



441 G St. N.W.
Washington, DC 20548

B-336275

May 13, 2024

The Honorable Joe Manchin
Chairman
The Honorable John Barrasso
Ranking Member
Committee on Energy and Natural Resources
United States Senate

The Honorable Bruce Westerman
Chairman
The Honorable Raúl Grijalva
Ranking Member
Committee on Natural Resources
House of Representatives

Subject: *Department of the Interior, Bureau of Land Management: Fluid Mineral Leases and Leasing Process*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Interior, Bureau of Land Management (BLM) entitled “Fluid Mineral Leases and Leasing Process” (RIN: 1004-AE80). We received the rule on April 23, 2024. It was published in the *Federal Register* as a final rule on April 23, 2024. 89 Fed. Reg. 30916. The stated effective date of the rule is June 22, 2024.

According to BLM, this final rule revises BLM’s oil and gas leasing regulations. BLM stated that among other changes, the rule implements provisions of the Inflation Reduction Act, Pub. L. No. 117-169, 136 Stat. 1818 (Aug. 16, 2022), pertaining to royalty rates, rentals, and minimum bids; updates the bonding requirements for leasing, development, and production; and revises some operating requirements.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). This final rule was published in the *Federal Register* on April 23, 2024. 89 Fed. Reg. 30916. The Senate received the rule on April 30, 2024. 170 Cong. Rec. S3651 (daily ed. May 9, 2024). The House received the rule on April 26, 2024. 170 Cong. Rec. H2698–H2699 (daily ed. Apr. 29, 2024). The rule has a stated effective date of June 22, 2024. Therefore, the stated effective date is less than 60 days from the date of receipt by Congress.

Enclosed is our assessment of BLM’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to

the subject matter of the rule, please contact Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Kyle Moorman
Division Chief, Regulatory Affairs
Department of the Interior

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT
ENTITLED
“FLUID MINERAL LEASES AND LEASING PROCESS”
(RIN: 1004-AE80)

(i) Cost-benefit analysis

The Department of the Interior, Bureau of Land Management (BLM) prepared a Regulatory Impact Analysis (RIA) as a supplemental document to this final rule. BLM stated in the RIA that the costs associated with the rule mostly fall on oil and gas operators, whereas the benefits will be conferred on the public and affected communities. BLM further stated that bond surety companies are likely to see increased revenues and operating costs from the additional premium amount received from operators.

BLM stated that the net costs to the economy range from a cost of \$8.0 million to a cost of \$13.2 million, depending on the cost of bonds (1 percent or 2 percent) and the number of wells BLM reclaims (15 wells or 24 wells). BLM further stated that these costs do not include the value of environmental benefits or benefits from expedited timing of transitioning the lands to other uses which, if included, would reduce the net economic cost. BLM stated that if these benefits were monetized, the net economic costs would be lower.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

The Secretary of the Interior certified that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

BLM determined that while congressionally mandated transfer payments will total \$210 million per year, the discretionary provisions of this final rule will not have an effect on state, local, or tribal governments, in the aggregate, or on the private sector, of \$100 million or more, adjusted annually for inflation, in any one year.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act’s exemptions (and specifying the relevant

exemption); the OMB Director granted a waiver of the Act's requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act" in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

BLM did not discuss the Act in this final rule. In its submission to us, BLM indicated that the Act does not apply to the rule.

(v) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On July 24, 2023, BLM published a proposed rule. 88 Fed. Reg. 47562. BLM received over 215,000 comments from federal, state, and local governments, local agencies, tribal organizations, industry representatives, individuals, and other external stakeholders. BLM stated that the vast majority of submissions were form letters, and BLM identified approximately 1,200 unique comments raising specific issues on the proposed rule. BLM responded to comments in this final rule, though the agency stated that it did not respond in detail to certain comments directed at matters outside the scope of the rulemaking.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

BLM determined that this final rule contains information collection requirements under the Act that are subject to review by OMB. These include changes to or the establishment of information collection requirements under the following OMB Control Numbers:

- Onshore Oil and Gas Operations and Production (43 C.F.R. parts 3160 and 3170) (OMB Control Number 1004-0220) (new information collection – previously OMB Control Number 1004-0137)
- Onshore Geophysical Exploration (43 C.F.R. part 3150 and 36 C.F.R. parts 228 and 251) (OMB Control Number 1004-0162)
- Onshore Oil and Gas Leasing, and Drainage Protection (43 C.F.R. parts 3100, 3120, and 3150, and subpart 3162) (OMB Control Number 1004-0185)
- Oil and Gas Leasing: National Petroleum Reserve—Alaska (43 C.F.R. part 3130) (OMB Control Number 1004-0196)

The agency estimated the burden for each of the revised or new information collections.

Statutory authorization for the rule

BLM promulgated this final rule pursuant to various sections of titles 16, 25, 30, 31, 40, 42, and 43 of the United States Code, Public Law 97-35, 95 Stat. 357, Public Law 113-291, 128 Stat. 3762, Public Law 97-78, 95 Stat. 1070, and section 107 of Public Law 114-74, 129 Stat. 599.

Executive Order No. 12866 (Regulatory Planning and Review)

OMB determined that this final rule is significant under the Order.

Executive Order No. 13132 (Federalism)

BLM concluded that this final rule does not have any federalism implications and will not have a substantial direct effect on the states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities among the levels of government.