

KEY CONSIDERATIONS REGARDING BLM’S PROPOSED 2023 WASTE PREVENTION RULE

DISCLAIMER: This document and the content included is meant for the purpose of facilitating discussion for this meeting between the American Petroleum Institute (API) and The Office of Information and Regulatory Affairs, and is not an exhaustive list of the concerns, feedback, and information API has provided on the Bureau of Land Management Proposed Rule on Waste Prevention, Production Subject to Royalties, and Resource Conservation, 87 Fed. Reg. 73,588 (Nov. 30, 2022). For further information, API’s public comments can be found at: <https://www.api.org/news-policy-and-issues/news/2023/01/30/energy-trades-recommend-improvements-to-waste-prevention-proposed-rule>.

Issue	Key Considerations
Scope	<ul style="list-style-type: none"> • Waste prevention regulations must comply with BLM’s statutory authority. <i>(See API comments pp. 67-79)</i> • The new term “unreasonable and undue waste” is unclearly defined, lacking an economic component, and is unnecessary given the reasonable and prudent operator standard. <i>(See API comments pp. 25 - 26)</i> • Proposed Rule (“PR”) Section 3174(b) - Definition for “avoidable loss” is needed. <i>(See API comments p. 28)</i> • PR Section 3179.4(b) – List of 14 operations should not alone determine “unavoidably lost.” Additional categories and flexibility is needed. <i>(See API comments pp. 28 – 31)</i>
Regulatory Impact Analysis	<ul style="list-style-type: none"> • Despite potentially double-counting some benefits, BLM acknowledges that costs will outweigh benefits. Additionally, BLM disregards recent legal precedent, provisions of the Mineral Leasing Act, and longstanding considerations under NTL-4A that require BLM to apply a reasonably prudent operator standard. <i>(See API comments, pp. 8-13)</i>
Waste Minimization Plans	<ul style="list-style-type: none"> • PR Section 3162.3 - Overly prescriptive plans are not narrowly tailored and therefore unduly burdensome, especially when subject to the vague “complete and adequate” standard. <i>(See API comments, pp. 5-7, 15- 22)</i>
Volumetric Flaring Limits	<ul style="list-style-type: none"> • Arbitrary to apply the same limit to different types of agreements that cover development. <i>(See API comments pp. 32 – 35, 45-49)</i>
Pneumatic Equipment	<ul style="list-style-type: none"> • PR Section 3180.201 – Redundant technical standard with NSPS OOOOb and EG OOOOc and some state rules (e.g., New Mexico and Colorado). The PR does not comment on Emergency Shutdown Devices (ESDs) that are currently excluded from OOOOb and other state rules due to safety concerns. Additional benefits provided by the PR are not apparent and may have been double-counted. <i>(See API comments, pp. 51-54)</i>
LDAR	<ul style="list-style-type: none"> • PR Section 3179.303 – Redundancy with EPA and state reporting requirements should not be retained. BLM should be consistent with EPA and state reporting requirements and require operators to maintain annual summary reports available for inspection at BLM’s request. <i>(See API Comments, pp. 59-62)</i>
Flare Metering	<ul style="list-style-type: none"> • Orifice meters may not be appropriate in every instance for measuring. <i>(See API comments, pp. 36-41)</i>
Equipment Installation Deadlines	<ul style="list-style-type: none"> • Unrealistic, and in some cases in conflict with NSPS OOOOb. API provided a supply chain study for the EPA methane rules (e.g., OOOOb and OOOOc) that details the equipment delays. These delays will also be experienced for a number of sources listed in this PR (e.g., flare metering, pneumatics). Additionally, EPA provided extended compliance timelines for pneumatics in OOOOb. <i>(See API comments, p. 41)</i> • PR Section 3179.203 (b) - Timing for equipping oil storage vessels with VRUs presents a unique concern because, unlike some of the other proposed stipulations, it imposes requirements that go beyond other regulations. <i>(See API comments pp. 55-56)</i>