

FEDERAL COAL LEASING AMENDMENTS ACT OF 1975⁶

On August 4, 1976, Congress enacted, over President Ford's veto, the Federal Coal Leasing Amendments Act of 1975 (see appendix). This act made several significant changes in the Department of the Interior's coal leasing program. The purposes of the bill included:

(1) *An end to speculative holding of coal reserves*

The act addressed the problem of speculation by requiring the termination of any lease which is not producing in commercial quantities at the end of 10 years. In addition, each lease was made subject to diligent development and continuous operation requirements. As with the old law, the requirement of continued operation may be suspended with the payment of an advanced royalty.

(2) *Reduction in the concentration of holdings*

Concentration of holdings was limited by the act through tightening the definition of control and placing a national limit of 100,000 acres which can be controlled by any corporate entity or its affiliates. A limit of 46,080 acres per state was retained. In addition, a provision of the act which requires that 50 percent of all new leasing must take place using a deferred bonus bidding system was intended to permit smaller corporations to compete for Federal coal. The act also required that a "reasonable number" of leases be reserved and offered to public entities which produce energy.

(3) *Fair return to the public*

Several provisions were designed to insure a fair return to the public. First, all leases are awarded on the basis of competitive bidding only. Second, a bid is not acceptable unless it is at least as high as the fair market value as determined by the Secretary. Third, a minimum royalty of 12.5 percent of the value of the coal is placed on all new leases except those for underground mines. Fourth, readjustment of the terms of the lease is to occur every 10 years, after the expiration of the original 20-year primary term, rather than every 20 as in the old law. Fifth, preference right leasing is eliminated.

(4) *Environmental protection, planning and public participation*

The act prohibits the leasing of any coal lands unless they have been included in a comprehensive land use plan prepared by the Secretary, or the Secretary of Agriculture. The land use planning process required consultation with State and local officials, an opportunity for a public hearing, and an assessment of the amount of coal in the land, together with an estimate of the amount recoverable by surface and deep mining methods. Prior to leasing any tract, the Secretary must hold a hearing, separate from the land use plan hearing, on the lease in the impacted area and consider the effects which issuance of the lease might have on the environment, community services, and economic impacts on the area.

(5) *Amelioration of social and economic impacts*

Prior to enactment of the Federal Coal Leasing Amendments Act, 37.5 percent of all money received from sales, bonuses, royalties, and

⁶ Information contained in a memorandum dated Sept. 28, 1977, to the chairman and members of the Subcommittee on Energy Production and Supply from Thomas Laughlin, Professional Staff Member.

rentals of Federal leases was returned to the States. The act increased this amount to 50 percent. The additional 12.5 percent is to be spent as the State legislature determined, but priority is given to areas socially or economically impacted by mineral development. This portion of the Mineral Lands Leasing Act of 1920 was amended later in the 94th Congress with passage of the Federal Land Policy and Management Act of 1976, Public Law 54-579. While the amount returned to the States remained 50 percent of the total, the direction to give priority to impacted areas in expending these funds is made applicable to the entire amount. The FLPMA also authorized the Secretary of the Interior to make loans to States and their subdivisions to relieve social and economic impacts. The amount of these loans is limited to anticipated revenues returned to the States.

(6) Increased information

The Office of Technology Assessment was directed by the act to conduct a study of the current coal leasing situation. This study was to be completed by August 4, 1977. However, OTA estimates that it will require an additional year to be completed. The act also directed the Secretary of the Interior to undertake a comprehensive exploratory program to reveal the existence and location of viable coal deposits on the public lands and to provide a basis for formulating land use plans, developing accurate maps of resources, and upgrading information on the value of the public resources. In addition, the Secretary was directed to submit a yearly summary of Federal lands leasing and production together with his suggestions for improvements in the program.

(7) Maximum economic recovery of the resources

To prevent waste of coal resources, the act requires the Secretary to form leasing tracts which "permit the mining of all coal which can be economically extracted." The Secretary is prohibited from approving any mining plan which he finds does not achieve the maximum economic recovery of the coal within the tract.

To further maximize economic recovery, the concept of "logical mining unit" was adopted. The act authorizes the Secretary to approve, or by regulation require, the consolidation of Federal coal leases with other Federal coal leases, State leases, or with private holdings in order to form a logical mining unit. All coal within such a unit must be mined within 40 years.

COAL LEASING ACTIVITIES OF THE INTERIOR DEPARTMENT

Although the basic law for the disposal of Federal coal lands was established in 1920, actual leasing activity languished until about 1960 (fig. 1). Extensive leasing on the public lands did not occur until the beginning of the 1960's.⁷ From the enactment of the Minerals Leasing Act in 1920 until 1950, with the exception of the war years of 1941 through 1945, the number of leases awarded did not exceed 20 per year, and did not exceed 40 per year until 1960. From 1961 until 1965, however, the number of coal leases on the public lands rose

⁷ Council on Economic Priorities, "Leased and Lost a Study of Public and Indian Coal Leasing in the West," vol. 5, No. 2, 1974, p. 6.