DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3700

[Docket No. BLM-2025-0268; A2407-014-004-065516, #O2509-014-004-125222]

RIN 1004-AF51

Waste Prevention, Production Subject to Royalties, and Resource Conservation; Extension of Phase-In Requirements

AGENCY: Bureau of Land Management, Interior

ACTION: Final rule; response to comments.

SUMMARY: Due to the receipt of significant adverse comments on the December 15, 2025, direct final rule (DFR) extending certain phase-in deadlines of the Bureau of Land Management's (BLM) Waste Prevention and Resource Conservation regulations, the Department of the Interior, through the BLM, is issuing a new final rule that responds to those comments.

DATES: The effective date of February 13, 2026, for the direct final rule that published on December 15, 2025, (90 FR 57921) is confirmed. This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].**

FOR FURTHER INFORMATION CONTACT: Amanda Fox, Petroleum Engineer, Division of Fluid Minerals, phone 907-538-2300, email: afox@blm.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: On December 15, 2025, the BLM published a DFR extending the phase-in deadlines for the Leak Detection and Repair (LDAR) and gas measurement requirements of 43 CFR subpart 3179. Those requirements were added in 2024, when the Department, through the BLM, promulgated a rule entitled, Waste Prevention, Production Subject to Royalties, and Resource Conservation, 89 FR 25378 (April 10, 2024) (the "2024 WPR"). The BLM stated in the DFR that if significant adverse comments were received by January 14, 2026, the BLM would withdraw the DFR or issue a new final rule that responds to the comments. The BLM received nine public comments. Eight of these comments were unique and responsive to the request and one was not germane. Of the eight, seven provided substantive comments, four opposed to the rule and three were in favor. After considering those comments, the BLM is electing to issue this final rule without change and is responding to the significant adverse comments by explaining why those comments do not warrant withdrawal of or amendment to the extension of the compliance deadlines provided for in the DFR.

One group of commenters contended that the DFR amends the 2024 WPR in violation of the Administrative Procedure Act (APA) and the Mineral Leasing Act. Another group makes essentially the same APA claim, contending that an agency may only forego formal notice and comment where such procedures "are impracticable, unnecessary, or contrary to the public interest." That group of commenters also described the regulatory requirements that are being postponed as "critical pollution control regulations." We disagree with these contentions and characterizations for the reasons explained below.

Regarding the assertion that the DFR did not comply with the APA, the DFR itself provided an opportunity for the public to submit comments about the BLM's decision to postpone two compliance deadlines by 1 year each. The commenters availed themselves of that opportunity. The BLM has now considered the comments and is

responding to the comments in this final rule. This rulemaking process thus complies with the APA.

Regarding the contention that the regulatory requirements are critical pollution-control regulations and the DFR should be withdrawn, the DFR only postpones implementation of a requirement in 43 CFR 3179.71 that operators install certain gas measuring devices so that flared gas volumes may be measured (rather than using estimations based on pressure and duration, as is the current practice on many well sites). The use of a measuring device is not a pollution-control requirement. The presence of a meter does not change the volume of gas that is flared. The volume flared is dictated by other operational circumstances, such as pipeline capacity. While meters may affect the precision with which flared volumes are determined, they do not serve as pollution-control devices. The requirement is being postponed for 1 year because the BLM expects to propose revisions to the relevant regulation, 43 CFR 3179.71, in a new proposed rule. It is administratively expedient for the BLM to hold off on enforcing non-statutory requirements in a provision that may change soon. This one-year extension will reduce administrative costs for the BLM, as well as operational costs for operators, while the BLM reconsiders and potentially revises this provision.

Second, the DFR postpones implementation of a requirement that operators develop LDAR programs, 43 CFR 3179.100, which is something that commenters also characterize as critical pollution-control measures. However, very little gas is lost through leaks (by the BLM's 2024 estimations, just 0.5 percent of all lost gas on Federal and Indian leases is attributable to leaks, as further discussed below). This small amount of potential gas loss does not justify imposing the costly LDAR program requirements in § 3179.100 at this time, when the BLM expects to propose revising this requirement in a new proposed rule. Importantly, operators are already incentivized to repair leaks for worker safety, profitability, and compliance with State law in many instances.

In the Regulatory Impact Analysis for the 2024 WPR (the "RIA"), the BLM explained that the rule was expected to generate additional royalty income of $51.26 million because there would be royalty paid on certain vented and flared gas that would otherwise be lost. 89 FR at 25422. These increased royalties were to be derived from two sources: (i) the 2024 WPR's limits on royalty-free flaring (*see* 43 CFR 3179.70); and (ii) LDAR (*see* 43 CFR 3179.100 through 102). As reflected in the RIA, the vast majority of the benefits of this conserved natural gas, specifically, 99.6 percent, was attributable to the first source—limits on royalty-free flaring, rather than from the LDAR program requirements. *See* RIA at 10 (Table 1.7). Only 0.4 percent of the estimated increased royalties were attributable to the LDAR requirements, *id*., yet the annual cost to operators of maintaining LDAR programs was estimated in the RIA to be $9.2 million annually.

The BLM estimated in the RIA that the LDAR requirement would allow for the annual capture of about 0.45 Bcf of gas, with an annual royalty value of $220,000. *See* RIA at 62. Under the 2024 Rule, this small increase in royalty revenue would be achieved at an expense of $9.2 million. *Id*. at 48. It would also come with an administrative cost to BLM resources, including annual review and approval of LDAR plans. Further, the volume of gas that the LDAR requirements were estimated to capture (0.45 Bcf) represents a very small fraction of the "lost gas" problem. Total annual gas losses (from venting, flaring, and leaks) were estimated at 86 Bcf from Federal and Indian mineral estates. *Id*. at 6. The 2024 LDAR requirements were forecast to eliminate a mere 0.5 percent of these estimated losses. *Id*. at 6, 9 (Section 1.4.1 (reflecting total lost gas of 86 Bcf), Table 1.5 (reflecting lost gas of 0.45 Bcf attributable to leaks)). Given this *de minimis* impact, the fact that no statute requires LDAR, the excessive cost to operators and the BLM, and the fact that the BLM will soon propose to revise the

LDAR requirement in a forthcoming rule, a 1-year extension is reasonable and justified and need not be withdrawn.

Another commenter faulted the BLM for offering "no analysis of foregone royalties or lost benefits from delaying compliance, even though those benefits were quantified in the 2024 [WPR]." We note that the DFR discussed and cited the 2024 WPR, which relied on the published 2024 RIA, see 89 FR 25379-80, including its examination of the benefits and costs. Based on the discussion about royalty collection above, we disagree with this criticism. The BLM has examined these considerations, and they are available to the public.

In sum, the BLM's two 1-year postponements are reasonable and administratively justified and need not be withdrawn, particularly where the agency is considering changes to the requirements in question, and where the costs of compliance and enforcement so greatly outweigh the benefits. S*ee* Reginfo.gov, enter "1004-AF33" into the Search Box. While there may be some minimal lost royalty and gas leakage, the 1-year delay is still appropriate, given the cost of compliance and the administrative costs for the BLM to implement the two measures, while preparing proposed rule changes.

The BLM has determined that the comments we have described here do not necessitate a change to the rule as published. Consequently, the BLM is not withdrawing the December DFR.

Lanny E. Erdos,

Director, Office of Surface Mining, Reclamation and Enforcement

Exercising Authority of the Assistant Secretary -- Land and Minerals Management.

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