

## **Supporting Statement A**

### **Waste Prevention, Production Subject to Royalties, and Resource Conservation (43 CFR Parts 3160 and 3170)**

**(Suspend / Delay)**

**OMB Control Number 1004-0211**

**Terms of Clearance:** This collection of information is approved for one year. BLM has agreed to provide OIRA for review the draft guidance to implement the collection of information requirements of the final rule, Waste Prevention, Production Subject to Royalties, and Resource Conservation (1004AE14).

The guidance must be submitted as a supplementary document and reviewed as a change request to 1004-0211 or subsequent control number.

The guidance should provide a clear explanation regarding the phrase 'abandon significant oil reserves' and discuss information necessary to determine whether the capture requirements would cause the operator to shut in the wells on the lease under current market conditions and for the reasonably foreseeable future, taking into account uncertainty regarding the long-term recoverable potential of the lease and reservoir.

The guidance should also provide a clear explanation of what an operator would be required to show with respect to obtaining exemptions from multiple requirements of the rule. It should explain how an operator could take into account, as part of the baseline, the costs of any requirements of 43 CFR 3179 for which an exemption is not being requested.

#### **General Instructions**

A completed Supporting Statement A must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified below. If an item is not applicable, provide a brief explanation. When the question "Does this ICR contain surveys, censuses, or employ statistical methods?" is checked "Yes," then a Supporting Statement B must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

#### **Specific Instructions**

#### **Justification**

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

*Overview*

The Secretary of the Interior has authority under the following statutes and regulations to manage oil and gas operations and production on Federal and Indian (except Osage Tribe) lands:

- The Mineral Leasing Act, 30 U.S.C. 181 et seq.;
- The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351-360
- The Federal Oil and Gas Royalty Management Act, 30 U.S.C. 1701-1759;
- The Indian Mineral Leasing Act, 25 U.S.C. 396 and 396a;
- The Indian Mineral Development Act, 25 U.S.C. 2101-2108; and
- Regulations at 43 CFR parts 3160 and 3170.

On October 5, 2017, the BLM issued a proposed rule (82 FR 46458) that would temporarily suspend or delay many of the regulations and all of the information collection activities that the BLM promulgated in 2016 — Waste Prevention, Production Subject to Royalties, and Resource Conservation” 81 FR 83008 (Nov. 18, 2016) (2016 final rule). In conjunction with the 2016 final rule, OMB approved 24 information collection activities under control number 1004-0211 rule with an expiration date of January 31, 2018 and with the Terms of Clearance shown above.

In the 2017 proposed rule, the BLM requested that the expiration date be extended until January 31, 2019. This information collection request is in conjunction with a rule that finalizes the 2017 proposed rule.

In the 2017 proposed rule, the BLM announced that is considering permanent changes that would be included in a separate rulemaking. These actions of the BLM are in compliance with the following Executive Orders and Secretarial Order:

- Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs” (January 30, 2017);
- Executive Order 13783, “Promoting Energy Independence and Economic Growth” (March 28, 2017); and
- Secretarial Order No. 3349, “American Energy Independence” (March 29, 2017).

This 2017 final rule is a result of a recent initial review of the 2016 final rule, in which the BLM found that it appears to be inconsistent with the policy in section 1 of Executive Order 13783, which states that “[i]t is in the national interest to promote clean and safe development of our Nation’s vast energy resources, while at the same time avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation.”

Specifically, the BLM found that some provisions of the 2016 final rule appear to add regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation. Following up on its initial review, the BLM is also currently reviewing the 2016 final rule to develop an appropriate proposed revision—to be promulgated through notice-and-comment rulemaking—that would align the 2016 final rule in the long term with the policies set forth in section 1 of Executive Order 13783.

At present, the BLM requests the continuation and extension of the information collection activities in the 2016 final rule, as revised with the temporary suspensions and delays described in the 2017 proposed rule. The extended expiration date that the BLM requests is January 31, 2019. The BLM does not request any changes to the OMB terms of clearance for control number 1004-0211.

The BLM also requests revisions to the burden estimates for the information collection activity labeled “Plan to Minimize Waste of Natural Gas (43 CFR 3162.3-1(j)). The revisions are in part a response to a public comment, and in part due to the BLM’s decision to make the burden estimates for the waste minimization plan match the burden estimates for an information collection activity in control number 1004-0137 (expires January 31, 2018). The BLM recently updated its burden estimates for that other activity, labeled “Application for Permit to Drill or Re-enter,” in connection with a request to renew control number 1004-0137. The BLM believes it is appropriate for the burden estimates to be the same for both activities because they are associate with each other.

#### *Postponement of Compliance Dates*

The 2016 final rule became effective on January 17, 2017. Certain provisions of the rule went into effect in January 2017, while others had a compliance date of January 2018.

Immediately after the 2016 final rule was issued, industry groups and States filed several petitions for judicial review of the rule. On June 15, 2017, the BLM issued a notice that indefinitely postponed compliance dates for sections of the 2016 final rule for which compliance would be required in January 2018. On October 4, 2017, the U.S. District Court for the Northern District of California issued a decision vacating that notice. *State of California v. BLM*, Nos. 17-cv-03804-EDL and 17-cv-3885-EDL (N.D. Cal., Oct. 4, 2017).

This cases challenging the 2016 final rule have now been consolidated in the U.S. District Court for the District of Wyoming. *State of Wyoming v. U.S. Dep’t of the Interior*, Case No. 2:16-cv-00285-SWS (D. Wyo.). Petitioners assert that the BLM was arbitrary and capricious in promulgating the 2016 final rule and they assert that the rule exceeds the BLM’s statutory authority. The next stage in the litigation is the court’s consideration of the merits of the petitioner’s claims.

This final rule is issued in light of the pending litigation, and as a result of the BLM’s recent review of the 2016 final rule. It provides that certain requirements in the rule are temporarily

suspended or delayed until January 17, 2019.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.**

The BLM requests extension of OMB control number 1004-0211 until January 31, 2019. This extension, if approved, would authorize the continuation of the following information collection activities.

***Plan to Minimize Waste of Natural Gas (43 CFR 3162.3-1(j))***

The 2016 final rule amended section 3162.3-1 by adding a new paragraph (j) that requires a plan to minimize waste of natural gas when submitting an Application for Permit to Drill or Reenter (APD). This plan is in addition to the APD information that the BLM already collects in APDs, pursuant to 43 CFR 3162.3-1(a) through (i), under OMB Control Number 1004-0137.

The required elements of the waste minimization plan are:

- The anticipated completion date of the proposed well(s);
- A description of anticipated production, including:
  - The anticipated date of first production;
  - The expected oil and gas production rates and duration from the proposed well. If the proposed well is on a multi-well pad, the plan should include the total expected production for all wells being completed;
  - The expected production decline curve of both oil and gas from the proposed well; and
  - The expected Btu value for gas production from the proposed well.
- Certification that the operator has provided one or more midstream processing companies with information about the operator's production plans, including the anticipated completion dates and gas production rates of the proposed well or wells;
- Identification of a gas pipeline to which the operator plans to connect, with sufficient capacity to accommodate the anticipated production of the proposed well(s), and information on the pipeline, including, to the extent that the operator can obtain it, the following information:
  - Maximum current daily capacity of the pipeline;
  - Current throughput of the pipeline;
  - Anticipated daily capacity of the pipeline at the anticipated date of first gas sales from the proposed well;
  - Anticipated throughput of the pipeline at the anticipated date of first gas sales from the proposed well; and
  - Any plans known to the operator for expansion of pipeline capacity for the area that includes the proposed well; and

- o If an operator cannot identify a gas pipeline with sufficient capacity to accommodate the anticipated production of the proposed well(s), the waste minimization plan must also include a gas pipeline system location map of sufficient detail, size, and scale as to show the field in which the proposed well will be located, and all existing gas trunklines within 20 miles of the well. The map should also contain:
  - † The total volume of produced gas, and percentage of total produced gas, that the operator is currently flaring or venting from wells in the same field and any wells within a 20-mile radius of that field; and
  - † A detailed evaluation, including estimates of costs and returns, of opportunities for on-site capture approaches, such as compression or liquefaction of natural gas, removal of natural gas liquids, or generation of electricity from gas.

In the opinion of a commenter, this information collection (IC) activity is unnecessary because operators will be forced to plan for compliance, with or without a regulatory IC requirement. The commenter also questions the BLM's burden estimates for both operators and the government.

The BLM believes that this IC activity is a reasonable, low-cost, and effective way to assist operators as they anticipate the need to capture gas. The BLM disagrees with the commenter with respect to the usefulness of this IC activity and will continue to include it in this information collection.

However, the BLM is revising the estimated burdens to operators in response to this comment, and in accordance with the estimated burdens for APDs. The BLM recently included the following annual burden estimates for APDs in a notice announcing its intention to seek renewal of control number 1004-0137, Onshore Oil and Gas Operations and Production (expires January 31, 2018): 3,000 responses, 8 hours per response, and 24,000 total hours. 82 FR 42832, at 42833 (Sept. 12, 2017). The BLM will increase the estimated annual number of responses for waste minimization plans from 2,000 to 3,000, to match the estimates for APDs in control number 1004-0137, and will increase the total burden hours for APDs from 16,000 to 24,000.

The BLM will not increase the estimated annual number of responses to 100,000, as suggested by the commenter. Contrary to the comment, the estimated number of responses is not for the life of the rule. Instead, the estimates are annual. Moreover, APDs, along with waste minimization plans, are limited to wells at which operations have not yet commenced (see 43 CFR 3162.3-1(d)), and thus are not required for all oil and gas wells on public lands.

***Request for Approval for Royalty-Free Uses On-Lease or Off-Lease (43 CFR 3178.5, 3178.7, 3178.8, and 3178.9)***

Section 3178.5 requires submission of a Sundry Notice (Form 3160-5) in order to request BLM approval of use of gas royalty-free for the following operations and production purposes on

the lease, unit or communitized area:

- Using oil or gas that an operator removes from the pipeline at a location downstream of the facility measurement point (FMP);
- Removal of gas initially from a lease, unit PA, or communitized area for treatment or processing because of particular physical characteristics of the gas, prior to use on the lease, unit PA or communitized area; and
- Any other type of use of produced oil or gas for operations and production purposes pursuant to § 3178.3 that is not identified in § 3178.4.

Section 3178.7 requires submission of a Sundry Notice (Form 3160-5) to request prior written BLM approval for off-lease royalty-free uses in the following circumstances:

- The equipment or facility in which the operation is conducted is located off the lease, unit, or communitized area for engineering, economic, resource-protection, or physical-accessibility reasons; and
- The operations are conducted upstream of the FMP.

Section 3178.8 requires that an operator measure or estimate the volume of royalty-free gas used in operations upstream of the FMP. In general, the operator is free to choose whether to measure or estimate, with the exception that the operator must in all cases measure the following volumes:

- Royalty-free gas removed downstream of the FMP and used pursuant to sections 3178.4 through 3178.7; and
- Royalty-free oil used pursuant to sections 3178.4 through 3178.7.

If oil is used on the lease, unit or communitized area, it is most likely to be removed from a storage tank on the lease, unit or communitized area. Thus, this regulation also requires the operator to document the removal of the oil from the tank or pipeline.

Section 3178.8(e) requires that operators use best available information to estimate gas volumes, where estimation is allowed. For both oil and gas, the operator must report the volumes measured or estimated, as applicable, under ONRR reporting requirements. As revisions to Onshore Oil and Gas Orders No. 4 and 5 have now been finalized as 43 CFR subparts 3174 and 3175, respectively, the final rule text now references § 3173.12, as well as §3178.4 through §3178.7 to clarify that royalty-free use must adhere to the provisions in those sections.

Section 3178.9 requires the following additional information in a request for prior approval of royalty-free use under section 3178.5, or for prior approval of off-lease royalty-free use under section 3178.7:

- A complete description of the operation to be conducted, including the location of all facilities and equipment involved in the operation and the location of the FMP;

- The volume of oil or gas that the operator expects will be used in the operation and the method of measuring or estimating that volume;
- If the volume expected to be used will be estimated, the basis for the estimate (e.g., equipment manufacturer’s published consumption or usage rates); and
- The proposed disposition of the oil or gas used (e.g., whether gas used would be consumed as fuel, vented through use of a gas-activated pneumatic controller, returned to the reservoir, or disposed by some other method).

***Notification of Choice to Comply on County- or State-wide Basis (43 CFR 3179.7(c)(3)(ii))***

Section 3179.7 requires operators flaring gas from development oil wells to capture a specified percentage of the operator’s adjusted volume of gas produced over the relevant area. The “relevant area” is each of the operator’s leases, units, or communitized areas, unless the operator chooses to comply on a county- or State-wide basis and the operator notifies the BLM of its choice by Sundry Notice (Form 3160-5) by January 1 of the relevant year.

***Request for Approval of Alternative Capture Requirement (43 CFR 3179.8)***

Section 3179.8 applies only to leases issued before the effective date of the final rule and to operators choosing to comply with the capture requirement in section 3179.7 on a lease-by-lease, unit-by-unit, or communitized area-by-communitized area basis. The regulation provides that operators who meet those parameters may seek BLM approval of a capture percentage other than that which is applicable under 43 CFR 3179.7. The operator must submit a Sundry Notice (Form 3160-5) that includes the following information:

- The name, number, and location of each of the operator’s wells, and the number of the lease, unit, or communitized area with which it is associated; and
- The oil and gas production levels of each of the operator’s wells on the lease, unit, or communitized area for the most recent production month for which information is available and the volumes being vented and flared from each well.

In addition, the request must include map(s) showing:

- The entire lease, unit, or communitized area, and the surrounding lands to a distance and on a scale that shows the field in which the well is or will be located (if applicable), and all pipelines that could transport the gas from the well;
- All of the operator’s producing oil and gas wells, which are producing from Federal or Indian leases, (both on Federal or Indian leases and on other properties) within the map area;
- Identification of all of the operator’s wells within the lease from which gas is flared or vented, and the location and distance of the nearest gas pipeline(s) to each such well, with an identification of those pipelines that are or could be available for connection and use; and
- Identification of all of the operator’s wells within the lease from which gas is captured;

The following information is also required:

- Data that show pipeline capacity and the operator's projections of the cost associated with installation and operation of gas capture infrastructure, to the extent that the operator is able to obtain this information, as well as cost projections for alternative methods of transportation that do not require pipelines; and
- Projected costs of and the combined stream of revenues from both gas and oil production, including:
  - The operator's projections of gas prices, gas production volumes, gas quality (i.e., heating value and H<sub>2</sub>S content), revenues derived from gas production, and royalty payments on gas production over the next 15 years or the life of the operator's lease, unit, or communitized area, whichever is less; and
  - The operator's projections of oil prices, oil production volumes, costs, revenues, and royalty payments from the operator's oil and gas operations within the lease over the next 15 years or the life of the operator's lease, unit, or communitized area, whichever is less.

A commenter claimed that the BLM underestimated the number of responses for this IC activity, and stated that the BLM estimated 185 operators will submit information under this regulation. In fact, the BLM estimates that 50 operators will request approval of an alternative capture requirement. The BLM believes that even this lower estimate is reasonable. Section 3179.7 authorizes operators to choose to comply with the capture requirements on a county- or State-wide basis, provided the operator notifies the BLM of its choice by Sundry Notice (Form 3160-5) by January 1 of the relevant year. This option is likely to minimize the number of requests for an alternative capture requirement, since it provides opportunities for compliant wells to offset those that are non-compliant. As stated in the regulatory text, section 3179.8 applies only to leases issued before the effective date of the 2016 final rule and to operators choosing to comply with the capture requirement in section 3179.7 on a lease-by-lease, unit-by-unit, or communitized area-by-communitized area basis. The BLM will not revise the burden estimates for section 3179.8.

***Request for Exemption from Well Completion Requirements (43 CFR 3179.102(c) and (d))***

Section 3179.102 lists several requirements pertaining to gas that reaches the surface during well completion and related operations. An operator may seek an exemption from these requirements by submitting a Sundry Notice (Form 3160-5) that includes the following information:

- The name, number, and location of each of the operator's wells, and the number of the lease, unit, or communitized area with which it is associated;

- The oil and gas production levels of each of the operator’s wells on the lease, unit or communitized area for the most recent production month for which information is available;
- Data that show the costs of compliance; and
- Projected costs of and the combined stream of revenues from both gas and oil production, including: the operator’s projections of oil and gas prices, production volumes, quality (i.e., heating value and H<sub>2</sub>S content), revenues derived from production, and royalty payments on production over the next 15 years or the life of the operator’s lease, unit, or communitized area, whichever is less.

Section 3179.102 also provides that an operator that is in compliance with the EPA regulations for well completions under 40 CFR part 60, subpart OOOO or subpart OOOOa is deemed in compliance with the requirements of this section. As a practical matter, all new, reconstructed, and modified hydraulic fracturing or refracturing events are now subject to the EPA requirements, so the BLM does not believe that the requirements of this section would have any independent effect, or that any operator would request an exemption from the requirements of this section, as long as the EPA requirements remain in effect.<sup>1</sup>

***Request for Extension of Royalty-Free Flaring During Initial Production Testing (43 CFR 3179.103)***

Section 3179.103 allows gas to be flared royalty-free during initial production testing. The regulation lists specific volume and time limits for such testing. An operator may seek an extension of those limits on royalty-free flaring by submitting a Sundry Notice (Form 3160-5) to the BLM.

***Request for Extension of Royalty-Free Flaring During Subsequent Well Testing (43 CFR 3179.104)***

Section 3179.104 allows gas to be flared royalty-free for no more than 24 hours during well tests subsequent to the initial production test. The operator may seek authorization to flare royalty-free for a longer period by submitting a Sundry Notice (Form 3160-5) to the BLM.

***Reporting of Venting or Flaring (43 CFR 3179.105)***

Section 3179.105 allows an operator to flare gas royalty-free during a temporary, short-term, infrequent, and unavoidable emergency. Venting gas is permissible if flaring is not feasible

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<sup>1</sup> The EPA has convened a proceeding for reconsidering the final OOOOa rule, see 82 Fed. Reg. 25730 (June 5, 2017). If EPA’s requirements are altered in any way in the future, then PRA burdens estimated for BLM’s rule could increase by up to \$130/event if the operator files for an exemption.

during an emergency. The regulation defines limited circumstances that constitute an emergency, and other circumstances that do not constitute an emergency.

The operator must estimate and report to the BLM on a Sundry Notice (Form 3160-5) volumes flared or vented in circumstances that, as provided by 43 CFR 3179.105, do not constitute emergencies for the purposes of royalty assessment:

- More than 3 failures of the same component within a single piece of equipment within any 365-day period;
- The operator's failure to install appropriate equipment of a sufficient capacity to accommodate the production conditions;
- Failure to limit production when the production rate exceeds the capacity of the related equipment, pipeline, or gas plant, or exceeds sales contract volumes of oil or gas;
- Scheduled maintenance;
- A situation caused by operator negligence; or
- A situation on a lease, unit, or communitized area that has already experienced 3 or more emergencies within the past 30 days, unless the BLM determines that the occurrence of more than 3 emergencies within the 30 day period could not have been anticipated and was beyond the operator's control.

#### ***Pneumatic Controllers – Introduction (43 CFR 3179.201)***

Section 3179.201 pertains to any pneumatic controller that:

- Is not subject to EPA regulations at 40 CFR 60.5360 through 60.5390, but would be subject to those regulations if it were new, modified, or reconstructed; and
- Has a continuous bleed rate greater than six standard cubic feet (scf) per hour.

With some exceptions described below, section 3179.201(b) requires operators to replace each high-bleed pneumatic controller with a controller having a bleed rate lower than six scf per hour. As revised by the 2017 final rule, section 3179.202(d) would require replacement of non-exempt high-bleed pneumatic controllers:

- By January 17, 2019; or
- By January 2020, provided that the well or facility served by the pneumatic controller has an estimated remaining productive life of three years or less from January 17, 2017.

#### ***Notification of Functional Needs for a Pneumatic Controller (43 CFR 3179.201(b)(1))***

Section 3179.201(b)(1) allows operators to continue using non-exempt, high-bleed pneumatic controllers after January 17, 2019 if the operator notifies the BLM through a Sundry Notice (Form 3160-5) that use of a pneumatic controller with a bleed rate greater than six scf per hour is

required based on functional needs that may include, but are not limited to, response time, safety, and positive actuation, and the Sundry Notice (Form 3160-5) describes those functional needs.

***Showing that Cost of Compliance Would Cause Cessation of Production and Abandonment of Oil Reserves (Pneumatic Controller) (43 CFR 3179.201(b)(4) and (c))***

Section 3179.201(b)(4) and (c) allow operators to continue using non-exempt, high-bleed pneumatic controllers after January 17, 2019 if replacement of a pneumatic controller would impose such costs as to cause the operator to cease production and abandon significant recoverable oil reserves under the lease. The operator must submit a Sundry Notice (Form 3160-5) that includes the following information:

- The name, number, and location of each of the operator's wells, and the number of the lease, unit, or communitized area with which it is associated;
- The oil and gas production levels of each of the operator's wells on the lease, unit or communitized area for the most recent production month for which information is available;
- Data that show the costs of compliance;
- Projected costs of and the combined stream of revenues from both gas and oil production, including:
  - The operator's projections of gas prices, gas production volumes, gas quality (i.e., heating value and hydrogen sulfide content), revenues derived from gas production, and royalty payments on gas production over the next 15 years or the life of the operator's lease, unit, or communitized area, whichever is less; and
  - The operator's projections of oil prices, oil production volumes, costs, revenues, and royalty payments from the operator's oil and gas operations within the lease over the next 15 years or the life of the operator's lease, unit, or communitized area, whichever is less.

A commenter stated that, while an operator may be able to obtain relief under section 3179.201(b)(4) for all of the wells on a lease, an operator faced with the prospect of having to replace a single pneumatic controller will never be able to meet the standard outlined in the regulation. For this reason, the commenter claimed that the regulation requires an operator to submit unnecessary and irrelevant information.

The BLM disagrees. This IC activity is required in order to obtain or retain a benefit (i.e., authorization to continue using a high-bleed pneumatic controller). An operator may choose to

forgo that benefit. However, the BLM believes this is a useful IC activity for operators who choose to seek that benefit. The BLM will not remove this IC activity from the final rule.

The commenter calculates that the BLM's burden estimates mean that operators will invoke this IC activity for only 0.012 percent of existing high-bleed controllers. The BLM does not necessarily accept the commenter's calculation. However, the more important point is that the BLM expects that a large number of operators will choose to comply with the requirement to replace high-bleed controllers rather than seek authorization to continue using them.

The commenter also compares the 4-hour-per-response estimated time burden for this IC activity to the 16-hour-per-response estimated time burden for a request for approval of an alternative capture requirement at 43 CFR 3179.8(b). The BLM does not agree with the validity of this comparison. The first 3 exceptions listed at section 3179.201, for which the estimated time burdens are 2 hours per response, are a more apt comparison, since the underlying requirements are the same.

The BLM continues to believe its burden estimates are reasonable: 50 responses, 4 hours per response, and 200 total burden hours annually.

#### ***Showing in Support of Replacement of Pneumatic Controller within 3 Years (43 CFR 3179.201(d))***

As revised by the 2017 final rule, section 3179.201(d) would provide that an operator must replace the pneumatic controller(s) by January 17, 2019. If, however, the well or facility that the pneumatic controller serves has an estimated remaining productive life of three years or less from January 17, 2017, then the operator may notify the BLM through a Sundry Notice and replace the pneumatic controller no later than 3 years from January 17, 2017.

#### ***Pneumatic Diaphragm Pumps – Introduction (43 CFR 3179.202)***

With some exceptions, section 3179.202 pertains to any pneumatic diaphragm pump that:

- Uses natural gas produced from a Federal or Indian lease, or from a unit or communitized area that includes a Federal or Indian lease; and
- Is not subject to EPA regulations at 40 CFR 60.5360 through 60.5390, but would be subject to those regulations if it were a new or modified source.

Section 3179.202(c) provides that, with some exceptions, each pneumatic diaphragm pump that is subject to this section must be replaced with a zero-emissions pump, or the pump exhaust gas must be routed to processing equipment for capture and sale.

As revised by the 2017 final rule, section 3179.202(h) would require operators to replace the

pneumatic diaphragm pump(s) or route the exhaust gas to capture or to a flare or combustion device by January 17, 2019, except that if the operator will comply with paragraph (c) of this section by replacing the pneumatic diaphragm pump with a zero-emission pump and the well or facility that the pneumatic diaphragm pump serves has an estimated remaining productive life of 3 years or less from January 17, 2017, the operator must notify the BLM through a Sundry Notice and replace the pneumatic diaphragm pump no later than three years from January 17, 2017.

This requirement does not apply to pneumatic diaphragm pumps that do not vent exhaust gas to the atmosphere. In addition, this requirement does not apply if one of the following circumstances applies:

***Showing that a Pneumatic Diaphragm Pump was Operated on Fewer than 90 Individual Days in the Prior Calendar Year (43 CFR 3179.202(b)(2))***

A pneumatic diaphragm pump is not subject to section 3179.202 if the operator documents in a Sundry Notice (Form 3160-5) that the pump was operated fewer than 90 days in the prior calendar year.

***Notification of Functional Needs for a Pneumatic Diaphragm Pump (43 CFR 3179.202(d))***

In lieu of replacing a pneumatic diaphragm pump or routing the pump exhaust gas to processing equipment, an operator may submit a Sundry Notice (Form 3160-5) to the BLM showing that replacing the pump with a zero emissions pump is not viable because a pneumatic pump is necessary to perform the function required, and that routing the pump exhaust gas to processing equipment for capture and sale is technically infeasible or unduly costly.

***Showing that Cost of Compliance Would Cause Cessation of Production and Abandonment of Oil Reserves (Pneumatic Diaphragm Pump) (43 CFR 3179.202(f) and (g))***

An operator may seek an exemption from the replacement requirement by submitting a Sundry Notice (Form 3160-5) to the BLM that provides an economic analysis that demonstrates that compliance with these requirements would impose such costs as to cause the operator to cease production and abandon significant recoverable oil reserves under the lease. The Sundry Notice (Form 3160-5) must include the following information:

- Well information that must include:
  - The name, number, and location of each well, and the number of the lease, unit, or communitized area with which it is associated; and
  - The oil and gas production levels of each of the operator's wells on the lease, unit or communitized area for the most recent production month for which information is available;
- Data that show the costs of compliance with paragraphs (c) through (e) of section 3179.202; and

- The operator’s estimate of the costs and revenues of the combined stream of revenues from both the gas and oil components, including:
  - o The operator’s projections of gas prices, gas production volumes, gas quality (i.e., heating value and hydrogen sulfide content), revenues derived from gas production, and royalty payments on gas production over the next 15 years or the life of the operator’s lease, unit, or communitized area, whichever is less; and
  - o The operator’s projections of oil prices, oil production volumes, costs, revenues, and royalty payments from the operator’s oil and gas operations within the lease over the next 15 years or the life of the operator’s lease, unit, or communitized area, whichever is less.

A commenter stated that, while an operator may be able to obtain relief under section 3179.202(f) for all of the wells on a lease, an operator faced with the prospect of having to replace a single pump will never be able to meet the standard outlined in the regulation. For this reason, the commenter claimed that the regulation requires an operator to submit unnecessary and irrelevant information.

The BLM disagrees. This IC activity is required in order to obtain or retain a benefit (i.e., authorization to continue using an existing pump). An operator may choose to forgo that benefit. However, the BLM believes this is a useful IC activity for operators who choose to seek that benefit. The BLM will not remove this IC activity from the final rule.

The commenter calculates that the BLM’s burden estimates mean that operators will invoke this IC activity for a small percent of existing pumps. The BLM does not necessarily accept the commenter’s calculation. However, the more important point is that the BLM expects that a large number of operators will choose to comply with the requirement to replace pumps rather than seek authorization to continue using them.

The commenter also compares the 4-hour-per-response estimated time burden for this IC activity to the 16-hour-per-response estimated time burden for a request for approval of an alternative capture requirement at 43 CFR 3179.8(b). The BLM does not agree with the validity of this comparison. The other exceptions listed at section 3179.202, for which the estimated time burdens are 1 hour per response, are a more apt comparison, since the underlying requirements are the same.

The BLM continues to believe its burden estimates are reasonable: 50 responses, 4 hours per response, and 200 total burden hours annually.

***Showing in Support of Replacement of Pneumatic Diaphragm Pump within 3 Years (43 CFR 3179.202(h))***

The operator may replace a pneumatic diaphragm pump within 3 years of the effective date of the rule (instead of within 1 year of the effective date) if the operator notifies the BLM through a Sundry Notice (Form 3160-5) that the well or facility that the pneumatic controller serves has an

estimated remaining productive life of 3 years or less from the effective date of the rule.

***Storage Vessels (43 CFR 3179.203(c) and (d))***

A storage vessel is subject to 43 CFR 3179.203(c) if the vessel: (1) contains production from a Federal or Indian lease, or from a unit or communitized area that includes a Federal or Indian lease; and (2) Is not subject to any of the requirements of EPA regulations at 40 CFR part 60, subpart OOOO, but would be subject to that subpart if it were a new or modified source.

Within 60 days after the effective date of this section, and within 30 days after any new source of production is added to the tank, the operator must determine, record, and make available to the BLM upon request, whether the storage vessel has the potential for VOC emissions equal to or greater than 6 tpy based on the maximum average daily throughput for a 30-day period of production. The determination may take into account requirements under a legally and practically enforceable limit in an operating permit or other requirement established under a federal, state, local or tribal authority that limit the VOC emissions to less than 6 tpy.

If a storage vessel has the potential for VOC emissions equal to or greater than 6 tpy, no later than 1 year after the effective date of this section, or 3 years if the operator must and will replace the storage vessel at issue in order to comply with the requirements of this section, the operator must:

- (1) Route all tank vapor gas from the storage vessel to a sales line;
- (2) If the operator determines that compliance with paragraph (c)(1) of this section is technically infeasible or unduly costly, route all tank vapor gas from the storage vessel to a device or method that ensures continuous combustion of the tank vapor gas; or
- (3) Submit an economic analysis to the BLM through a Sundry Notice (Form 3160-5) that demonstrates, and the BLM agrees, based on the information identified in paragraph (d) of this section, that compliance with paragraph (c)(2) of this section would impose such costs as to cause the operator to cease production and abandon significant recoverable oil reserves under the lease.

To support the demonstration described above, the operator must submit a Sundry Notice (Form 3160-5) that includes the following information:

- The name, number, and location of each well, and the number of the lease, unit, or communitized area with which it is associated;
- The oil and gas production levels of each of the operator's wells on the lease, unit or communitized area for the most recent production month for which information is available;
- Data that show the costs of compliance with paragraph (c)(1) or (c)(2) of this section on the lease; and

- The operator must consider the costs and revenues of the combined stream of revenues from both the gas and oil components, including: the operator's projections of oil and gas prices, production volumes, quality (i.e., heating value and H<sub>2</sub>S content), revenues derived from production, and royalty payments on production over the next 15 years or the life of the operator's lease, unit, or communitized area, whichever is less.

***Downhole Well Maintenance and Liquids Unloading – Documentation and Reporting (43 CFR 3179.204(c) and (e))***

The operator must minimize vented gas and the need for well venting associated with downhole well maintenance and liquids unloading, consistent with safe operations. Before the operator manually purges a well for liquids unloading for the first time after the effective date of this section, the operator must consider other methods for liquids unloading and determine that they are technically infeasible or unduly costly. The operator must provide information supporting that determination as part of a Sundry Notice (Form 3160-5) within 30 calendar days after the first liquids unloading event by manual or automated well purging conducted after the effective date of this section. This requirement applies to each well the operator operates.

For any liquids unloading by manual well purging, the operator must:

- Ensure that the person conducting the well purging remains present on-site throughout the event to minimize to the maximum extent practicable any venting to the atmosphere;
- Record the cause, date, time, duration, and estimated volume of each venting event; and
- Maintain the records for the period required under § 3162.4-1 and make them available to the BLM, upon request.

***Downhole Well Maintenance and Liquids Unloading – Notification of Excessive Duration or Volume (43 CFR 3179.204(f))***

The operator must notify the BLM by Sundry Notice (Form 3160-5), within 30 calendar days, if:

- The cumulative duration of manual well purging events for a well exceeds 24 hours during any production month; or
- The estimated volume of gas vented in liquids unloading by manual well purging operations for a well exceeds 75 Mcf during any production month.

***Leak Detection and Repair – Introduction (43 CFR 3179.301 through 3179.305)***

Sections 3179.301 through 3179.305 include information collection activities pertaining to the detection and repair of gas leaks during production operations. These regulations require operators to inspect and repair the following equipment listed at section 3179.301(a):

- A site<sup>2</sup> and all equipment associated with it used to produce, process, compress, treat, store, or measure natural gas (including oil wells that also produce natural gas) from or allocated to a Federal or Indian lease, unit, or communitized area, where the site is upstream of or controls the approved point of royalty measurement; and
- A site and all equipment operated by the operator and associate with a site used to store, measure, or dispose of produced water, where the site is located on a Federal or Indian lease.

As revised in the 2017 final rule, section 3179.301(f) requires operators to make the first inspection of each site:

- By January 17, 2019, for all existing sites;
- Within 60 days of beginning production for new sites that begin production after January 17, 2019; and
- Within 60 days of the date when an existing site that was out of service is brought back into service and re-pressurized after January 17, 2019.

With some exceptions, section 3179.303(a) requires operators to make subsequent inspections, using a leak detection device identified at section 3179.302(a), in accordance with the following schedule:

- The operator must inspect each site at least semi-annually, and consecutive semi-annual inspection must be conducted at least four months apart; and
- The operator must inspect each compressor station at least quarterly, and consecutive quarterly inspection must be conduct at least 60 days apart.

Sections 3179.302(c) and (d), and sections 3179.303(b), (c), and (d), as described below, provide for exceptions to the inspection requirements described above, and are among the information collection activities pertaining to leak detection and repair in both the 2016 final rule and this 2017 final rule.

The information collection activities pertaining to leak detection and repair are described below.

### ***Leak Detection – Compliance with EPA Regulations (43 CFR 3179.301(j))***

Section 3179.301(j) allows an operator to satisfy the requirements of sections 3179.301 through 3179.305 for some or all of the equipment or facilities on a given lease by notifying the BLM in

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<sup>2</sup> As defined at section 3179.301€ the term “site” means a discrete area located on a lease, unit, or communitized area, and containing a wellhead, wellhead equipment, or other equipment used to produce, process, compress, treat, store, or measure nature gas or store, measure, or dispose of produced water, which is suitable for inspection in a single visit.

a Sundry Notice (Form 3160-5) that the operator is complying with EPA requirements established pursuant to 40 CFR part 60 with respect to new, modified, or reconstructed equipment or facilities.

***Leak Detection – Request to Use an Alternative Monitoring Device and Protocol (43 CFR 3179.302(c and (d)))***

Sections 3179.302(a) specifies the instruments and methods that an operator may use to detect leaks. Section 3179.302(c) provides that any person may request an alternative monitoring device and associated inspection protocol by submitting a Sundry Notice (Form 3160-5) to BLM that includes the following information:

- Specifications of the proposed monitoring device, including a detection limit capable of supporting the desired function;
- The proposed monitoring protocol using the proposed monitoring device, including how results will be recorded;
- Records and data from laboratory and field testing, including but not limited to performance testing;
- A demonstration that the proposed monitoring device and protocol will achieve equal or greater reduction of gas lost through leaks compared with the approach specified in the regulations;
- Tracking and documentation procedures; and
- Proposed limitations on the types of sites or other conditions on deploying the device and the protocol to achieve the demonstrated results.

Section 3179.302(d) provides that the BLM may grant such a request upon finding that the alternative would achieve equal or greater reduction of gas lost through leaks compared with the approach specified in section 3179.302(a) when used in compliance with section 3179.303(a) (see Leak Detection – Introduction, above).

***Leak Detection – Operator Request to Use an Alternative Leak Detection Program (43 CFR 3179.303(b))***

Section 3179.303(b) authorizes operators to request approval for an alternative instrument-based leak detection program, different from the requirement at 43 CFR 3179.303(a) to inspect each site at least semi-annually using an approved monitoring device, by submitting a Sundry Notice (Form 3160-5) that includes the following information:

- A detailed description of the alternative leak detection program, including how it will use one or more of the instruments specified in or approved under section 3179.302(a) and an identification of the specific instruments, methods and/or practices that would substitute for specific elements of the approach specified in §§ 3179.302(a) and 3179.303(a);
- The proposed monitoring protocol;
- Records and data from laboratory and field testing, including, but not limited to, performance testing, to the extent relevant;
- A demonstration that the proposed alternative leak detection program will achieve equal or greater reduction of gas lost through leaks compared to compliance with the requirements specified in §§ 3179.302(a) and 3179.303(a);
- A detailed description of how the operator will track and document its procedures, leaks found, and leaks repaired; and
- Proposed limitations on types of sites or other conditions on deployment of the alternative leak detection program.

***Leak Detection – Operator Request for Exemption (43 CFR 3179.303(c) and (d))***

Section 3179.303(c) provides that an operator may seek an exemption from the requirements of sections 3179.301 through 3179.305, including the option for compliance with an alternative leak detection program under section 3179.303(b), by demonstrating that compliance would impose such costs as to cause the operator to cease production and abandon significant recoverable oil or gas reserves under the lease. The BLM may approve such a request, even if the operator’s proposed leak detection program does not achieve equal or greater reduction of gas lost through leaks compared to compliance with section 3179.303(a) and 3179.303(a), if it is effective as possible consistent with not causing the operator to cease production and abandon significant recoverable oil or gas reserves under the lease.

Section 3179.303(d) lists the information that must be submitted to the BLM on a Sundry Notice (Form 3160-5) in order to support the demonstration described at section 3179.303(c):

- The name, number, and location of each well, and the number of the lease, unit, or communitized area with which it is associated;
- The oil and gas production levels of each of the operator’s wells on the lease, unit or communitized area for the most recent production month for which information is available;
- Data that show the costs of compliance on the lease with the requirements of §§ 3179.301-305 and with an alternative leak detection program that meets the requirements of §3179.303(b);

- The operator must consider the costs and revenues of the combined stream of revenues from both the gas and oil components and provide the operator’s projections of oil and gas prices, production volumes, quality (i.e., heating value and H<sub>2</sub>S content), revenues derived from production, and royalty payments on production over the next 15 years or the life of the operator’s lease, unit, or communitized area, whichever is less;

***Leak Detection – Notification of Delay in Repairing Leaks (43 CFR 3179.304(a and (b)))***

Section 3179.304(a) requires an operator to repair any leak no later than 30 calendar days after discovery of the leak, unless there is good cause for delay in repair. Section 3179.304(b) requires the operator to submit a Sundry Notice (Form 3160-5) notifying the BLM of good cause for delay.

***Leak Detection – Inspection Recordkeeping and Reporting (43 CFR 3179.305)***

Section 3179.305 requires operators to maintain the following records and make them available to the BLM upon request: (1) For each inspection required under § 3179.303, documentation of the date of the inspection and the site where the inspection was conducted; (2) The monitoring method(s) used to determine the presence of leaks; (3) A list of leak components on which leaks were found; (4) The date each leak was repaired; and (5) The date and result of the follow-up inspection(s) required under § 3179.304. By March 31 each calendar year, the operator must provide to the BLM an annual summary report on the previous year’s inspection activities that includes: (1) The number of sites inspected; (2) The total number of leaks identified, categorized by the type of component; (3) The total number of leaks repaired; (4) The total number of leaks that were not repaired as of December 31 of the previous calendar year due to good cause and an estimated date of repair for each leak; and (5) A certification by a responsible officer that the information in the report is true and accurate.

***Leak Detection – Annual Reporting of Inspections (43 CFR 3179.305(b))***

By March 31 each calendar year, the operator must provide to the BLM an annual summary report on the previous year’s inspection activities that includes:

- (1) The number of sites inspected;
- (2) The total number of leaks identified, categorized by the type of component;
- (3) The total number of leaks repaired;
- (4) The total number leaks that were not repaired as of December 31 of the previous calendar year due to good cause and an estimated date of repair for each leak.
- (5) A certification by a responsible officer that the information in the report is true and accurate to the best of the officer’s knowledge.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any**

**consideration of using information technology to reduce burden and specifically how this collection meets GPEA requirements.**

We anticipate that most respondents will choose to comply with the information collection requirements electronically, although the regulations do not require them to do so. For the information collection activities that require use of the Sundry Notice (Form 3160-5), that form is electronically available to the public in fillable, printable format at: <http://www.blm.gov/noc/st/en/business/eForms/3000-3999.html>. Compliance with the requirement for a plan to minimize waste of natural gas, which must be submitted concurrently with an Application for Permit to Drill or Re-Enter (Form 3160-3), may be accomplished electronically by emailing the electronic or scanned files to the appropriate BLM office.

The sole remaining information collection activity is a required annual report of leak inspections. The final rule requires operators to use an instrument-based approach to leak detection, and operators are almost certain to submit the annual report electronically.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

No duplication of information occurs on the information collection activities in the rule. The requested information is unique to each respondent and is not available from any other data source.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

We estimate that 98 to 99 percent of the respondents are small businesses. Most of the substantive requirements of this rule include an exemption provision allowing small businesses, as well as other operators, to demonstrate that the cost of compliance with the requirement would cause the operator to cease production on the lease and abandon significant reserves. If the BLM agrees, it may exempt the operator from or modify the relevant requirement.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

The collection of information updates the BLM's requirements governing venting, flaring, and leaks to ensure that the public's resources and assets are not wasted, and are developed in a manner that provides for long-term productivity and sustainability. Absent the 2017 final rule, these advances will not be possible. Also, much of the information required to be collected under this rule is in the context of operator requests for exemptions or alternative requirements. Absent the requirements to provide information to demonstrate the need for the exemption or the sufficiency of the alternative approach, these exemption provisions could substantially undercut

the rule requirements.

7. **Explain any special circumstances that would cause an information collection to be conducted in a manner:**
- \* **requiring respondents to report information to the agency more often than quarterly;**
  - \* **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
  - \* **requiring respondents to submit more than an original and two copies of any document;**
  - \* **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
  - \* **in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
  - \* **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
  - \* **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
  - \* **requiring respondents to submit proprietary trade secrets, or other confidential information, unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

Two provisions require respondents to retain records for more than three years.

These provisions require respondents to retain records for the period required by 43 CFR 3162.4-1, and submit these records to the BLM upon request. Section 3162.4-1, which was amended recently, requires (with some exceptions) that records generated for Federal leases be maintained for at least seven years, and records generated for Indian leases be maintained for at least six years.

An exception that applies to Federal leases applies when a judicial proceeding or demand involving such records is timely commenced, in which case the record holder must maintain such records either until the final nonappealable decision in such judicial proceeding or demand is made, unless the Secretary or the applicable delegated State authorizes in writing an earlier release of the requirement to maintain such records.

An exception that applies to Indian leases applies when the Secretary or his/her designee notifies the record holder that the Department has initiated or is participating in an audit or investigation involving such records, in which case the record holder must maintain such records until the Secretary or his/her designee releases the record holder from the obligation to maintain the records.

The following provisions include these requirements:

- Downhole Well Maintenance and Liquids Unloading – Documentation and Reporting (43 CFR 3179.204(c) and (e)); and
  - Leak Detection – Inspection Recordkeeping and Reporting (43 CFR 3179.305).
- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

In the 2017 final rule, the BLM provided an opportunity to submit public comments on this information collection request. The BLM received one comment in response.

The commenter claims that the BLM underestimates the hourly cost, and states that the BLM should have based the hourly cost for submitting information on U.S. Department of Labor data for Colorado: \$73.06 for a petroleum engineer and \$25.11 for a paralegal.

It is not clear how the commenter would obtain a weighted average hourly wage from those numbers. The BLM did provide a weighted average hourly wage estimate at Table 12-1 of the supporting statement for the IC request. (The BLM submitted the supporting statement to OMB in connection with the 2016 final rule that is publicly available at <https://reginfo.gov/public/do/PRAMain>.) For purposes of responding to the comment, that table is shown under Item # 12, below.

The BLM notes that in the Table 12-1, below, the hourly rate with benefits for an engineering manager is \$95.34. In the comment, the hourly rate with benefits for a petroleum engineer in Colorado is \$94.98. Moreover, the BLM's Table 12-1 shows that 80 percent of the work is done by engineer, whose hourly rate with benefits is \$66.07. That is far higher than the commenter's recommended hourly rate of \$32.64 for a paralegal.

The BLM will not revise the estimated hourly wage in response to the comment.

The commenter states that the BLM underestimates the dollar equivalent of the burden estimates, and claims that the total should be about \$4.268 million. The commenter's estimate is actually lower than the total of about \$5.819 million shown in the BLM's Table 12-2.

The BLM will not revise the dollar equivalent in response to this comment.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

We will not provide payments or gifts to the respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

These regulations provide no assurance of confidentiality to respondents. However, operators routinely provide information to the BLM that they consider confidential; if they indicate on the Sundry Notice that the information is considered confidential, the BLM will handle the information in accordance with applicable regulations in 43 CFR Part 2.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

We do not require respondents to answer questions of a sensitive nature.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

- \* Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- \* If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**

- \* **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.**

The BLM estimates the following annual hour burdens: 64,200 responses, 90,170 hours, and \$5,818,670.10

The following table shows the BLM’s estimate of the hourly cost burdens for respondents. The mean hourly wages were determined using national Bureau of Labor Statistics data at: [http://www.bls.gov/oes/current/oes\\_nat.htm](http://www.bls.gov/oes/current/oes_nat.htm). The benefits multiplier of 1.4 is supported by information at <http://www.bls.gov/news.r/ecec.nr0.htm>.

**Table 12-1  
Estimated Weighted Average Hourly Costs**

<b>A. Position</b>	<b>B. Mean Hourly Pay Rate</b>	<b>C. Hourly Rate with Benefits (Column B x 1.4)</b>	<b>D. Percent of Collection Time</b>	<b>E. Weighted Average Hourly Cost (Column C x Column D)</b>
General Office Clerk (43-9061)	\$15.33	\$21.46	10%	\$2.14
Engineer (17-2199)	\$47.19	\$66.07	80%	\$52.86
Engineering Manager (11-9041)	\$68.10	\$95.34	10%	\$9.53
Totals			100%	\$64.53

Hour and cost burdens to respondents include time spent for researching, preparing, and submitting information. The weighted average hourly wage associated with these information collections is shown at Table 12-1, above. The frequency of response for each of the information collections is “on occasion.”

A commenter claims that the BLM underestimates the hourly cost, and states that the BLM should have based the hourly cost for submitting information on U.S. Department of Labor data for Colorado: \$73.06 for a petroleum engineer and \$25.11 for a paralegal.

It is not clear how the commenter would obtain a weighted average hourly wage from those numbers. The BLM did provide a weighted average hourly wage estimate at Table 12-1 of the supporting statement for the IC request. (The BLM submitted the supporting statement to OMB in connection with the 2016 final rule that is publicly available at

<https://reginfo.gov/public/do/PRAMain.>)

For purposes of responding to the comment, that table is shown below:

<b>A. Position</b>	<b>B. Mean Hourly Pay Rate</b>	<b>C. Hourly Rate with Benefits (Column B x 1.4)</b>	<b>D. Percent of Collection Time</b>	<b>E. Weighted Average Hourly Cost (Column C x Column D)</b>
General Office Clerk (43-9061)	\$15.33	\$21.46	10%	\$2.14
Engineer (17-2199)	\$47.19	\$66.07	80%	\$52.86
Engineering Manager (11-9041)	\$68.10	\$95.34	10%	\$9.53
Totals			100%	\$64.53

The BLM notes that in the table above, the hourly rate with benefits for an engineering manager is \$95.34. In the comment, the hourly rate with benefits for a petroleum engineer in Colorado is \$94.98. Moreover, the BLM’s table shows that 80 percent of the work is done by engineer, whose hourly rate with benefits is \$66.07. That is far higher than the commenter’s recommended hourly rate of \$32.64 for a paralegal.

The BLM will not revise the estimated hourly wage in response to the comment.

Table 12-2 itemizes the estimated hour and cost burdens. The cost of these burdens comes from both the one-time costs of informational requirements associated with documentation for FMPs at facilities operating before the effective date of the final rule, and annual costs associated with documentation for FMP applications and modifications that occur after the effective date of the final rule.

**Table 12-2  
Estimates of Hour and Cost Burdens**

<b>A. Type of Response</b>	<b>B. Number of Responses</b>	<b>C. Hours per Response</b>	<b>D. Total Hours (Column B x Column C)</b>	<b>E. Dollar Equivalent (Column D x \$64.53)</b>
Plan to Minimize Waste of Natural Gas 43 CFR 3162.3-1(j) Form 3160-3	3,000	8	24,000	\$1,548,720
Request for Approval for Royalty-Free Uses On-Lease or Off-Lease 43 CFR 3178.5, 3178.7, 3178.8, and 3178.9 Form 3160-5	50	4	200	\$12,906
Notification of Choice to Comply on County- or State-wide Basis 43 CFR 3179.7(c)(3)(iii)	200	1	200	\$12,906
Request for Approval of Alternative Capture Requirement 43 CFR 3179.8(b) Form 3160-5	50	16	800	\$51,624
Request for Exemption from Well Completion Requirements 43 CFR 3179.102(c) and (d) Form 3160-5	0	0	0	\$0
Request for Extension of Royalty-Free Flaring During Initial Production Testing 43 CFR 3179.103 Form 3160-5	500	2	1000	\$64,530
Request for Extension of Royalty-Free Flaring During Subsequent Well Testing 43 CFR 3179.104 Form 3160-5	5	2	10	\$645

<b>A. Type of Response</b>	<b>B. Number of Responses</b>	<b>C. Hours per Response</b>	<b>D. Total Hours (Column B x Column C)</b>	<b>E. Dollar Equivalent (Column D x \$64.53)</b>
Reporting of Venting or Flaring 43 CFR 3179.105 Form 3160-5	250	2	500	\$32,265
Notification of Functional Needs for a Pneumatic Controller 43 CFR 3179.201(b)(1) Form 3160-5	10	2	20	\$1,291
Showing that Cost of Compliance Would Cause Cessation of Production and Abandonment of Oil Reserves (Pneumatic Controller) 43 CFR 3179.201(b)(4) and 3179.201(c) Form 3160-5	50	4	200	\$12,906
Showing in Support of Replacement of Pneumatic Controller within 3 Years 43 CFR 3179.201(d) Form 3160-5	100	1	100	\$6,453
Showing that a Pneumatic Diaphragm Pump was Operated on Fewer than 90 Individual Days in the Prior Calendar Year 43 CFR 3179.202(b)(2) Form 3160-5	100	1	100	\$6,453

<b>A. Type of Response</b>	<b>B. Number of Responses</b>	<b>C. Hours per Response</b>	<b>D. Total Hours (Column B x Column C)</b>	<b>E. Dollar Equivalent (Column D x \$64.53)</b>
Notification of Functional Needs for a Pneumatic Diaphragm Pump 43 CFR 3179.202(d) Form 3160-5	150	1	150	\$9,680
Showing that Cost of Compliance Would Cause Cessation of Production and Abandonment of Oil Reserves (Pneumatic Diaphragm Pump) 43 CFR 3179.202(f) and (g) Form 3160-5	10	4	40	\$2,581
Showing in Support of Replacement of Pneumatic Diaphragm Pump within 3 Years 43 CFR 3179.202(h) Form 3160-5	100	1	100	\$6,453

<b>A. Type of Response</b>	<b>B. Number of Responses</b>	<b>C. Hours per Response</b>	<b>D. Total Hours (Column B x Column C)</b>	<b>E. Dollar Equivalent (Column D x \$64.53)</b>
Storage Vessels 43 CFR 3179.203(c) and (d) Form 3160-5	50	4	200	\$12,906
Downhole Well Maintenance and Liquids Unloading – Documentation and Reporting 43 CFR 3179.204(c) and (e) Form 3160-5	5,000	1	5,000	\$322,650
Downhole Well Maintenance and Liquids Unloading – Notification of Excessive Duration or Volume 43 CFR 3179.204(f) Form 3160-5	250	1	250	\$16,133
Leak Detection – Compliance with EPA Regulations 43 CFR 3179.301(j) Form 3160-5	50	4	200	\$12,906
Leak Detection – Request to Use an Alternative Monitoring Device and Protocol 43 CFR 3179.302(c) and (d) Form 3160-5	5	40	200	\$12,906
Leak Detection – Operator Request to Use an Alternative Leak Detection Program 43 CFR 3179.303(b) Form 3160-5	20	40	800	\$51,624

A. Type of Response	B. Number of Responses	C. Hours per Response	D. Total Hours (Column B x Column C)	E. Dollar Equivalent (Column D x \$64.53)
Leak Detection – Operator Request for Exemption 43 CFR 3179.303(c) and (d) Form 3160-5	150	20	3,000	\$193,590
Leak Detection – Notification of Delay in Repairing Leaks 43 CFR 3179.304(a) and (b) Form 3160-5	100	1	100	\$6,453
Leak Detection – Inspection Recordkeeping and Reporting 43 CFR 3179.305	52,000	.25	13,000	\$838,890
Leak Detection – Annual Reporting of Inspections 43 CFR 3179.305(b) Form 3160-5	2,000	20	40,000	\$2,581,200
Totals	64,200	–	90,170	\$5,818,670.10

A commenter states that the BLM underestimates the dollar equivalent of the burden estimates, and claims that the total should be about \$4.268 million. The commenter’s estimate is actually lower than the total of about \$5.819 million shown in the BLM’s Table 12-2.

The BLM will not revise the dollar equivalent in response to this comment.

**13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)**

- \* The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or

providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

- \* If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- \* Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

No non-hour costs result from the information-collection activities in the rule.

**14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.**

The BLM estimates \$ in annual federal costs.

Table 14-1 shows the BLM's estimate of the hourly cost burdens to the Federal government. The hourly pay rates (Column B) are based on U.S. Office of Personnel Management data at: [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2017/RUS\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2017/RUS_h.pdf).

The benefits multiplier of 1.6 is implied by information at <http://www.bls.gov/news.release/ecec.nr0.htm>.

**Table 14-1**  
**Estimated Weighted Average Federal Hourly Costs**

<b>A. Position and Pay Grade</b>	<b>B. Hourly Pay Rate</b>	<b>C. Hourly Rate with Benefits (Column B x 1.6)</b>	<b>D. Percent of the Information Collection Completed by Each Occupation</b>	<b>F. Weighted Average Hourly Costs (Column C x Column D)</b>
Clerical GS-5, step 5	\$17.84	\$28.54	10%	\$2.85
Professional GS-9, step 5	\$27.02	\$43.23	80%	\$34.58
Managerial GS-13, step 5	\$46.60	\$74.56	10%	\$7.46
Totals			100%	\$44.89

Table 14-2, below, shows the estimated Federal hours and costs for each component of this information collection.

**Table 14-2  
Estimated Annual Cost to the Government**

<b>A. Type of Response</b>	<b>B. Number of Responses</b>	<b>C. Time per Response</b>	<b>D. Total Hours (Column B x Column C)</b>	<b>E. Dollar Equivalent (Column D x \$44.89)</b>
Plan to Minimize Waste of Natural Gas 43 CFR 3162.3-1(j) Form 3160-3	3,000	2 hours	6,000	\$269,340
Request for Approval for Royalty-Free Uses On- Lease or Off-Lease 43 CFR 3178.5, 3178.7, 3178.8, and 3178.9 Form 3160-5	50	4 hours	200	\$8,978
Notification of Choice to Comply on County- or State-wide Basis 43 CFR 3179.7(c)(3)(iii)	200	15 minutes	50	\$2,244.50

<b>A. Type of Response</b>	<b>B. Number of Responses</b>	<b>C. Time per Response</b>	<b>D. Total Hours (Column B x Column C)</b>	<b>E. Dollar Equivalent (Column D x \$44.89)</b>
Request for Approval of Alternative Capture Requirement 43 CFR 3179.8(b) Form 3160-5	50	8 hours	400	\$17,956
Request for Exemption from Well Completion Requirements 43 CFR 3179.102(c) and (d) Form 3160-5	0	0	0	\$0
Request for Extension of Royalty-Free Flaring During Initial Production Testing 43 CFR 3179.103 Form 3160-5	500	1 hour	500	\$22,445
Request for Extension of Royalty-Free Flaring During Subsequent Well Testing 43 CFR 3179.104 Form 3160-5	5	1 hour	5	\$224.45
Reporting of Venting or Flaring 43 CFR 3179.105 Form 3160-5	250	2 hours	500	\$22,445
Notification of Functional Needs for a Pneumatic Controller 43 CFR 3179.201(b)(1) Form 3160-5	10	15 minutes	2.5	\$112.23

<b>A. Type of Response</b>	<b>B. Number of Responses</b>	<b>C. Time per Response</b>	<b>D. Total Hours (Column B x Column C)</b>	<b>E. Dollar Equivalent (Column D x \$44.89)</b>
Showing that Cost of Compliance Would Cause Cessation of Production and Abandonment of Oil Reserves (Pneumatic Controller) 43 CFR 3179.201(b)(4) and 3179.201(c) Form 3160-5	50	3 hours	150	\$6,733.50
Showing in Support of Replacement of Pneumatic Controller within 3 Years 43 CFR 3179.201(d) Form 3160-5	100	15 minutes	25	\$1,122.25
Showing that a Pneumatic Diaphragm Pump was Operated on Fewer than 90 Individual Days in the Prior Calendar Year 43 CFR 3179.202(b)(2) Form 3160-5	100	15 minutes	25	\$1,122.25
Notification of Functional Needs for a Pneumatic Diaphragm Pump 43 CFR 3179.202(d) Form 3160-5	150	2 hours	300	\$13,467

<b>A. Type of Response</b>	<b>B. Number of Responses</b>	<b>C. Time per Response</b>	<b>D. Total Hours (Column B x Column C)</b>	<b>E. Dollar Equivalent (Column D x \$44.89)</b>
Showing that Cost of Compliance Would Cause Cessation of Production and Abandonment of Oil Reserves (Pneumatic Diaphragm Pump) 43 CFR 3179.202(f) and (g) Form 3160-5	10	3 hours	30	\$1,346.70
Showing in Support of Replacement of Pneumatic Diaphragm Pump within 3 Years 43 CFR 3179.202(h) Form 3160-5	100	15 minutes	25	\$1,122.25
Storage Vessels 43 CFR 3179.203(c) and (d) Form 3160-5	50	3 hours	150	\$6,733.50
Downhole Well Maintenance and Liquids Unloading – Documentation and Reporting 43 CFR 3179.204(c) and (e) Form 3160-5	5,000	10 minutes	833.33	37,408.18
Downhole Well Maintenance and Liquids Unloading – Notification of Excessive Duration or Volume 43 CFR 3179.204(f) Form 3160-5	250	30 minutes	125	\$5,611.25

<b>A. Type of Response</b>	<b>B. Number of Responses</b>	<b>C. Time per Response</b>	<b>D. Total Hours (Column B x Column C)</b>	<b>E. Dollar Equivalent (Column D x \$44.89)</b>
Leak Detection – Compliance with EPA Regulations 43 CFR 3179.301(j) Form 3160-5	50	15 minutes	12.5	\$561.13
Leak Detection – Request to Use an Alternative Monitoring Device and Protocol 43 CFR 3179.302(c) and (d) Form 3160-5	5	160 hours	800	\$35,912
Leak Detection – Operator Request to Use an Alternative Leak Detection Program 43 CFR 3179.303(b) Form 3160-5	20	80 hours	1,600	\$71,824
Leak Detection – Operator Request for Exemption 43 CFR 3179.303(c) and (d) Form 3160-5	150	80 hours	12,000	\$538,680
Leak Detection – Notification of Delay in Repairing Leaks 43 CFR 3179.304(a) and (b) Form 3160-5	100	30 minutes	50	\$2,244.50
Leak Detection – Inspection Recordkeeping and Reporting 43 CFR 3179.305	52,000	5 minutes	4,333.33	\$194,523.18

<b>A. Type of Response</b>	<b>B. Number of Responses</b>	<b>C. Time per Response</b>	<b>D. Total Hours (Column B x Column C)</b>	<b>E. Dollar Equivalent (Column D x \$44.89)</b>
Leak Detection – Annual Reporting of Inspections 43 CFR 3179.305(b) Form 3160-5	2,000	2	4,000	\$179,560
	64,200		32,117	\$1,441,732.13

**15. Explain the reasons for any program changes or adjustments in hour or cost burden.**

The 2017 final rule results in no program changes. The BLM requests adjustment of the burden estimates for the activity labeled “Plan to Minimize Waste of Natural Gas (43 CFR 3162.3-1(j)).” The revisions are in part a response to a public comment, and in part due to the BLM’s decision to make the burden estimates for the waste minimization plan match the burden estimates for an information collection activity in control number 1004-0137 (expires January 31, 2018). The BLM recently updated its burden estimates for that other activity, labeled “Application for Permit to Drill or Re-enter,” in connection with a request to renew control number 1004-0137. The BLM believes it is appropriate for the burden estimates to be the same for both activities because they are associated with each other.

As a result, the burden estimates for the waste minimization plan are revised as follows: The estimated number of responses are increased from 2,000 to 3,000 annually, and as a result of that increase, the total number of hours are increased from 16,000 to 24,000 annually.

**16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

The BLM will post some of the collected information on its website. For example, the BLM will post on the BLM website a list of each approved monitoring device and protocol, along with any limitations on its use.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

The BLM displays the expiration date for control number 1004-0137 (January 31, 2018) on the

forms authorized for use by that control number that are also used under control number 1004-0211 (i.e., Form 3160-3 and 3160-5). The expiration date for the sole information collection activity in the 2017 final rule that does not involve a form (i.e., “Notification of Choice to Comply on County- or State-wide Basis”) will not be displayed because there will be no form for that activity. Moreover, at present the BLM does not intend to merge any of the information collection activities in the 2017 final rule with control number 1004-0137 because of uncertainties regarding the outcome of the rulemaking on long-term revisions that the BLM anticipates on the subject of waste prevention.

**18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."**

There are no exceptions to the certification statement.