
UNITED STATES DEPARTMENT OF INTERIOR

Waste Prevention, Production)
Subject to Royalties, and) **Docket No. BLM-2016-0001-0001**
Resource Conservation; Proposed) *Via email/regulations.gov submission*
Rule) *form*
) *April 22, 2016*

We appreciate the opportunity to comment on the Bureau of Land Management’s (BLM) proposed rule on Waste Prevention, Production Subject to Royalties, and Resource Conservation. (43 CFR Subparts 3100, 3160, and 3170).

We submit these comments on behalf of Earthworks.

These comments primarily focus on the BLM’s proposals with respect to Leak Detection and Repair (LDAR).

43 CFR Subpart § 3162.3-1(j) Drilling applications and plans

We support BLM’s proposed requirement that operators submit a waste minimization plan accompanying their Application for a Permit to Drill (APD). The state of North Dakota already requires that gas capture plans accompany APDs.ⁱ Similar to North Dakota, BLM should require submission of the plan contemporaneous with the APD, yet we suggest expressly conditioning approval of the APD on BLM’s approval of the operator’s waste minimization plan.

Further, BLM should require the waste minimization plan contain an LDAR program as described below in our comments under 43 CFR Subpart § 3179.302.

43 CFR Subpart § 3179.301 Operator Responsibility

We appreciate that BLM continues to closely follow the Environmental Protection Agency’s (EPA) rulemaking under 40 CFR Part 60 subpart OOOOaⁱⁱ to limit redundancy and ensure proper coordination between agencies in creating sensible rules that protect taxpayers, public health, and the environment.

As currently proposed, the BLM’s LDAR requirements will apply to the same class of facilities covered by that EPA rule even if particular facilities within the regulated community do not meet thresholds the EPA rule establishes.

While EPA has yet to finalize that rule, current regulationsⁱⁱⁱ define a leak as “(a)ny emissions detected by optical gas imaging instrument...unless screened with Method 21 monitoring, in which case 10,000 ppm or greater is designated a leak.”

BLM can simplify compliance for the regulated community and ensure consistency EPA's final proposal by requiring LDAR as suggested below in 43 CFR Subpart § 3179.302. In any event, BLM should not exempt operators from this rule's LDAR requirements that do not meet that EPA rule's thresholds.

43 CFR Subpart § 3179.302 Approved Instruments and Methods

We support BLM's proposal to require increasingly effective leak detection technologies as they become available. BLM^{iv}, EPA^v and the Government Accountability Office^{vi} (GAO) have each recognized optical gas imaging devices (OGI) as the most effective instrument for leak detection. The final rule should therefore require either OGI or the best available technology (BAT) making no distinction between large and small operators.

BLM also seeks comment on the potential benefits of an LDAR program with third party inspections^{vii}.

We suggest BLM require an LDAR third-party verification program with recordkeeping components nearly identical to those BLM proposes in 43 CFR § 3179.305. In particular, the program should follow the process below:

A) BLM creates a simple web form allowing third parties with access to OGI technology to upload emissions surveys taken from the field. This form should contain:

- (1) Date of the survey;
- (2) The site where the survey was conducted including latitude and longitude coordinates;
- (3) The equipment or facility surveyed;
- (4) The monitoring method(s) used to determine the presence of leaks;
- (5) A list of components on which leaks were found and a description of each leak;
- (6) Beginning and end time of the survey;
- (7) Name of camera operator(s) performing survey;
- (8) Training, experience, or certification of the camera operator;
- (9) Ambient temperature, sky conditions, and maximum wind speed at the time of the survey;
- (10) A video(s) or digital image(s) of the leak, date/time stamped.

B) BLM shall determine within 5 days of receiving the completed web form described in paragraph A, whether the information documented therein requires a repair pursuant to 43 CFR Subpart § 3179.304.

C) If BLM determines repair is necessary, BLM shall within 5 days notify the facility owner and/or operator in writing, including all survey information submitted to them via the citizen monitoring web form.

D) The facility owner and/or operator has 15 days^{viii} from receipt of the written notification described in paragraph C to perform the repair and/or otherwise come in to compliance with this rule.

E) Failure to comply with paragraph D will result, at BLM's discretion, in fines of not less than \$15,000 per day.

We urge BLM to include a third-party verification system and reporting component to the leak detection and repair (LDAR) program outlined in the proposed rule. Third party monitoring can add tremendous value – easing the reporting burden on industry, providing valuable information to state regulators, BLM, and the public, while also aiding compliance and enforcement.

Optical gas imaging (OGI) technology, that makes invisible pollution visible, has made its way into the hands of non-profits and citizens. These citizens can receive the same training in the proper use of this technology, earn the same certifications, and attend the same training courses as do oil and gas operators. BLM can take advantage of these additional eyes on the ground near oil and gas facilities to ensure more leaks are detected and less of the people's resources wasted in the form of lost methane.

Third-party verification should augment, not replace, the LDAR conducted by industry under this rule. This approach will result in more leaks detected and repaired, creating greater cost savings for the industry by allowing them to capture and sell more product. It will also ease BLM's enforcement obligations while reducing waste, saving taxpayer money, and curbing harmful emissions.

43 CFR Subpart § 3179.303 Leak Detection Inspection Requirements for Natural Gas Wellhead Equipment, Facilities, and Compressors

We suggest that BLM require quarterly inspections of sites as defined in this section. Wyoming already requires quarterly LDAR inspections in portions of the state with significant oil and gas development.^{ix}

Colorado has instituted a comprehensive LDAR program as part of their Air Quality Control Commission Regulations.^x A study conducted by Keating Research, Inc., *The Colorado Case Study On Methane Emissions: Conversations With The Oil And Gas Industry*^{xi}, reveals that operators predominately use OGI to detect leaks and fix 96% of them within a few days. Overall, 80% of operators surveyed believe that the Colorado LDAR program results in only modest costs to the industry with some breaking even or turning a profit.

43 CFR Subpart § 3179.304 Repairing Leaks

We support the fifteen day scheduled deadline for operators to repair detected leaks. However, operators should certify to BLM, rather than simply verify, they fixed the leak. Furthermore, notwithstanding 43 CFR Subpart § 3179.302, BLM should require OGI or BAT to determine the effectiveness of the repair. We support BLM's conclusion that these follow up inspections do not count toward the inspection frequency requirements of 43 CFR Subpart § 3179.303.

Reporting and Information Availability

We appreciate BLM recognizing the public's interest in access to information on venting and flaring from BLM-administered leases^{xii}. We support BLM's proposal to require operators to report measurements or estimates of all volumes of gas vented or flared on the Office of Natural Resources Revenue's (ONRR) Oil and Gas Operations Report (OGOR form ONRR-4054). ONRR already facilitates an existing platform that can easily make these and additional disclosures publicly available.^{xiii}

ONRR now leads the way among government agencies in transparency and information availability on oil and gas payments to the government. As a co-chair of the Multi-Stakeholder Group leading the United States Extractive Industries Transparency Initiative (US EITI), ONRR has already unilaterally disclosed online all payments it receives from oil and gas operators. BLM can capitalize on this important work by using the US EITI platform to make publicly available other revenue streams and additional categories of information the regulated community reports under this rule.

In addition to gas volumes, operators should report waste from storage vessels, pneumatic controllers, and pneumatic pumps. Other information BLM should post to this platform include: requests for approval to flare, inspection records, APDs, Sundry Notices, waste minimization plans, bonds, applications for alternative flaring limits, and BLM's responses.

Any costs BLM incurs making information publicly available, especially given ONRR's existing contributions to the United States Extractive Industries Transparency Initiative (US EITI), will be easily offset by lower costs associated with processing fewer Freedom of Information Act (FOIA) requests.

Conclusion

In sum, allowing trained citizen monitors to assist in the leak detection process will help ensure the effectiveness of the LDAR provisions of the rule. Third party verification can relieve industry's compliance costs by helping to find leaks, allowing the industry to capture more natural gas to bring to market. Finally, it will help BLM fulfill its ninety-six year old Mineral Leasing Act mandate to "use all reasonable precautions to prevent waste of oil or gas developed in the land."^{xiv}

Thank you for accepting our comments.

Respectfully submitted,

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ⁱ North Dakota Industrial Commission Order No. 24665 (July 1, 2014) available at <https://www.dmr.nd.gov/oilgas/or24665.pdf>

ⁱⁱ See EPA, Greenhouse Gas Reporting Rule: Leak Detection Methodology Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems, 81 Fed Reg. 4987 (January 29, 2016).

ⁱⁱⁱ See 40 CFR 98.234

^{iv} See Fed. Reg. Vol. 81 No. 25 at page 6647 (February 8, 2016).

^v See 80 Fed. Reg. 56593, 56634.

^{vi} See GAO-11-34 (October 2010) at 34.

^{vii} See Fed. Reg. Vol. 81 No. 25 at page 6649 (February 8, 2016).

^{viii} See BLM's proposed 43 CFR Subpart 3179.304 See Fed Reg. Vol. 81 No. 25 at page 6686 (February 8, 2016).

^{ix} Wyoming, Nonattainment Area Regulations Ch. 8 (June 2015) Section 6(g) available at <http://soswy.state.wy.us/Rules/RULES/9868.pdf>

^x See Colorado Air Quality Control Commission Regulations, Regulation 7, 5 CCR 1001-9, Section XVII.F.

^{xi} A copy of this study will be submitted as a separate attachment to these comments.

^{xii} Fed Reg. Vol. 81 No. 25 at page 6661 (February 8, 2016).

^{xiii} See <https://useiti.doi.gov/explore/#revenue>

^{xiv} 30 U.S.C. 225