrupt. Under BLM's temporary policy, companies could apply for royalty relief beginning in mid-March through June 11, 2020, and they would receive the relief for 60 days from the date that BLM approved their applications. The temporary policy, according to BLM, is to encourage the greatest ultimate recovery of oil and gas and in the interest of conservation of those resources.

My statement today is based on observations and analyses from our review of (1) BLM's development of the temporary policy for royalty relief

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<sup>1</sup>Indian tribes also receive royalty payments from lands held in trust and leased by the federal government; in 2019, these produced \$1 billion in revenues for tribal governments. This testimony focuses on revenues paid to the federal government and state governments. We did not include the effect of this policy on Indian oil and gas leases because BLM's policy did not apply to royalty relief for Indian oil and gas leases.

and what is known about the policy's effects, and (2) BLM's implementation of this policy across relevant states. To do so, we obtained agency documentation and interviewed BLM officials about BLM's process for developing and implementing its temporary royalty relief policy. We compared BLM's temporary policy development and implementation process with relevant laws, regulations, agency guidance, and federal internal control standards.<sup>2</sup> We determined that the control activities component of internal control—the actions management establishes to achieve objectives and respond to risks—was significant to our review, along with the related principles that management should design activities to achieve objectives and respond to risks and should implement control activities through policies. We assessed BLM's development and implementation of its temporary royalty relief policy against these principles.

In addition, to assess what is known about the effects of the royalty relief BLM granted under the temporary policy, we interviewed knowledgeable officials from BLM, Interior's Office of Natural Resources Revenue, an industry association, and five state government natural resource management offices that we selected because over 94 percent of federal oil and gas production occurs in their states—Colorado, New Mexico, North Dakota, Utah, and Wyoming.<sup>3</sup> We also obtained and analyzed data on revenues paid by companies receiving royalty relief from the Office of Natural Resources Revenue to estimate the potential amount of oil and gas royalties forgone by BLM. We assessed these data for reliability and determined the data were sufficiently reliable for the purpose of examining the potential amount of forgone royalty revenue.<sup>4</sup>

To further assess BLM's implementation of its temporary royalty relief policy, including numbers of leases for which applications were filed, granted, or denied as a result of the policy, we examined data BLM officials provided. We assessed these data for reliability and determined

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<sup>2</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

<sup>3</sup>The views of the officials from these state natural resource management offices are not generalizable to those of other state natural resource management offices with whom we did not speak.

<sup>4</sup>We determined the reliability of the data from the Office of Natural Resources Revenue by interviewing knowledgeable officials, reviewing existing documentation about the data, performing electronic testing on required data elements on these data, and corroborating the results with other reports and data.

these data were sufficiently reliable for the purpose of reporting on the number of leases that had been approved for royalty relief, according to BLM.<sup>5</sup> To understand the basis for BLM's decisions about the applications, we requested files associated with a random, non-generalizable sample of leases from five BLM state offices. We selected these five offices because over 94 percent of federal oil and gas production occurs in the states within their jurisdiction—Colorado, Montana/Dakotas, New Mexico, Utah, and Wyoming. We reviewed 31 applications that were provided in response to that request and used those files to corroborate statements from BLM officials and make other observations about individual applications.<sup>6</sup>

We conducted our work for this testimony from July to October 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

Interior acts on behalf of the American people to manage the federal oil and gas system to ensure a fair return to the federal government for the development of oil and gas resources. BLM is responsible for overseeing the federal government's onshore subsurface mineral estate and manages approximately 700 million acres of subsurface mineral rights throughout the country, including the acreage it leases to companies for oil and gas development.<sup>7</sup> According to BLM data, oil and gas operators

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<sup>5</sup>We determined the reliability of the data by comparing the data with other data in BLM's Legacy Rehost 2000 (LR2000) database and with data available from Office of Natural Resources Revenue on royalty relief approvals.

<sup>6</sup>We reviewed the application files to determine whether they were approved or denied, the rationale for denials, and company-provided documentation demonstrating lease profitability.

<sup>7</sup>The Mineral Leasing Act of 1920, as amended (30 U.S.C. §§ 181, et seq.), gives Interior responsibility for oil and gas leasing on federal and private lands where the federal government has retained mineral rights. The Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. §§ 351, et seq.), extends that authority to lands that the federal government acquired.

produced oil and gas from about 96,000 wells on about 26 million acres of leased federal lands in fiscal year 2018.

Under the Mineral Leasing Act of 1920, as amended, companies that obtain federal oil and gas leases must typically pay a royalty of at least 12.5 percent of the value of the oil and gas produced under the lease.<sup>8</sup> BLM has recently developed procedures for assessing whether to offer leases with rates greater than 12.5 percent if it determines the government would better receive a fair return.

Under its regulations, BLM may also reduce the royalty on a lease to encourage the greatest ultimate recovery of the resource and in the interest of conservation of natural resources. The regulations require BLM to determine that the royalty reduction is necessary to promote development of the lease or that the lease cannot be successfully operated under the royalty rate agreed in the terms of the lease. The regulations also specify the process by which companies must apply for the royalty reduction and the required contents of the application.<sup>9</sup>

Companies owing royalties for the oil and gas produced under federal leases make their payments to Interior's Office of Natural Resources Revenue, which in turn disburses 49 percent of the royalties to the states with leases on federal land in the state; another 50 percent largely goes to pay for such federal purposes as infrastructure projects, including dams and power plants; and the remaining 1 percent pays for administration.<sup>10</sup> States use their royalty revenue primarily to fund local government services, such as schools. For example, in 2017, Utah received about \$54 million in federal oil and gas royalties.

From March 24 through June 11, 2020, five BLM state offices received applications for temporary royalty relief for a total of 1,689 oil and gas leases, according to BLM officials, and the offices approved applications

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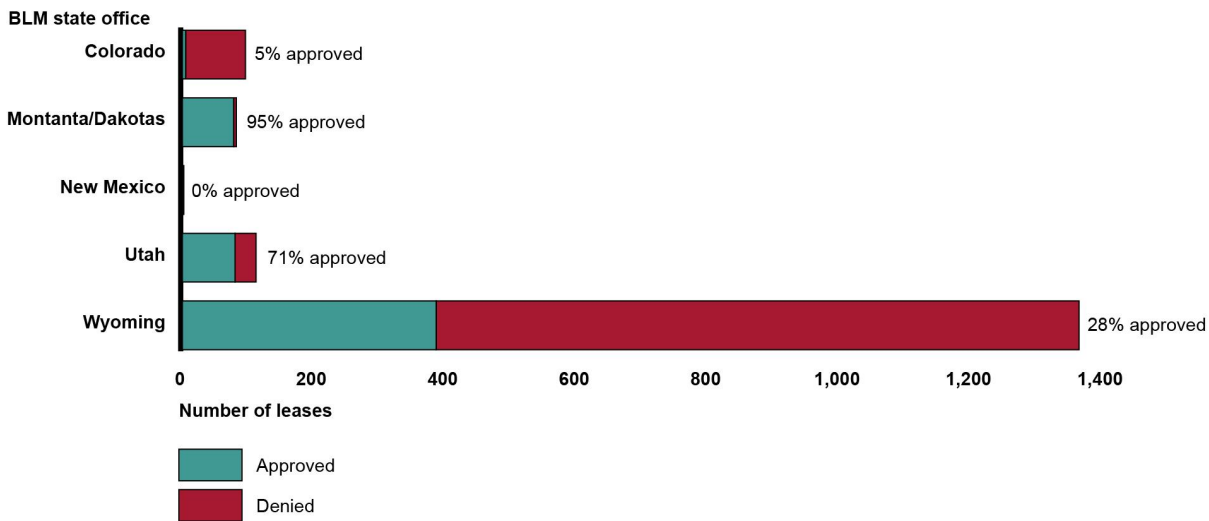
<sup>8</sup>30 U.S.C. § 226(b)(1)(A), (c).

<sup>9</sup>43 C.F.R. § 3103.4-1.

<sup>10</sup>Alaska receives 90 percent of royalties generated from federal lands in Alaska. Oil and gas produced on tribal lands also generate royalty revenues, which Interior distributes to the relevant tribes or to Individual Indian Money accounts, which Interior holds on behalf of an individual Indian who possesses an interest in, among other things, land or mineral resources that the federal government holds in trust.

for 581 of these leases.<sup>11</sup> The royalty rates for the leases were reduced from the minimum BLM rate of 12.5 percent to an average of less than 1 percent for the 60 days of royalty relief that the temporary policy provided, according to data from the Office of Natural Resources Revenue.<sup>12</sup> Three BLM state offices (Montana/Dakotas, Utah, and Wyoming) approved from 28 percent to 95 percent of the royalty relief applications they received. In contrast, the Colorado state office approved 5 percent of the applications it received, and the New Mexico state office received two applications and did not approve either of them. Figure 1 shows, according to the data provided by BLM, the differences in the percentage of applications that the five offices approved and denied for temporary royalty relief for leases under their jurisdictions.

**Figure 1: Percentages of Oil and Gas Leases on Federal Lands for Which Five BLM State Offices Approved or Denied Royalty Relief**



Source: Bureau of Land Management (BLM) data. | GAO-21-169T

<sup>11</sup>According to BLM officials, the California and Eastern States BLM state offices also received applications for temporary royalty relief; however, those two offices did not approve relief for any of the leases under the applications, and we have excluded them from this discussion because those BLM state offices were not within the scope of this review.

<sup>12</sup>From March 24 through June 11, 2020, BLM reviewed and approved applications for temporary royalty relief. Approved temporary royalty relief was, by policy, to be limited to a period of 60 days beginning with the date the relief was approved by BLM.

**Data table for Figure 1: Percentages of Oil and Gas Leases on Federal Lands for Which Five BLM State Offices Approved or Denied Royalty Relief**

	Wyoming	Utah	New Mexico	Montana/Dakotas	Colorado
Leases approved	386	80	0	78	5
Leases denied	978	32	2	4	86
Percentage approved	28%	71%	0%	95%	5%

According to BLM officials, the variation in approval rates by BLM state offices was partly explained by the differences in the geologic and economic conditions that oil and gas companies face in different states. For example, oil and gas companies in some states face higher costs to transport their oil and gas to buyers, according to a BLM state official. Companies in other states face geologic conditions that make the product they sell more or less expensive to produce. For example, heavier oil in part of Utah is more costly to produce; thus, more oil and gas companies there can show a need for royalty relief, according to a BLM official. Conversely, in states such as New Mexico—that includes the Permian Basin formation—oil and gas production can be more profitable because the oil produced there may require less processing, according to BLM state officials.

The oil and gas industry has often been associated with “boom and bust” cycles characterized by large swings in the prices of oil and gas that cause disruption in the industry. Oil and gas price fluctuations have been attributed to many factors, including severe weather, strength of economy, and imbalances in the growth of supply and demand. Oil prices, for example, have ranged from less than \$20 a barrel in January 2002 to almost \$150 a barrel in July 2008. More recently, oil prices went briefly negative in April 2020 early in the COVID-19 pandemic, to negative \$36.98 a barrel.<sup>13</sup> As of September 14, 2020, the price of one domestic crude oil benchmark—West Texas Intermediate—was \$37.23 per barrel. Similarly, natural gas prices have varied widely in recent decades, ranging from less than \$3 per million British thermal units (Btu) in January 1997 to over \$18 per million Btu in February 2003.<sup>14</sup> The price fluctuations

<sup>13</sup>COVID-19 pandemic-related lockdowns across the world caused demand for oil to drop precipitously. Negative oil prices resulted because oil companies had to pay to store their surplus supplies of oil.

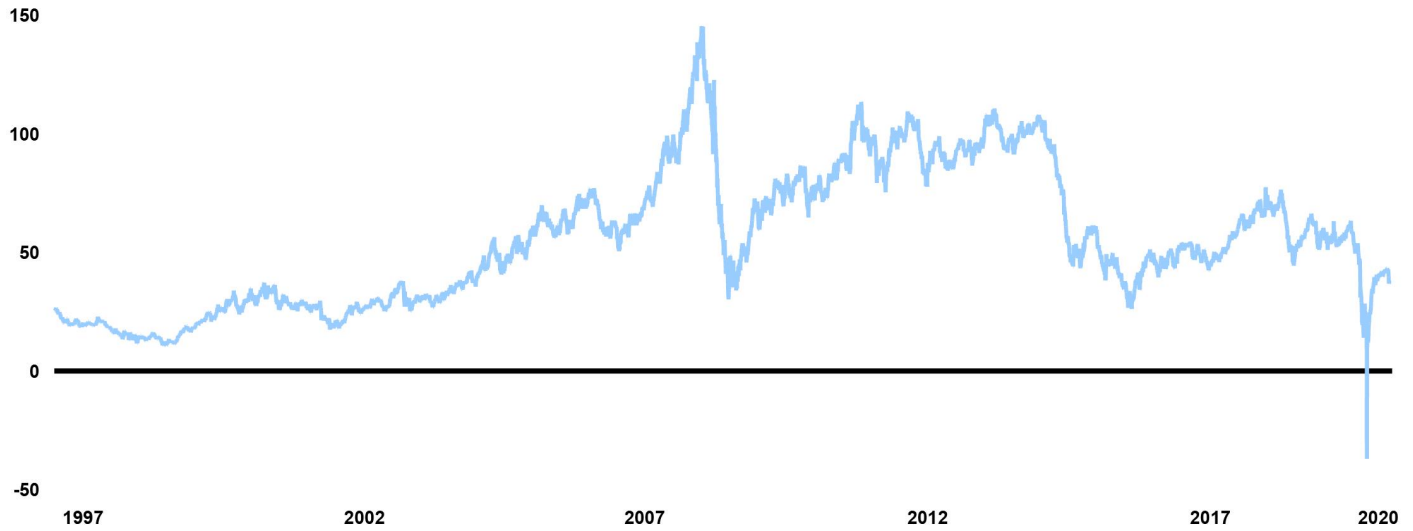
<sup>14</sup>A British thermal unit (Btu) is the amount of heat required to raise the temperature of 1 pound of water by 1 degree Fahrenheit.



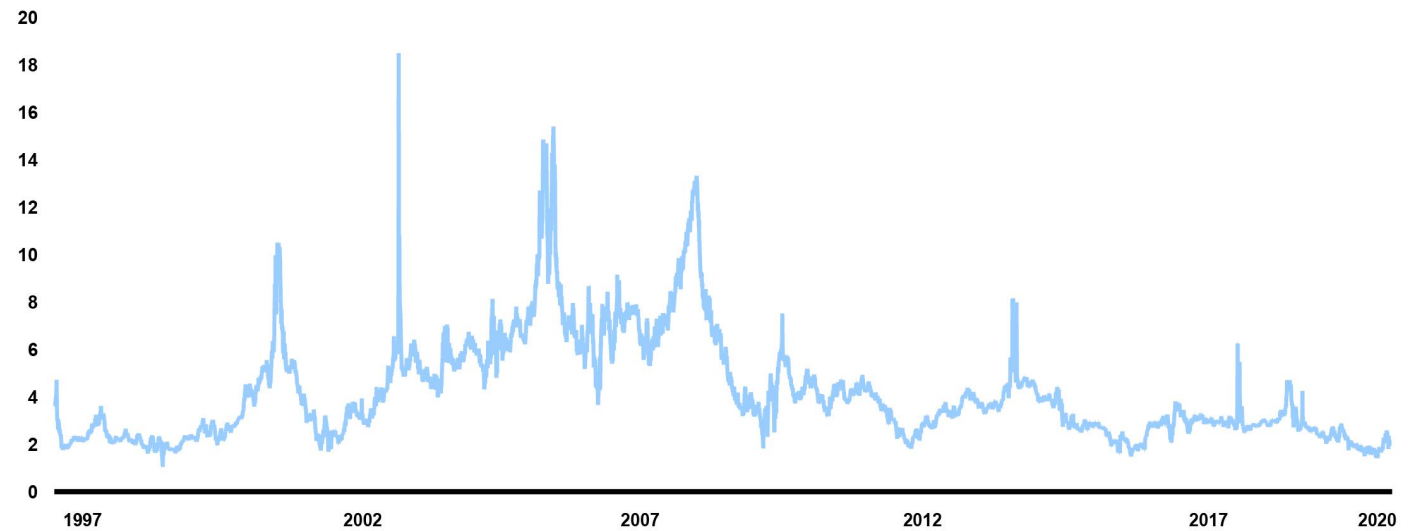
of oil and natural gas can pose challenges for the profitability of oil and gas companies (see fig. 2 for U.S. price fluctuations for oil and natural gas from 1997 to 2020).

**Figure 2: Price Fluctuations in U.S. Oil and Natural Gas Prices, 1997-2020**

Crude oil spot price (dollars per barrel)



Natural gas spot price (dollars per million Btu)



Source: Energy Information Administration. | GAO-21-169T

Note: Crude oil prices are based on West Texas Intermediate, a light crude oil that is the most commonly used benchmark in the United States. Natural gas spot prices per million British thermal units (Btu) are based on the price at the Henry Hub, which is one of the largest gas market centers in the United States and often serves as a benchmark for wholesale natural gas prices across the

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country. A Btu is the amount of heat required to raise the temperature of 1 pound of water by 1 degree Fahrenheit.

GAO previously found that a temporary royalty relief program resulted in billions of dollars in forgone revenue.<sup>15</sup> Specifically, in 1995, Congress passed the Outer Continental Shelf Deep Water Royalty Relief Act, which authorized Interior to provide royalty relief on oil and gas produced in the deep waters of the Gulf of Mexico from certain leases issued from 1996 through 2000.<sup>16</sup> This royalty relief waived or reduced the amount of royalties that companies would otherwise be obligated to pay on the initial volumes of production from leases. It also provided royalty relief to promote oil and gas development or to increase production from leases in the Gulf of Mexico.

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## BLM's Temporary Royalty Relief Policy Resulted in Unknown Benefits and Forgone Revenues

BLM cannot determine the effect of its temporary royalty relief policy because the agency did not design the policy to establish in advance whether royalty relief was needed to keep oil and gas wells operating or how such relief would affect the wells' long-term production. It is not uncommon for companies to keep wells operating during temporary price drops because the companies may choose to operate at a loss until prices recover and because there are costs associated with shutting down and restarting wells, according to BLM state officials. Also, companies may avoid shutting down certain oil and gas wells because shutdowns may damage the wells' productivity, making remaining oil and gas resources unrecoverable. Other wells can be temporarily shut down without damage.

However, neither BLM's guidance for temporary royalty relief, nor its ongoing guidance for processing royalty relief decisions—*Fees, Rentals and Royalties Handbook*, last revised in 1995—nor the royalty relief

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<sup>15</sup>GAO, *Offshore Oil and Gas: Opportunities Exist to Better Ensure a Fair Return on Federal Resources*, [GAO-19-531](#) (Washington, D.C.: Sep 25, 2019).

<sup>16</sup>These leases are covered under Section 304 of the act, which applies to leases issued between November 28, 1995, and November 28, 2000. The first leases were issued under this authority in 1996. Crude oil prices averaged about \$18 a barrel, and natural gas prices averaged about \$1.70 per million Btu in 1995.

regulation, calls for companies to show evidence that they would shut down their wells absent receiving royalty relief or that the wells would ultimately lose recoverable oil and gas if they were shut down.<sup>17</sup>

Consequently, BLM could not determine whether the companies that received royalty relief under the temporary policy would have shut down their wells without royalty relief. As a result, royalty relief may have gone to companies that would not have shut down their wells without the relief. In such cases, BLM's temporary royalty relief cost the federal government and states in forgone revenues but may not have had the effect of keeping wells operating and preventing the loss of unrecoverable oil and gas resources. As a result, the benefits of the temporary royalty relief are unknown.

Officials we interviewed from state natural resource management agencies in five states that collect royalties on oil and gas leases on state lands generally concluded that granting royalty relief would not prevent oil and gas companies from shutting down their wells. One state out of the five granted royalty relief, lowering the royalty rate for a single gas company from 16.7 percent to 12.5 percent.<sup>18</sup> In that state, further royalty reductions were not necessary, according to the state official. As an official from one of the states explained, unlike implementing a royalty relief policy like BLM's, that state has a separate program allowing lowered royalties for certain low-producing "stripper" wells. Approving lower royalties on such wells in particular helps ensure that the state recovers oil and gas from wells that otherwise would be shut down because they are not economical for companies to operate in that low-producing stage. BLM's temporary royalty rate policy was offered for all wells, however, not just those with low productivity. This raises questions about whether BLM's temporary royalty relief policy was designed to achieve its intended benefits.

Using data on revenues paid by oil and gas companies from the Office of Natural Resources Revenue, we estimated forgone revenues of about \$4.5 million for May and June 2020. We consider this estimate of forgone revenues to be conservative because it does not include forgone revenues from leases that had not yet reported royalties for May and

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<sup>17</sup>BLM, *Oil and Gas Adjudication Handbook: Fees, Rentals and Royalty*, BLM Manual Handbook H-3103-1, Revised 1995 (Washington, D.C.: May 12, 1995).

<sup>18</sup>We interviewed knowledgeable officials from five state governments that we selected because they receive over 94 percent of shared federal oil and gas royalty payments—Colorado, New Mexico, North Dakota, Utah, and Wyoming.

June 2020.<sup>19</sup> This estimate also assumes that oil and gas companies would not have decreased their leases' production or total proceeds from oil and gas sales without royalty relief.

When developing its temporary royalty relief policy, BLM did not follow guidance for developing new policy contained in its directives manual, including considering a policy's savings and costs.<sup>20</sup> BLM's directives manual provides guidance for developing policies that are short-term in nature and are meant to be provided to BLM employees quickly. Among other things, the directives manual says BLM should consider the effects of any temporary policy, including budget impact, costs, and savings, when developing temporary policies such as the temporary royalty relief policy.

BLM officials told us that they did not use the directives manual to develop the agency's temporary policy for royalty relief because of the limited time that the agency had to develop the policy during the early months of the agency's response to the COVID-19 pandemic. However, BLM's directives manual states that emergency notifications—in this case, the temporary royalty relief policy—should not be used to circumvent the BLM directives system. By evaluating its temporary royalty relief policy, including the extent to which the policy met BLM's objectives—preventing unrecoverable loss of oil and gas resources and ensuring a fair return to the government—and the likely costs, such as forgone revenues—BLM could better inform its decisions about granting royalty relief in the future under the agency's regulation authorizing ongoing royalty relief.

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<sup>19</sup>The Office of Natural Resources Revenue provided the data reflecting these time periods on September 23, 2020. Although operators had reported revenues to the Office of Natural Resources Revenue for most leases through June 2020, we do not have revenue data for some leases that may report their revenues at a later date. In addition, the Office of Natural Resources Revenue data we used include some leases that received royalty relief but reported revenues based on a 12.5 percent royalty rate, so these leases may be entitled to request reimbursements in the future to account for lower royalty rates.

<sup>20</sup>BLM's directives manual defines different types of policy directives, such as manuals, handbooks, and instruction memorandums, the last of which can provide short-term, temporary directions to BLM employees that must reach employees quickly. Among other things, BLM's directives manual is intended to ensure that all BLM policies are clear, concise, and easy to understand. The directives manual states that emergency notifications, such as email, fax, conference call, or other such communications, will not be used to circumvent the BLM directives system. See BLM, *Manual MS 1221: BLM Directives* (Washington, D.C.: Nov. 1, 2018).

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## BLM State Offices Implemented the Temporary Royalty Relief Policy Inconsistently

According to BLM officials, the BLM state offices made inconsistent decisions about approving applications for temporary royalty relief because BLM's temporary policy on royalty relief did not supply sufficient detail to facilitate uniform decision-making among the offices. The officials added that their state offices did not have recent experience in processing applications for oil and gas royalty relief. Several of the officials had never received or processed royalty relief applications; in one case, an official recalled a single application 25 years prior. In addition, we found that BLM's 1995 handbook for processing royalty relief decisions also does not contain sufficient instructions for approving royalty relief. For example, the handbook does not address whether to approve applications in cases where the lease would continue to be uneconomic, even after royalty relief. As a result, some companies that applied for royalty relief may have been treated differently, depending on how BLM officials in their state interpreted the policy and guidance.

Moreover, BLM state offices were instructed by headquarters to follow BLM's regulation regarding royalty relief, but the regulation and the temporary policy differed in their requirements in some cases. For example, the regulation requires a table of production in aggregate and from each well for each month covering a period of not less than 6 months prior to the date of filing the application and a detailed statement of operating costs, expenses, and income. In contrast, the temporary policy required that companies provide a simple economic analysis table for the leases with relevant market price for oil, productivity, operating costs, and their royalty rate. Neither the temporary policy nor the regulation was clear about how to meet these requirements. The temporary policy did not specify the number of months for which this information should be included. BLM's 1995 handbook is even less explicit on the types of information oil and gas companies need to provide in order to meet the regulation's requirements for information on production, costs, and prices needed to approve royalty relief, according to our analysis.

BLM developed and implemented its temporary policy quickly, to respond to the pandemic, and changed the policy after it took effect. This posed challenges for the state offices and sometimes led to inconsistent application of the policy. For example:

- BLM state officials relied on an April 21 draft policy to review applications before the temporary policy was made final and publicly posted. This was necessary because companies started sending applications in March, and the draft guidance was obtained and released by the press; however, the official temporary policy was not made available to the state offices and the public until May 7. The state offices relied on the draft policy because they were required to make rapid decisions in order to meet the policy's requirement that they approve or deny each complete application within 5 days of receiving it.
- BLM's temporary policy as publicly posted May 7 called for applicants to provide an analysis showing the leases that are uneconomic at the current royalty rate but would be economic with the royalty rate reduction being requested. However, on June 5, the temporary policy was modified—BLM headquarters removed this particular language from the policy posted on its website. According to some BLM officials, BLM state offices were not made aware of this change until after it was posted on the website. This made determining whether an application met the requirements of the policy more difficult. Further, the officials still needed to determine whether approving the proposed relief complied with the regulation, which allows royalty relief for leases that “cannot be successfully operated” under the current royalty rate.

As a result, the BLM state offices' royalty reduction decisions were inconsistent. According to officials from the BLM state offices, two of the state offices denied applications because the leases would still not be profitable, even at a lower royalty rate. We identified applications from these two states that showed some applications were denied on that basis. In contrast, two other state offices approved applications showing that leases would continue to be unprofitable, even with reduced royalties, according to officials from those offices and as identified in some applications we reviewed. The fifth state office denied both of the applications it received for other reasons. For example, one application was denied because it contained outdated oil prices. With updated prices, the lease was profitable.

- BLM ended the temporary policy on June 11, but headquarters did not remove the publicly available information from the website until about 3 weeks later, according to BLM officials. State offices continued to receive applications from oil and gas companies that were submitted according to the information available on the website. BLM state officials told us they denied applications received after the temporary royalty relief period ended and had to explain to applicants the reason

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for denials, which was seemingly at odds with the publicly available information.

BLM's directives manual states that BLM directives are intended to provide BLM employees with authoritative instructions and information to implement BLM programs and support activities.<sup>21</sup> According to the manual, doing so should help ensure that responsible officials have the necessary instructions that are sufficiently prescriptive for carrying out BLM's programs efficiently and consistently. Without an updated Fees, Rentals and Royalty Handbook to provide specific, consistent, transparent policies and procedures for royalty relief, BLM cannot ensure that any future royalty relief applications are processed efficiently and equitably across states or that BLM is encouraging the greatest ultimate recovery of oil or gas and achieving a fair return to the federal government.

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## Conclusions

BLM initiated its temporary royalty relief policy in an effort to provide support for oil and gas companies in response to the COVID-19 pandemic under its ongoing authority to do so in order to conserve oil and gas resources for future production and revenues. However, BLM did not follow its directives manual, which called for the agency to design the program to evaluate the policy before it went into effect, nor has BLM determined the benefits and costs of the policy. As a result, BLM does not know whether the temporary policy accomplished its goals of conserving oil and gas for future recovery and encouraging the greatest ultimate recovery of oil and gas, as well as BLM's additional objective for its oil and gas program of ensuring the government gets a fair return from allowing companies to use its resources. Nor does BLM know how much the temporary royalty relief cost in terms of unnecessarily forgone royalty revenues. BLM officials had some resources to help inform their decisions on whether to approve royalty relief—the temporary policy itself, the royalty relief regulation, and the 1995 handbook. However, these resources did not have sufficient information to guide the state officials in providing royalty relief consistently across the states or within the short time frames called for by BLM's temporary policy. The agency has an opportunity to make the handbook's royalty relief guidance more specific, using its experiences during the COVID-19 pandemic, and in accordance with its directive for developing policy that is clear, concise, and easy for

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<sup>21</sup>BLM, *Manual MS 1221*.

staff to implement consistently. In doing so, BLM could better ensure that any future applications for oil and gas royalty relief are processed more efficiently, consistently, and with a better understanding of the expected benefits and forgone revenues to the federal government and the state governments with which it shares royalty revenues.

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## Recommendations for Executive Action

We are making the following two recommendations to BLM:

The Director of BLM should evaluate its temporary royalty relief program, including the extent to which the policy met BLM's objectives—conserving oil and gas resources from becoming unrecoverable—and likely costs, such as forgone revenues—to inform any royalty relief decisions it may make in the future under the ongoing regulatory authority. (Recommendation 1)

The Director of BLM should update BLM's 1995 royalty handbook to provide specific, consistent, and transparent policies and procedures for royalty relief. (Recommendation 2)

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## Agency Comments

We requested comments on the contents of this statement, including our recommendations, from Interior. In comments provided by email, Interior declined to comment on whether they concurred with our recommendations. Interior provided technical comments, which we incorporated as appropriate.

Chairman Lowenthal, Ranking Member Gosar, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

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## GAO Contact and Staff Acknowledgments

If you or your staff members have any questions concerning this testimony, please contact Frank Rusco, Director, Natural Resources and Environment, at (202) 512-3841 or [ruscof@gao.gov](mailto:ruscof@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement.



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**Letter**

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