

Title:

Administrative and Legislative Update: The Shifting Requirements for Disposition of Federal Oil Shale Resources

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The Energy Policy Act of 2005 contained provisions intended to encourage development of federal oil shale resources, setting ambitious timelines for environmental reviews, research leasing, government reports, and adoption of regulations. But were the timelines imposed in the Energy Policy Act overly ambitious? Were the procedures called for adequate to protect the environment as well as the interests of state and local governments?

This paper will examine administrative and legislative actions taken in response to the Energy Policy Act since its enactment in August 2005. It will discuss the Bureau of Land Management's actions in issuing research, development, and demonstration leases, and it will discuss the agency's Draft Programmatic EIS (expected in July 2007) that will attempt to analyze the impacts of a commercial leasing program. It will review the Bureau of Land Management's actions toward adoption of regulations establishing a commercial leasing program, discussing elements in the Advance Notice of Proposed Rulemaking as well as the agency's draft regulations (expected in August 2007). It will also examine legislative proposals that arose in the 110th Congress that sought to amend the oil shale provisions in the Energy Policy Act, discussing the proposed measures in detail and evaluating how they sought to change the legal landscape applicable to disposition of federal oil shale resources.

The legal structures being put in place today for the disposition and development of federal oil shale resources are of vital importance to this fledgling endeavor. They will set the ground rules that can influence whether the industry is economically viable, they will determine whether the concerns of state and local governments are properly heard and considered, and they will seek to establish measures for the assessment and mitigation of impacts on air, water, wildlife, and communities. Those who are concerned with domestic oil shale development ignore these regulatory and legislative developments at their peril.

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