



Insight

Biden's EOs on Leasing Federal Lands for Oil and Gas Production

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Executive Summary

- President Biden has issued two executive orders that temporarily prevent new oil and gas leases on federal lands and in offshore waters.
- The executive orders do not make clear when or if such lease sales will resume.
- Only when the Department of the Interior's reviews are completed will there be some clarity on where lease activity may continue and what royalties may look like.

Introduction

Since entering office, President Biden has issued several executive orders (EO) as part of a broader effort to address climate change. As promised in his campaign, two of these EOs call for the review of existing leasing practices for federal lands and prevent new lease sales for the purpose of oil and natural gas production.

First, immediately following his inauguration, President Biden [issued an EO](#) on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis that aims to reverse course from the Trump Administration. The EO places a moratorium on the leasing of the Arctic National Wildlife Refuge (ANWR) land for oil and gas drilling and withdraws certain offshore areas in Arctic waters and the Bering Sea from drilling. Following its issuance, Acting Secretary of the Department of the Interior (DOI) Scott de la Vega issued a Secretarial Order that suspends the ability of agency staff to “issue any onshore or offshore fossil fuel authorization, including but not limited to a lease, amendment to a lease, affirmative extension of a lease, contract, or other agreement, or permit to drill.”^[1] Second, on Wednesday, President Biden issued a wide-reaching EO on [Tackling the Climate Crisis at Home and Abroad](#) that calls for a “pause” on the issuance of new leases on federal lands and waters and the review of existing practices.

The Arctic

The Trump Administration took a variety of actions to open Arctic areas to oil and gas drilling. In April 2017, President Trump issued an EO that revoked President Obama's December 2016 withdrawal of Arctic water areas and the Bering Sea from oil and gas development.^[2] President Biden has reinstated the withdrawal which prevents future leasing of the designated areas but does not impact any pre-existing leases.

In addition, under President Trump the DOI's Bureau of Land Management (BLM) initiated the first-ever leasing process for areas within ANWR under the 2017 Tax Cuts and Jobs Act. On August 17, 2020, BLM issued a Record of Decision to open the land to leasing under the Coastal Plain Oil and Gas Leasing Program.[3] Then, on January 6, 2020, BLM conducted a lease sale.[4] The sale attracted bids on 11 of the 22 tracts offered and nearly all the tracts were purchased by the Alaska Industrial Development and Export Authority, a state agency, at the minimum bid.[5]

Biden's EO directs the Secretary of Interior to impose a temporary moratorium on all federal government activities conducted under the Coastal Plain Oil and Gas Leasing Program due to the "inadequacy of the environmental review" conducted by the Trump Administration. The EO also directs the DOI to complete a "new, comprehensive analysis of the potential environmental impacts of the oil and gas program." The EO does not provide any timeline for the completion of the review but seemingly intends to prevent the drilling of tracts recently leased in ANWR.

The Secretarial Order issued the following day, however, applies more broadly than the Arctic to all lands and waters managed by DOI. The Secretarial Order, which does not impact the operation of existing leases, provides the agency with a 60-day review period during which only agency leadership may issue decisions such as final and regulatory actions as well as energy development.[6] This may impact attempts to extend existing leases or obtain permits for drilling.

"Pause" on New Leases

President Biden's most recent EO calls for DOI to "pause new oil and natural gas leases on public lands or in offshore waters pending completion of a comprehensive review and reconsideration of Federal oil and gas permitting and leasing practices." The review may consider the climate costs of activity on leased land and whether royalties should be altered as a result. The EO does not provide a timeline for the completion of the review.

The EO will most immediately impact leasing activity that is scheduled to be undertaken by DOI. The Bureau of Ocean Energy Management is responsible for leasing offshore waters as part of the 2017-2022 National Outer Continental Shelf Oil and Gas Leasing Program.[7] The program includes four more offshore lease sales scheduled through 2022 of which three include land in the Gulf of Mexico and one includes land in the Cook Inlet on the coast of Alaska.[8] Similarly, BLM is responsible for leasing onshore lands and has a list of 14 pending oil and gas lease sales through March 2021.[9]

Conclusion

By calling for various review processes, President Biden's EOs create uncertainty around the future of federal leasing for oil and gas production. Only when the Department of the Interior's reviews are completed will there be some clarity on where lease activity may continue and what royalties may look like.

[1] <https://www.doi.gov/sites/doi.gov/files/elips/documents/so-3395-signed.pdf>

[2] <https://www.govinfo.gov/content/pkg/DCPD-201600836/pdf/DCPD-201600836.pdf>

[3] <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/regional-lease-sales/alaska>

[4] <https://www.blm.gov/press-release/notice-sale-be-issued-coastal-plain-oil-and-gas-leasing-program-dec-7>

[5] https://www.blm.gov/sites/blm.gov/files/docs/2021-01/BLM-Alaska_2021-Coastal-Plain-Sale-Bid-Recap_20210106.pdf

[6] <https://www.doi.gov/pressreleases/fact-sheet-interior-department-welcomes-day-one-executive-orders-restore-public-lands>

[7] <https://www.boem.gov/sale-256>

[8] <https://www.boem.gov/2017-2022-lease-sale-schedule>

[9] <https://nflss.blm.gov/leasesale/list>