



## COLUMBIA LAW SCHOOL

SABIN CENTER FOR CLIMATE CHANGE LAW

November 6, 2017

U.S. Department of the Interior  
Bureau of Land Management  
1849 C Street NW, Mail Stop 2134LM  
Washington, DC 20240  
ATTN: 1004-AE52

### **Re: Proposed Suspension of BLM Waste Rule (OMB Control Number 1004-0211)**

To Whom It May Concern:

The Sabin Center for Climate Change Law submits these comments in response to the Bureau of Land Management's request for input on its proposed suspension of certain requirements in the final rule entitled "Waste Prevention, Production Subject to Royalties, and Resource Conservation" published on November 18, 2016 ("Waste Rule"). For the reasons explained below, we oppose the proposed suspension, and urge BLM to continue implementing the Waste Rule.

#### **I. Suspending BLM's Waste Rule Will Result in Lost Economic Benefits**

Implementation of the BLM Waste Rule is essential to minimize natural gas losses during oil and gas production on public and tribal lands. BLM has estimated that, between 2009 and 2015, producers operating on public and tribal lands lost 462 billion cubic feet of gas through flaring, venting, and leaks.<sup>1</sup> At current spot market prices of \$3.00 per million British thermal units, this lost gas has a value of more than \$1.4 billion.<sup>2</sup> It could, if captured, be used to meet the annual gas needs of approximately 6.2 million households.<sup>3</sup>

Recognizing the value of the country's gas resources, Congress has directed BLM to take steps to minimize losses. The Mineral Leasing Act, enacted by Congress in 1920, requires BLM to

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<sup>1</sup> Bureau of Land Management, Fact Sheet on Methane and Waste Prevention Rule 1 (2016), <https://perma.cc/N5LM-WD2X>.

<sup>2</sup> The natural gas spot price (Henry Hub) is currently hovering around \$3.00 per million British thermal units or \$3.11 per thousand cubic feet of gas. *See* U.S. Energy Information Administration, Henry Hub Natural Gas Spot Price, <https://perma.cc/62Y5-EZEU> (last updated Nov. 1, 2017).

<sup>3</sup> Bureau of Land Management, *supra* note 1, at 1.

ensure that persons leasing public land containing oil and gas resources “use all reasonable precautions to prevent waste of oil and gas developed in the land.”<sup>4</sup> Consistent with this statutory requirement, BLM adopted the Waste Rule to reduce gas losses. Suspending the rule would result in the wastage of this valuable resource and thus have significant adverse economic impacts.

Suspending the BLM Waste Rule will likely also affect employment in the oil and gas industry. Absent the suspension, industry participants would likely need to employ additional staff, for example to develop their leak control programs. The Regulatory Impact Analysis for the Waste Rule indicated that it “would require the one-time installation or replacement of equipment and the ongoing implementation of a leak detection and repair program, both of which would require labor.”<sup>5</sup> Prior studies suggest that the adoption of regulations targeting gas leaks has resulted in new jobs in the leak detection and repair services sector.<sup>6</sup> That sector currently consists of at least 60 companies operating in forty-five states.<sup>7</sup> Companies in Colorado, Ohio, and Wyoming – three states that have begun regulating gas leaks in the last three years – have experienced growth of five to thirty-percent during that period.<sup>8</sup>

## **II. Suspending BLM’s Waste Rule Will Adversely Affect Public Health and the Environment**

In addition to the above economic impacts, suspending the BLM Waste Rule would also have other adverse effects, including on the environment. In adopting its Waste Rule, BLM indicated that it would deliver significant environmental and other non-economic benefits, such as:

- mitigation of climate change and other pollution problems (due to reduced gas venting and leaks, which lead to emissions of methane, volatile organic compounds (“VOCs”), and hazardous air pollutants (“HAPs”));
- improvements in public health (as uncontrolled gas flaring, venting, and leaks contribute to smog and other air pollution problems that cause respiratory and other illnesses); and

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<sup>4</sup> 30 U.S.C. § 225.

<sup>5</sup> Bureau of Land Management, Regulatory Impact Analysis for Revisions to 43 CFR 3100 (Onshore Oil and Gas Leasing) and 43 CFR 3600 (Onshore Oil and Gas Operations) and Additions of 43 CFR 3178 (Royalty-Free Use of Lease Production) and 43 CFR 3179 (Waste Prevention and Resource Conservation) 119 (2016), <https://perma.cc/74CA-KSF8> [hereinafter Regulatory Impact Analysis].

<sup>6</sup> See e.g. Shawn Stokes et al., The Emerging U.S. Methane Mitigation Industry (2014), <https://perma.cc/4Q6T-S732>; Marie Veyrier et al., Find and Fix: Job Creation in the Emerging Methane Leak Detection and Repair Industry (2017), <https://perma.cc/7ZKD-Z22B>.

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.* at 13.

- increased quality of life in communities where oil and gas development occurs (as a result of reduced visual and noise impacts from gas flaring).

The Regulatory Impact Analysis<sup>9</sup> for BLM’s Waste Rule estimated that it would result in monetized environmental benefits of up to \$262 million per year.<sup>10</sup> This estimate is based solely on the benefits of reducing methane emissions. BLM did not monetize the environmental and public health benefits of VOC and HAP reductions.<sup>11</sup> Even without their inclusion, the benefits are significant.

### **III. Implementing the Waste Rule Will Impose Minimal Costs on Oil and Gas Producers**

In justifying its proposed suspension of the Waste Rule, BLM indicated that it was seeking to “avoid imposing temporary or permanent compliance costs on operators for requirements that might be rescinded or significantly revised in the near future.” According to BLM’s own data, however, any such costs would be minimal and far outweighed by the benefits of implementing the Waste Rule.

BLM determined that the annualized cost of complying with the rule would “represent only a small fraction of the annual net incomes of companies likely to be impacted.”<sup>12</sup> For example, based on data from 26 small businesses that currently hold federal oil and gas leases, BLM estimated that compliance would result in an average reduction in profit margins of just 0.15 percentage points.<sup>13</sup> Implementing the rule is, therefore, unlikely to alter the businesses’ investment or employment decisions or lead to job losses.

### **IV. Conclusion**

Given its likely adverse effects, we urge BLM not to suspend the Waste Rule. As explained above, suspending the Waste Rule will have major economic impacts, leading to the wastage of large amounts of natural gas, due to continued venting and leakage. It will also result in the loss of significant environmental and public health benefits arising from the Rule.

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<sup>9</sup> The Regulatory Impact Analysis reported net benefits in 2012\$. These values have been converted to 2016\$ using a factor of 1.059, consistent with the Implicit Price Deflator maintained by the Federal Reserve Bank of St. Louis. See Federal Reserve Bank of St. Louis, *Gross Domestic Product: Implicit Price Deflator*, <https://perma.cc/J3GB-T2AH> (last updated Jun. 29, 2017).

<sup>10</sup> Regulatory Impact Analysis, *supra* note 6, at 107.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 119.

<sup>13</sup> *Id.* at 129.

The studies referred to in this letter are attached for your reference. Please do not hesitate to contact us if you have any questions about the letter or attachments.

Sincerely,



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