

## Input into July Draft E.O. 13783 Energy Report

- I. Executive Summary
- II. Recommendations for Alleviating or Eliminating Burdensome Actions
  - A. Climate Change Actions
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*Policy Instruction Memorandum (IM) 2014-156, “Supplemental Guidance on Processing Royalty Rate Reduction Applications”*

1. **Description.** *This IM informs BLM State Directors that they must provide the BLM Washington Office (WO) with a justification when seeking a royalty rate reduction (RRR). A copy of the State’s draft decision must accompany the justification when requesting WO concurrence. Further, this IM augments and reiterates the existing policy for processing RRR applications. This policy has resulted in a delay to the processing of RRR applications as it has imposed an additional level of review of the BLM State Directors’ decisions. However, the BLM should assure that all RRRs meet the necessary regulatory standards, considering the public and Congressional scrutiny surrounding these actions.*
2. **Opportunities to Address Burden or Other Issues of Concern.** *This policy is currently under review and may undergo revision to better define the process and offer a streamlined approach that shortens the review period. The BLM expects to produce a revised IM in the first quarter of FY 2018.*
3. **Anticipated Benefits.** *The BLM expects the primary benefits to be a more efficient process that maintains an adequate review of the RRR application and a greater measure of certainty. The certainty will improve industry applicants’ abilities to confidently prepare mine operations and coal production planning, because a response will take weeks to months rather than months to years.*
4. **Measuring Success.** *The BLM will measure success by reduced confusion and RRR application review timeframes, assuming all necessary information has been provided by the proponent.*
5. **Interim Methods.** *There are no variances or waivers available to provide interim compliance on RRR requests. However, the WO and the BLM States can work together to prioritize the existing RRR requests and identify an approach that will move the existing RRR requests along as quickly as can be expected with existing staff, workload, and priorities while concurrently developing the revised policy.*

*Policy IM 2017-035, “Publicly Accessible Bureau of Land Management Websites for Information Regarding Federal Coal Program Leasing, Exploration Licensing, and Royalty Rate Reductions”*

- 1. Description.** *Through this IM, the BLM responded to stakeholder suggestions for improved access to information on the Federal coal program, and replaced WO-IM-2014-159 titled “Publicly Accessible Bureau of Land Management Websites for Coal Leasing Information.” The 2017 IM directs BLM offices to post and update specified Federal coal program information on BLM publicly accessible websites, including: (1) information about Federal coal lease applications and leases, lease modification applications, and lease modifications; (2) information about exploration licensing applications and exploration licenses; (3) information about RRR applications; and (4) summary information on the Federal coal program. Initially, BLM coal specialists will need to devote time to gathering existing coal leasing data for compilation and posting to the web; however, the BLM does not anticipate that the time involved will have a long-term measurable impact on the specialists’ regular job functions related to maintenance and processing of coal leases and applications.*
- 2. Opportunities to Address Burden or Other Issues of Concern.** *The BLM’s new policy lifted the burden on responding to public and other requests for coal information, including Freedom of Information Act (FOIA) requests, which this policy will minimize and largely prevent. The BLM expects to complete implementation of the policy in the first quarter of Fiscal Year (FY) 2018.*
- 3. Anticipated Benefits.** *The new IM will allow BLM specialists to work on coal applications more, because they will be working on information requests less. The new policy will have direct benefits to coal applicants by reducing the time it takes to fully review their applications.*
- 4. Measuring Success.** *The BLM will measure success by quantifying the number of time-consuming requests before and after public availability of the coal program information.*
- 5. Interim Methods.** *This policy is internal to the BLM and results from the burden of responding to public and other requests for coal program information. As such, there are no compliance requirements specific to the coal program and coal proponents. During the interim period, the BLM will continue to have coal program staff use work hours to appropriately respond to each coal program information request that the BLM receives.*

*Policy IM 2017-037, “Waste Mine Methane”*

- 1. Description.** *This IM establishes national policies and processes for voluntary activities by operators to capture waste mine methane from underground coal or other solid mineral mines. This policy will allow waste mine methane to be put to productive use, including offering it for sale, instead of venting it to the*

*atmosphere. All of the activities outlined in the policy are voluntary and will only be implemented if both the BLM and the mine operator agree. If the BLM and operator agree to implement the activities, the operator could incur additional costs. However, the BLM assumes that the operator would only choose to implement the activities if the benefits outweigh the costs.*

- 2. Opportunities to Address Burden or Other Issues of Concern.** *This policy will likely not create a significant burden on the proponent because it provides for voluntary compliance based on mutual agreement between the proponent and the BLM. The proponent will likely not assume voluntary compliance without economic benefit to the proponent's bottom line. The BLM anticipates completing review and revision of this policy in the first quarter of FY 2018.*
- 3. Anticipated Benefits.** *The policy may encourage companies to add profit to their operations, provide the Federal government with additional gas production royalties, and reduce the level of methane vented to the atmosphere.*
- 4. Measuring Success.** *The BLM will measure and evaluate the frequency with which companies explore the potential use of voluntary compliance to enhance the profitability of their coal mining operations over the next decade or so.*
- 5. Interim Methods.** *Coal mining companies may propose methane capture operations as a part of their plan of operation at any time. The BLM could require variance or waivers on interim compliance.*

**D. Indian Energy Actions – not applicable to WO-300**

**E. Energy-Related Information Collections under the Paperwork Reduction Act– not applicable to WO-300**

**F. Grant Programs – not applicable to WO-300**

**G. Restrictions in Acquisition Policy and Regulations – not applicable to WO-300**

**H. Other Actions that Potentially Burden Development or Use of Energy**

*Regulation, Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands, 80 Fed. Reg. 16128*

- 1. Description.** *The BLM final rule on hydraulic fracturing serves as a complement to update existing regulations designed to ensure the environmentally responsible development of oil and gas resources and protection of other downhole zones on Federal and Indian lands. The BLM initiated the rule in response to the increasing use and complexity of hydraulic fracturing coupled with advanced horizontal drilling technology. This technology has opened large portions of Federal and Indian lands to oil and gas development. Some provisions of the rule add regulatory burdens that*

*unnecessarily encumber energy production, constrain economic growth, and prevent job creation. Portions of the rule also overlap with current Environmental Protection Agency provisions.*

2. **Opportunities to Address Burden or Other Issues of Concern.** *Due to on-going litigation and court-ordered stay, this regulation has never gone into effect and therefore has not become a burden on energy-producers. This regulation is planned to be rescinded.*
3. **Anticipated Benefits.** *In states that currently regulate hydraulic fracturing, proponents will be under only one set of regulations and, as such, the rule has the potential to offer a reduction in the regulatory burden by being under one regulation rather than two.*
4. **Measuring Success.** *Since the regulation was never implemented, there is not prior experience with which to compare. The situation will be status quo with the existing regulations that have been in place for over twenty years.*
5. **Interim Methods.** *The interim state is the status quo of the existing regulations. These are very simple regulations regarding hydraulic fracturing and no particular variances, waivers or interim compliance measures are required.*

*Regulation, Oil and Gas; Waste Prevention, Production Subject to Royalties, and Resource Conservation, 81 Fed. Reg. 83008*

1. **Description.** *The “Venting & Flaring Rule,” formally known as the “Waste Prevention, Production Subject to Royalties, and Resource Conservation” rule, replaced the requirements related to venting, flaring, and royalty-free use of gas contained in the 1979 “Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases, Royalty or Compensation for Oil and Gas Lost” (NTL-4A). The BLM codified the new rule at new 43 CFR subparts 3178 and 3179. The recent rulemaking includes provisions to make regulatory and statutory authority consistent with respect to royalty rates that may be levied on competitively offered oil and gas leases on Federal lands. Some provisions of the rule add regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation. Portions of the rule also overlap with current Environmental Protection Agency provisions.*
2. **Opportunities to Address Burden or Other Issues of Concern.** *To reduce the regulatory burden on the energy industry, the BLM is revising the regulation to delay the phased-in implementation dates. This will provide industry additional time to plan for and engineer responsive infrastructure modifications that will comply with the regulation. The BLM expects to complete the revision of the regulation in the fourth quarter of FY 2018.*
3. **Anticipated Benefits.** *Because the revised regulation will provide significant additional phase-in time to oil and gas operators, the BLM expects industry to have*

*sufficient time to design and acquire compliant infrastructure that will lower the cost of compliance and spread that cost over more time.*

4. **Measuring Success.** *The BLM will measure success in reducing the burden from the Waste Prevention regulation by industry acceptance and work with industry to develop metrics, including key timelines or benchmarks.*
5. **Interim Methods.** *The completed regulation provided a phase-in period for waste prevention requirements which has not expired. The revised regulation provides for a longer phase-in of the waste prevention requirements. No additional variances or waivers of interim measures are needed beyond those provided in the regulation.*

*Policy, Oil and Gas; IM 2010-117, “Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews”*

1. **Description.** *This IM establishes a process for ensuring orderly, effective, timely, and environmentally responsible leasing of oil and gas resources on Federal lands. This IM was intended to create more certainty and predictability, protect multiple-use values when the BLM makes leasing decisions, provide for consideration of natural and cultural resources as well as public involvement with an awareness of the surrounding land ownership. The BLM intended the IM to reduce the backlog of unissued leases. The IM has resulted in longer time frames to provide analysis and responses to protests and appeals, as well as longer lead times for BLM Districts to clear parcels for sale. It has also resulted in increased workload and staffing needs to conduct additional upfront environmental analysis.*
2. **Opportunities to Address Burden or Other Issues of Concern.** *The BLM has undertaken an effort to revise the leasing reform policy and to streamline the process, from receiving an Expression of Interest to competitively offering the nominated acreage in a lease sale. Under leasing reform, the process can last up to 16 months and sometimes longer from acres nominated through offered at a lease sale. The BLM is examining ways to significantly reduce this time. The BLM plans to have completed revising the leasing process in the first quarter of FY 2018.*
3. **Anticipated Benefits.** *A shorter time interval from nomination to sale will reduce the amount of time that nominated acreage is in the BLM’s hands and likely reduce the number of nominated acres awaiting competitive sale at any given moment. This will more quickly provide industry a level of certainty on the acreage they hold, allowing industry to plan exploration or production strategies earlier, and to be flexible in responding to changing market conditions.*
4. **Measuring Success.** *The reduction in the average time from acreage nomination to offering at sale will be BLM’s measure of success. The BLM does not control what acreage industry nominates because industry market conditions can fluctuate dramatically up and down; therefore, total nominated acreage awaiting sale is not likely to be a measure of success.*

5. **Interim Methods.** *Until the BLM can complete the policy revision, the BLM is setting quarterly lease sale acreage targets to address the acreage currently nominated. The BLM is also identifying ways to augment staff support for potential sales in those offices with the greatest numbers of acres nominated.*

*Policy, Oil and Gas; IM 2013-101, “Oil and Gas Leasing Reform – Master Leasing Plans (MLPs)”*

1. **Description.** *This IM announces the incorporation of Master Leasing Plans (MLP), further explained in Chapter V of the BLM Handbook H-1624-1, titled “Planning for Fluid Mineral Resources.” The IM establishes a process for integrating an MLP into the land use planning process. The BLM has extended this IM several times while the BLM completes the public scoping and analysis for MLPs. In addition, many areas previously open to leasing have also been removed from leasing in recent years through the MLP process.*
2. **Opportunities to Address Burden or Other Issues of Concern.** *The BLM has undertaken an effort to revise the leasing reform and MLP policy and to re-establish the BLM Field Office Resource Management Plans (RMP) as the source of lands available for fluid minerals leasing. The BLM is currently evaluating existing MLP efforts with the goal of ending this approach. The BLM expects to rescind this IM and complete the revision of the above BLM Handbook, as well as any other relevant BLM handbooks, in the first quarter of FY 2018.*
3. **Anticipated Benefits.** *Because this change will re-establish the RMP as the source of land allocation decisions for fluid minerals, it will result in less National Environmental Policy Act (NEPA) analysis and a shorter timeframe for acreage nominations to make it to a competitive lease sale. Since extra time and NEPA analysis adds to uncertainty for industry, removing these process steps has the effect of decreasing uncertainty.*
4. **Measuring Success.** *The primary measure of success in removing regulatory burden from the rescission of the MLP policy will be in the elimination of related nominated acreage sale deferral pending completion of NEPA. While there will continue to be acreage sale deferrals for various reasons, completion of MLP NEPA will no longer be one of them. The time frames will be shorter.*
5. **Interim Methods.** *There are no interim compliance requirements, waivers or variances needed or that would really help. However, BLM’s review of MLP efforts will result in the cancellation of at least those in the very preliminary stage.*

*Policy, Oil and Gas; IM 2013-177, “National Environmental Policy Act (NEPA) Compliance for Oil and Gas Lease Reinstatement Petitions”*

1. **Description.** *This IM directs all BLM oil and gas leasing Field Offices to: 1) ensure RMP conformance; 2) evaluate the adequacy of existing NEPA analysis and*

*documentation; and 3) complete any necessary new or supplemental NEPA analysis and documentation before approving a Class I or Class II oil and gas lease reinstatement petition. This IM has resulted in additional analysis and review time that often involves another Surface Management Agency and, in some instances, has led to adding new lease stipulations prior to lease reinstatement.*

- 2. Opportunities to Address Burden or Other Issues of Concern.** *The lease reinstatements were once at the level of a ministerial review. IM 2013-177 changed that in significant ways, resulting in additional NEPA review and significantly greater timeframes for completing the reinstatement. Rescinding this policy will greatly reduce timeframes to make decisions on lease reinstatement requests. BLM expects to complete review of this policy in the first quarter of FY 2018.*
- 3. Anticipated Benefits.** *BLM expects that changes to this policy will place the emphasis back on existing NEPA analysis and information, which will significantly shorten the time it takes to consider a lease reinstatement request. The policy changes will provide greater certainty and reduced expense for energy development companies.*
- 4. Measuring Success.** *The BLM will measure the reduction in burden in terms of the average time it takes to consider a complete lease reinstatement request.*
- 5. Interim Methods.** *Similar to MLPs, in the interim, the BLM must identify and evaluate where each current lease reinstatement request is to understand the degree to which it is possible to expedite its consideration. There are no other interim measures, waivers or variances that are relevant to the process.*

*Regulation, Oil and Gas; Onshore Orders Nos. 3, 4 and 5*

- 1. Description.** *These three concurrent rulemakings updated and replaced Onshore Orders for site security, oil measurement, and gas measurement regulations that had been in place since 1989. The recent rulemakings resulted in new site security, oil measurement, and gas measurement regulations for onshore Federal and Indian oil and gas production and are codified in the Code of Federal Regulations at 43 CFR part 3170. External and internal oversight reviews prompted these rulemakings and found that many of the BLM's production measurement and accountability policies were outdated and inconsistently applied. The new rules also address some of the Government Accountability Office concerns for high risk with regard to the Department's production accountability. Combined, the new regulations improve the BLM's ability to ensure accurate measurement, accountability, and proper reporting of oil and gas produced from Federal and Indian land, to ensure that taxpayers and Indian tribes receive their fair share of royalty due. The new regulations also provide a process for approving new technology that meets defined performance goals.*

2. **Opportunities to Address Burden or Other Issues of Concern.** *These new regulations provide a much-needed update of the prior regulations and Onshore Orders. While they do establish a cost burden on industry, it is important to note that there is a significant and direct benefit to the government’s collection of oil and gas royalties, greater flexibility for industry in the technology used to perform the measurements, and a phased approach to allow industry to spread the cost of compliance.*
3. **Anticipated Benefits.** *The regulations impose new cost burdens on operators. The cost estimates for each individual rule are as follows: Order 3: \$31.2 million in one-time costs, plus an \$11.7 million increase in annual operating costs. The average compliance cost per entity (operator) for this rule is under \$6,000 per year for the first three years after the rule becomes effective, and just over \$3,000 per year thereafter; Order 4: \$3.3 million in one-time costs, plus a \$4.6 million increase in annual operating costs. The average compliance cost per entity (operator) for this rule is just over \$1,500 per year for the first three years after the rule becomes effective, and just over \$1,200 per year thereafter; Order 5: \$23.3 million one-time cost, plus \$12.1 million increase in annual operating costs. The average compliance cost per entity (operator) for this rule is just over \$5,300 per year for the first three years after the rules becomes effective, and just under \$3,300 per year after. While this is a direct impact on the industry, it is important to understand that these regulations were developed over a significant rule-making period of time with multiple opportunities for input and a significant level of industry participation. These regulations are a significant step in addressing the “high risk” categorization of the BLM’s oil and gas program, and will provide a stable and certain oil and gas measurement framework for many years into the future.*
4. **Measuring Success.** *The BLM will measure success over the phase-in period in terms of the production measurements, royalties paid, a reduction in under-reporting of production, and greater site security for production facilities.*
5. **Interim Methods.** *The BLM’s establishment of a phase-in period for the new site security and production measurement regulations is an interim measure. The new regulations have built in any necessary waivers or variances.*

*Policy, Oil and Gas: IM 2016-140, “Implementation of Greater Sage-grouse Resource Management Plan Revisions or Amendments – Oil & Gas Leasing and Development Sequential Prioritization”*

1. **Description.** *This IM provides guidance on prioritizing implementation decisions for BLM oil and gas leasing and development, to be consistent with Approved Resource Management Plan Amendments for the Rocky Mountain and Great Basin Greater Sage-grouse Regions and nine Approved Resource Management Plans in the Rocky Mountain Greater Sage-grouse Region (collectively referred to as the Greater*

*Sage-grouse Plans*). This IM applies to activities in the areas covered by both the Rocky Mountain and Great Basin Regions Records of Decision, issued by the BLM in September 2015. This IM also contains reporting requirements for communication between BLM State Offices and the WO. This IM requires additional analysis and staff time to screen parcels and weigh potential impacts to the Greater Sage-grouse before the parcels are offered for leasing. It also requires additional analysis and staff time to process drilling permit approvals near Greater Sage-grouse areas.

2. **Opportunities to Address Burden or Other Issues of Concern.** *The BLM's effort to avoid listing of the Sage Grouse as an endangered species has affected many programs and a large area geographically. With new technologies and capabilities, such as long-reach horizontal boreholes in the oil and gas industry, the impacts need not be as significant as once perceived. Likewise, the regulatory burden is better understood and is likely less than once thought. Efforts are underway to better understand these conditions and define ways in which energy production and Sage-Grouse protection may continue to co-exist. Greater consistency and predictability will provide greater stability for industry. The BLM expects to complete this review in the first quarter of FY2018.*
3. **Anticipated Benefits.** *When the BLM completes this effort, industry will have greater certainty in leasing, exploration and production activities due to availability of acreage for oil and gas development and a defined process and timeframe for consideration of Greater Sage-grouse impacts.*
4. **Measuring Success.** *The BLM will measure success avoiding a decision to list the Greater Sage-grouse as an endangered species. Another measure of success will be industry's interest in nominating acreage for competitive sale in areas affected by Greater Sage-grouse amendments to RMPs. As industry increases its understanding and gains confidence in the consistency and predictability of BLM actions relative to Greater Sage-grouse, then acreage nominations and permit requests should stabilize and be tied to market forces rather than tied to BLM Greater Sage-grouse decisions.*
5. **Interim Methods.** *The BLM has been processing acreage nominations in Greater Sage-grouse areas and making them available for competitive sale. This is evidence, in the interim, that both the BLM and industry are figuring out how to adapt energy development in light of Greater Sage-grouse protections.*