

Bureau of Land Management Waste Prevention Rule: Earthjustice Federal Appellate Court Petition



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Earthjustice on behalf of various organizations filed an April 20th Motion for Stay Pending Appeal (“Motion”) addressing the Bureau of Land Management’s (“BLM”) Waste Prevention Rule (“Rule”).

The Motion challenges a United States District Court’s injunction enjoining implementation of the Rule.

BLM finalized the Rule on November 18, 2016. The Rule is applicable to certain aspects of the natural gas operations on public lands. It addresses issues such as equipment upgrades and requirements to detect and repair leaks of natural gas. The effective date of the Rule was either January 17, 2017, or January 17, 2018, depending on the circumstances.

The Rule was challenged after final promulgation by the Western Energy Alliance and the Independent Petroleum Association and certain states. They requested that the United States District Court enjoin the Rule.

The Earthjustice Motion describes certain challenges to the Rule after its finalization and subsequent rulemakings by BLM after the change in Administration.

Earthjustice challenges the United States District Court’s injunction of the Rule, arguing that it failed to conclude that the groups challenging it demonstrated the four prerequisites for such remedy. The Motion further argues that the United States District Court’s decision conflicts with an applicable Tenth Circuit Court of Appeals precedent as well as interpretations of Section 705 of the Administrative Procedures Act. As a result, the Motion argues that the Tenth Circuit Court of Appeals should stay the United States District Court’s decision enjoining the Rule pending appeal.

[A copy of the Motion can be found here.](#)