

Articles

Increased Governmental Scrutiny on Oil and Gas Development

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On January 6, 2010, following a scathing review of the Bureau of Land Management (BLM) by the Government Accountability Office, Interior Secretary Ken Salazar announced the reform of the federal oil and gas leasing policy (Policy) which will direct BLM to require a more detailed environmental review prior to leasing oil and gas resources. At the heart of this announcement are efforts to expedite a notoriously long and very public review of oil and gas projects under the National Environmental Policy Act (NEPA). Five (5) exemptions, known as "Section 390 categorical exemptions," to NEPA reviews were established under the Energy Policy Act of 2005. BLM had broadly applied these exemptions and authorized oil and gas leases and projects without a full NEPA review shaving months if not years off the review period as well as foreclosing most opportunities for public participation. New interim draft guidance developed under the Policy will establish a process to require additional scrutiny under the "extraordinary circumstances" provisions of the categorical exemptions.

The Policy also includes a provision requiring the development of Master Leasing and Development Plans (Master Plan) in areas where intensive oil and gas development is anticipated. This new step will allow for greater public involvement and may result in added requirements that will then apply to all of the development activities covered under the Master Plan.

Further complicating the situation is the fact that EPA has determined that greenhouse gases are an endangerment to human health and the environment. That being the case, BLM will be required to review greenhouse gas emissions as part of its review of extraordinary circumstances increasing the likelihood that a full NEPA review would be required for leasing of federal lands. The reforms will be implemented once final internal reviews are completed.