

Client Alert

BLM Poised To Announce Rulemaking On Capturing Methane from Federal Leases

April 28, 2014

The Department of the Interior's Bureau of Land Management (BLM) has announced its intention to publish an Advance Notice of Proposed Rulemaking (ANPRM) in the Federal Register on April 29, 2014, seeking public comment and suggestions on technologies for, and the economics of, capturing, using, selling, or destroying waste mine methane released as a result of underground and surface mining operations on federal coal and mineral leases. The BLM manages more than 700 million acres of federal mineral estate and seeks to regulate waste mine methane pursuant to its leasing authority under the Mineral Leasing Act of 1920, 30 U.S.C. § 181, *et seq.*

The rulemaking is part of President Obama's Climate Action Plan announced last year on June 25 that is aimed at cutting domestic greenhouse gas emissions, preparing the country for the impacts of climate change, and promoting American leadership in international climate change efforts.¹ According to the Administration, methane has a global-warming potential of more than 20 times that of carbon dioxide, and makes up nearly 9 percent of domestic greenhouse gas emissions.² The administration's Strategy To Cut Methane Emissions targets the largest sources of human methane emissions, including coal mines, which are estimated to make up 10 percent of domestic emissions equivalent to 56 million tons of carbon monoxide pollution.

The BLM rulemaking will target the methane that exists naturally in federal coal lease estates and is released as waste methane through both surface and underground coal mining operations. Traditionally, waste mine methane released during mining has been vented into the atmosphere for safety purposes, pursuant to standards issued by the Mine Safety and Health Administration.³ Waste mine methane can also be destroyed by combustion through flaring or captured for beneficial use or sale. The BLM is seeking comment on options for capturing or reducing waste mine methane without compromising miner safety. All of the methods for managing waste mine methane must protect miners' safety. The BLM is *not* attempting to regulate coalbed methane development and extraction carried out under the federal oil and gas leasing program.

The BLM is particularly interested in feedback on the following questions:

- What steps can BLM take to reduce waste mine methane emissions from mining on federal lands?
- What technologies and methods exist for capture, use, and destruction of high, medium, and low quality methane and what design, economic, and operational considerations attach to each technology or method?
- What are the acquisition and operation costs associated with capture, use, and destruction of waste mine methane?
- What are the possible financial impacts of incentives for managing waste mine methane?

- Should BLM assist the formation of cooperative ventures or partnerships to encourage methane capture and use?
- What are the barriers to waste mine methane capture and how can BLM reduce those barriers to facilitate capture and use from drainage wells, gob gas, and ventilation air?
- Should waste mine methane capture be mandated where technically and economically feasible and consistent with safe operating practices or should BLM use incentives to encourage capture such as royalty rate reductions? What incentives would be most effective when balanced with the need for transparency and a fair return to taxpayers from mineral production on federal lands?
- What kinds of surface disturbances and environmental impacts might be caused by methane capture?
- Would incentives for mine methane recovery from drainage wells affect mine safety, coal production, or royalty revenues?
- How should best practices for methane management be defined and encouraged?

Cognizant that mandating the capture of methane without offering offsetting economic incentives to mine operators could make coal mining on federal lands uneconomic and thereby drive operators off of federal lands and toward private lands (which in turn could defeat the benefits of its program to reduce the net emissions of waste mine methane), the BLM seeks ideas on striking the right balance between reducing waste mine methane and continuing to promote coal mining on federal lands. The 60-day comment period will begin to run when the ANPRM is published, currently scheduled for April 29, 2014.

For an advance copy of the ANPRM, click [here](#).

¹ See The President's Climate Action Plan at 5 (June 2013), *available at* <http://www.whitehouse.gov/sites/default/files/image/president27sclimateactionplan.pdf>. The Plan is designed to reduce domestic greenhouse gas emissions by up to 90 million metric tons by 2020.

² *Id.* at 4. Methane has a 12-year life in the atmosphere.

³ Ventilation air methane concentrations are typically less than 1 percent methane, which BLM has determined is probably not worthwhile to collect as an energy source. However, that ventilation air methane can be oxidized by passing it through a high-temperature grid known as a regenerative thermal or catalytic oxidizer, which reduces its greenhouse gas potential to 4 percent of unburned methane.

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