

February 2, 2019

CHALLENGES TO THE METHANE AND WASTE PREVENTION RULE

[Natural Resource \(/full-blog/category/Natural+Resource\)](#)

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California, New Mexico, and several conservation groups may continue the appeal of a Wyoming federal judge's stay regarding the Methane and Waste Prevention Rule (Rule).[i] The Rule was implemented to combat methane emissions from oil and gas wells. The Rule came after studies revealed that, among other impacts, there is a Delaware sized methane cloud above the Four Corners Region.[ii] Methane, which is released from gas and oil wells through the process of flaring and venting, is a green house gas which is more than 80 times as powerful as carbon dioxide.[iii]

The Rule aims to reduce various aspects of venting and flaring from oil and gas wells by disallowing venting unless there is an emergency, or flaring is not possible.[iv] The Rule also calls for royalty payments when there is a loss of oil and gas through venting and flaring, which may have been avoidable.[v] Furthermore, it calls for more frequent inspections of oil and gas wells in addition to replacement of certain equipment used to limit venting and flaring.[vi]



credit (<https://guardian.ng/news/nigeria-announces-policy-to-end-gas-flaring-in-two-years/>)

Litigation started after Wyoming, Montana, and energy groups challenged the Rule in November 2016, soon after it was first published.[vii] Many parts of the Rule, which became effective in January of 2018 were stayed pending the U.S. Bureau of Land Management's (BLM) decision to either finalize or withdraw rule-making which may change, or remove completely, parts of the Rule. [viii] The energy groups, along with Wyoming and Montana, in hopes to dismiss the appeal, argue that the U.S. District Court decision contradicted the Administrative Procedure Act and Tenth Circuit precedent.[ix] However, throughout the appeals process, the stay on the implementation of the Rule will remain in place.[x]

The benefits of the rule are seemingly clear: lowered methane pollution, positive economic impacts from royalties, and potential recapture of methane, leading to higher efficiency of oil and gas wells. [xi] However, President Trump requested the BLM to review the 2016 final review and to either suspend, revise, or rescind the Rule if necessary.[xii] The BLM concluded that the 2016 final Rule presents many regulatory burdens, as well as overlaps with existing requirements from agencies such as the Environmental Protection Agency, and would cost more to implement than the benefits it would produce.[xiii] As a result, the BLM proposed to revise the Rule to reduce "unnecessary compliance burdens" and re-establish other requirements.[xiv]

The outcome of this case will have heavy consequences on the production of methane fuels from venting and flaring oil and gas fields. However, it is uncertain if the rule, in its current iteration, will truly provide a positive economic impact on the communities it hopes to serve.

[i] Juan Carlos Rodriguez, *10th Circ. Greenlights Appeal Of Methane Rule's Stay*, Law360 (June 5, 2018), <https://www.law360.com/articles/1050430/10th-circ-greenlights-appeal-of-methane-rule-s-stay>

[ii] Joshua Mantell & Jon Goldstein, *Methane and Natural Gas Waste Rule*, Rules At Risk, <https://rulesatrisk.org/methane-waste/>.

[iii] *Id.*

[iv] EELP Staff, *BLM Methane Waste Prevention Rule*, Environmental Law at Harvard (Sept. 20, 2017), <http://environment.law.harvard.edu/2017/09/methane-waste-prevention-rule/>.

[v] *Id.*

[vi] *Id.*

[vii] Rodriguez, *supra* note i.

[viii] Danielle Nichole Smith, *Enviros Take Fight Over Methane Rule Delay To 10th Circ.*, Law360 (July 31, 2018), <https://www.law360.com/articles/1068555>.

[ix] *Id.*

[x] *Id.*

[xi] Editorial Board, *A Surprise Victory for Environmentalists on Methane*, The Washington Post (May 19, 2017), https://www.washingtonpost.com/opinions/a-surprise-victory-for-environmentalists-on-methane/2017/05/19/1a304468-3c07-11e7-8854-21f359183e8c_story.html.

[xii] Bureau of Land Mgmt, *Waste Prevention, Production Subject to Royalties, and Resource Conservation; Rescission or Revision of Certain Requirements*, 83 Fed. Reg. 7924 (Feb. 22, 2018).

[xiii] *Id.*

[xiv] *Id.*

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