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## Industry Files for Preliminary Injunction Relief from BLM Venting and Flaring Rule

**DENVER** - Western Energy Alliance and the Independent Petroleum Association of America (IPAA) today filed a motion in the U.S. District Court for the District of Wyoming opposing the Department of Justice's (DOJ) request for a delay of a lawsuit by industry and the states challenging the Bureau of Land Management's (BLM) venting and flaring rule. The Alliance and IPAA simultaneously filed a motion for preliminary injunction to seek relief from impending compliance dates that take effect in January.

"The twists and turns of this case have been a bit confusing to anyone watching the legal maneuvering," said Kathleen Sgammma, president of Western Energy Alliance. "Our preliminary injunction request is necessary to ensure companies do not have to comply with a rule that is being completely rewritten by the agency. BLM is trying to do the right thing by suspending the rule through a full rulemaking process, but we cannot be sure that it will get that suspension done in time. Since environmental groups and state attorneys general opposed to the oil and natural gas industry will inevitably litigate the suspension and the new rule, we are seeking relief while everything gets sorted out. It just doesn't make sense for companies to comply with a rule that is so obviously a violation of the Clean Air Act."

"Given the movement from the Department of the Interior and the tight timeframe for our operations, we have confidence that Judge Skavdahl will heed our call for a Preliminary Injunction," said Dan Nasiat, Senior Vice President of Government Relations and Political Affairs at IPAA. "The Interior Department has already signaled its intent to delay the impending compliance deadlines by one year but must abide by a lengthy notice and comment process for public input. While we applaud this step from BLM, our member companies need to know what rules they will be operating under in just a few months' time. The timing for our member companies to make business decisions on the final rule is fast approaching and it makes little sense for companies to spend hundreds of thousands of dollars to prepare for compliance with a rule that will inevitably change under the Trump Administration."

### Background

The litigation in the Wyoming District Court challenges BLM's overreaching rule, which goes beyond legitimate waste prevention and into the realm of air quality control. Only the Environmental Protection Agency (EPA) and the states have authority to regulate air quality, as mandated by Congress in the Clean Air Act. BLM has started the process to rewrite the rule, but that rulemaking process will take several months and possibly more than a year. In the meantime, companies must comply with the rule as finalized at the very end of the Obama Administration.

BLM attempted to grant relief from compliance dates over the summer using Section 705 of the Administrative Procedures Act, but that was challenged in the U.S. District Court for Northern California and [upheld](#) in early October. Meanwhile, BLM has started the rulemaking process to suspend the rule for a year while it completes a full rewrite of the rule. That comment period ends November 6<sup>th</sup>. Western Energy Alliance and IPAA will be submitting joint comments supporting the suspension. However, the trade associations cannot be sure that the suspension rulemaking will be complete before operations must comply with the existing January 2018 compliance dates.

A motion for preliminary injunction was denied in January 2017 because the Wyoming District Court judge, while expressing grave skepticism about BLM's authority to issue the rule, found that companies were not incurring immediate, irreparable harm, as full compliance didn't take effect for another year. He granted an expedited briefing schedule for the full merits of the case to be complete in August of 2017.

Fast forward eleven months, a delay of the briefing schedule to mid-November as requested by DOJ and granted by the judge, and the government asking for yet another delay to the case, and the situation is dramatically different. The Alliance and IPAA have made a strong case in their motion for preliminary injunction that full compliance deadlines are fast approaching and companies are incurring considerable costs. As estimated by economic consulting firm John Dunham and Associates, companies are incurring costs of \$115 million to be in compliance by January 15, 2018, which is more than sufficient to show irreparable harm.

### Press Date:

Friday, October 27, 2017

Source URL: <https://www.westernenergyalliance.org/press-room/industry-files-preliminary-injunction-relief-from-venting-and-flaring-rule>

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