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December 5, 2016

The Honorable Lisa Murkowski
Chairman
The Honorable Maria Cantwell
Ranking Member
Committee on Energy and Natural Resources
United States Senate

The Honorable Rob Bishop
Chairman
The Honorable Raúl Grijalva
Ranking Member
Committee on Natural Resources
House of Representatives

Subject: *Department of the Interior, Bureau of Land Management: Waste Prevention, Production Subject to Royalties, and Resource Conservation*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Interior, Bureau of Land Management (BLM) entitled “Waste Prevention, Production Subject to Royalties, and Resource Conservation” (RIN: 1004-AE14). We received the rule on November 18, 2016. It was published in the *Federal Register* as a final rule on November 18, 2016, with an effective date of January 17, 2017. 81 Fed. Reg. 83,008.

The final rule requires operators to take various actions to reduce waste of gas, establishes criteria for when flared gas will qualify as waste and therefore be subject to royalties, and clarifies which on-site uses of gas are exempt from royalties. The rule focuses on several points or processes in the oil and gas production process where BLM determined waste-prevention actions are most effective and least costly: venting and flaring of associated gas from development oil wells (routine flaring occurs at oil wells that dispose of gas as a waste product); gas leaks from equipment at the well site or elsewhere on the lease; operation of high-bleed pneumatic controllers and certain pneumatic pumps; gas emissions from storage vessels; downhole well maintenance and liquids unloading; and well drilling and completions.

Enclosed is our assessment of BLM’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that BLM complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Ian Senio
Division Chief, Regulatory Affairs
Department of the Interior

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT
ENTITLED
“WASTE PREVENTION, PRODUCTION SUBJECT
TO ROYALTIES, AND RESOURCE CONSERVATION”
(RIN: 1004-AE14)

(i) Cost-benefit analysis

The Bureau of Land Management (BLM) analyzed the costs and benefits of this final rule. BLM estimates that this rule will pose costs ranging from \$114-\$279 million per year (using a 7 percent discount rate to annualize capital costs) or \$110-\$275 million per year (using a 3 percent discount rate to annualize capital costs) over the next 10 years. These costs include engineering compliance costs and the social cost of minor additions of carbon dioxide to the atmosphere, resulting from the on-site or downstream use of gas that is newly captured as a result of this rule. BLM measures the benefits of the rule as the cost savings that the industry would receive from the recovery and sale of natural gas and the environmental benefits of reducing the amount of methane and other air pollutants released into the atmosphere. BLM estimates that this rule will result in monetized benefits of \$209-\$403 million per year (using model averages of the social cost of methane with a 3 percent discount rate). BLM further estimates that the final rule would reduce methane emissions by 175,000-180,000 tons per year, roughly a 35 percent reduction in methane emissions from the 2014 estimates, and which BLM estimates to be worth \$189-\$247 million per year (this social benefit is included in the monetized benefit above). BLM also identified numerous ancillary benefits. According to BLM, these include improved quality of life for nearby residents, who note that flares are noisy and unsightly at night; reduced release of volatile organic compounds, including benzene and other hazardous air pollutants; and reduced production of nitrogen oxides (NOx) and particulate matter, which can cause respiratory and heart problems. Overall, BLM estimates that the benefits of this rule outweigh its costs by a significant margin. BLM expects net benefits ranging from \$46-\$199 million per year (using a 7 percent discount rate to annualize capital costs) or \$50-\$204 million per year (using a 3 percent discount rate to annualize capital costs).

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

BLM determined that this final rule will likely affect a substantial number of small entities. However, BLM believes that the rule will not have a significant economic impact on a substantial number of small entities. BLM estimates the average reduction in profit margin for small companies will be just a fraction of one percentage point, which it determined is not a large enough impact to be considered significant. BLM nevertheless chose to prepare a Final Regulatory Flexibility Analysis for this rule because BLM believes it was prudent and potentially helpful to small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

BLM determined that this final rule does not contain a federal mandate that may result in expenditures of \$100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector in any 1 year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

In 2014 prior to publishing the proposed rule, BLM conducted a series of forums to consult with tribal governments and to solicit stakeholder views to inform the development of this proposed rule, with public meetings (some of which were livestreamed) in Colorado, New Mexico, North Dakota, and Washington, D.C. BLM continued to consult with stakeholders during the rule development process, including holding meetings and calls with state and tribal representatives, individual companies, trade associations, and non-governmental organizations. BLM conducted additional outreach with states and tribes where there is extensive oil and gas production from BLM-administered leases. On February 8, 2016, BLM published a proposed rule. 81 Fed. Reg. 6616. On April 4, 2016, BLM extended the comment period through April 22, 2016. 81 Fed. Reg. 19,110. BLM held public meetings during the comment period in Farmington, New Mexico; Oklahoma City, Oklahoma; Denver, Colorado; and Dickinson, North Dakota. BLM also held separate meetings with tribes at each of these locations and held further government-to-government consultation meetings at the request of several tribes. BLM received approximately 330,000 public comments on the proposed rule, including approximately 1,000 unique comments. BLM addressed comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

BLM determined that this final rule contains information collection activities under the Act. BLM has submitted the forms entitled Form 3160-3, "Application for Permit to Drill or Reenter" and Form 3160-5, "Sundry Notices and Reports on Wells" to the Office of Management and Budget (OMB) for review under OMB Control Number 1004-0211 with an estimated total annual burden of 82,170 hours.

Statutory authorization for the rule

BLM promulgated this final rule under the authority of sections 396d and 2107 of title 25, sections 189, 306, 359, and 1751 of title 30, sections 1732(b), 1733, and 1740 of title 43, United States Code, and the Energy Policy Act of 2005, Public Law 109-58.

Executive Order No. 12,866 (Regulatory Planning and Review)

BLM determined that this final rule is an economically significant regulatory action under the Order.

Executive Order No. 13,132 (Federalism)

BLM determined that this final rule would not have a substantial direct effect on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the levels of government.