



June 20, 2025

U.S. Department of the Interior
Office of the Solicitor
1849 C Street NW
Washington, DC 20240
Email : interior.regulatoryinfo@doi.gov

Subject: DOI Regulatory Reform RFI (Docket: DOI-2025-0005)

To Whom It May Concern:

The American Petroleum Institute (“API”), the New Mexico Oil & Gas Association (“NMOGA”), the North Dakota Petroleum Council (“NDPC”), the Texas Oil & Gas Association (“TXOGA”), the Utah Petroleum Association (“UPA”), and the Western States Petroleum Association (“WSPA”) (collectively “the Associations”) are pleased to provide comments in response to the Department of the Interior’s (“DOI”) regulatory review request for information (“RFI”). We appreciate the Trump Administration’s desire to achieve a meaningful reduction in regulatory burdens while continuing to respect statutory obligations, advance American energy independence, and ensure the responsible stewardship of the nation’s public lands.

The Associations are committed to meeting the challenge of providing affordable and reliable energy. Together, our members represent the entire value chain of the U.S. oil and gas industry, and we support policies that strengthen our nation's energy security and our economy while protecting our environment.

Federal lands and waters provide nearly 27% of the oil and 11% of the gas produced in the United States. Offshore and onshore, robust federal leasing programs supported by complementary regulations are essential to maintaining our nation’s energy security and providing critical conservation funding throughout the country. To that end, we underscore the

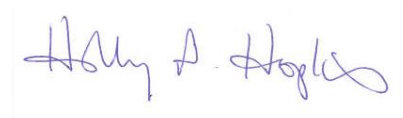
significance of President Trump's commitment to American energy, as expressed in the Executive Orders *Unleashing American Energy* and *Unleashing Alaska's Extraordinary Resource Potential*, as well as in subsequent DOI Secretarial Orders. We believe these streamlining reforms are an essential step toward more consistent, transparent, and timely oversight activities.

This letter outlines opportunities to review, reconsider, revise or rescind regulations and regulatory processes pertaining to onshore and offshore oil and gas activities for the following DOI entities:

- Bureau of Land Management (BLM);
- Bureau of Ocean Energy Management (BOEM) and Bureau of Safety and Environmental Enforcement (BSEE);
- Office of Natural Resources Revenue (ONRR) and
- U.S. Fish and Wildlife Service (USFS).

We appreciate your attention to these critical initiatives and look forward to working with you. If you have any questions about the matters discussed in this letter, please do not hesitate to reach out to me at any time.

Sincerely,



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A. ABOUT THE ASSOCIATIONS

1. The American Petroleum Institute

API represents all segments of America's oil and natural gas industry, which supports nearly 11 million U.S. jobs and is backed by a growing grassroots movement of millions of Americans. Our approximately 600 members produce, process, and distribute the majority of the nation's energy. Members also participate in API Energy Excellence®, a program that accelerates environmental and safety progress by fostering new technologies and transparent reporting. API was established in 1919 as a standards-setting organization and has developed more than 800 standards to enhance operational and environmental safety, efficiency, and sustainability.

2. New Mexico Oil & Gas Association

The New Mexico Oil & Gas Association (NMOGA) is a coalition of oil and natural gas companies, individuals, and stakeholders dedicated to promoting the safe and environmentally responsible development of oil and natural gas resources in New Mexico. Representing more than 200 member companies, NMOGA works with elected officials, community leaders, industry experts, and the general public to advocate for responsible oil and natural gas policies and increase public understanding of industry operations and contributions to the state. New Mexico's oil and natural gas activity is concentrated in two areas: the Permian Basin in the southeast and the San Juan Basin in the northwest. New Mexico is one of the United States' leading producers, ranking 2nd in annual oil production and 5th in annual natural gas production. NMOGA members are producing affordable, reliable and sustainable energy options through continuous innovation and environmental stewardship.

3. North Dakota Petroleum Council

Established in 1952, the NDPC is a trade association that represents more than 550 companies involved in all aspects of the oil and gas industry, including oil and gas production, refining, pipelines, transportation, mineral leasing, consulting, legal work, and oil field service activities in North Dakota, South Dakota, and the Rocky Mountain Region. Our members have an extensive history of responsible oil and gas development and environmental stewardship in North Dakota, which boasts some of the cleanest air and water in the country.

4. Petroleum Alliance of Oklahoma

The Petroleum Alliance of Oklahoma represents more than 1,700 individuals and member companies and their tens of thousands of employees in the upstream, midstream, and downstream sectors and ventures ranging from small, family-owned businesses to large, publicly traded corporations working throughout the Mid-Continent oil and natural gas-producing region of the United States. Our members produce, transport, process, and refine the vast majority of Oklahoma's crude oil and natural gas.

5. Utah Petroleum Association

UPA is a statewide oil and gas trade association established in 1958, representing companies involved in all aspects of Utah's oil and gas industry. UPA members range from independent producers to midstream and service providers, as well as major oil and natural gas companies widely recognized as industry leaders driving technological advancements that lead to environmental and efficiency gains. UPA members operate extensively on federal lands and have a long history of stewardship and conservation.

6. Texas Oil & Gas Association

The Texas Oil & Gas Association (TXOGA) is a statewide trade association representing every facet of the Texas oil and gas industry including small independents and major producers. Collectively, the membership of TXOGA produces approximately 90 percent of Texas' crude oil and natural gas and operates the vast majority of the state's refineries and pipelines. In fiscal year 2024, the Texas oil and natural gas industry supported over 490,000 direct jobs and paid \$27.3 billion in state and local taxes and state royalties, funding our state's schools, roads and first responders.

7. Western States Petroleum Council

WSPA is a non-profit trade association that represents companies that account for the bulk of petroleum exploration, production, refining, transportation, and marketing in the five western states of Arizona, California, Nevada, Oregon, and Washington. WSPA members operate in upstream, midstream, and downstream segments of the oil and natural gas industry.

B. BUREAU OF LAND MANAGEMENT

1. Conservation and Landscape Health Rule

a. Requirement and Authority

43 CFR Part 6100.1—6103.2

89 Federal Register 40308, May 9, 2024

Conservation and Landscape Health

Federal Land Policy and Management Act (FLPMA)

b. Summary of Requirement

FLPMA requires BLM to “manage the public lands under principles of multiple use and sustained yield” and “regulate, through easements, permits, leases, licenses, published rules, or other instruments as the Secretary deems appropriate, the use, occupancy, and development of the public lands.” 43 U.S.C. 1732(a)-(b). BLM added conservation to the original and long-established productive uses of public lands cited in FLPMA (e.g., recreation, energy, mining, timber, and grazing). This addition would significantly revise the application of multiple use and sustained yield.

c. Proposed Action: Rescind Rule

We fully support the Administration’s efforts to rescind this rule. Furthermore, we recommend postponing any meetings of the Public Lands Rule Advisory Committee until a rescission has been formalized and dissolving the panel once rescission efforts have begun.

As API noted in its detailed comments on the original proposed rule, the rule should be rescinded due to its many legal flaws, ranging from failure to comply with basic administrative law principles to foundational separation of powers concerns. Under the rule, conservation goals would assume a preeminent role across all BLM lands and programs, in clear violation of FLPMA’s Multiple Use Framework. Congress has rightfully protected vast stretches of federal land through special conservation designations, and conservation tools remain available through the National Parks Program, the National Historic Preservation Act, and many other statutes. Appropriately, most federal lands managed by BLM do not fall into special conservation categories and are rightly made available for a variety of uses consistent with the MLA and FLPMA. The rule fails to demonstrate that it is grounded in the “best available science,” and its expansive, landscape-based approach across all BLM programs and lands exceeds any conservation or environmental mandate granted by Congress.

Beyond that, the rule increases the regulatory burden by requiring BLM to institute additional leasing processes for restoration and mitigation leases, which not only contradict statutory intent but also place an additional burden on the agency to implement, manage, and oversee them. Restoration and mitigation are environmental management tools already in use to manage impacts from statutorily authorized activities. Implementing a separate leasing process just to use these tools is unnecessary and increases regulatory burden.

2. Carlsbad Resource Management Plan (RMP, proposed 2018)

a. Requirement and Authority

Draft Resource Management Plan (RMP) and Environmental Impact Statement (EIS), Pecos and Carlsbad Districts, BLM/NM/PL-16-07-1610

83 *Federal Register* 38167, Aug. 3, 2018

Federal Land Use Planning and Management Act (FLPMA)

National Environmental Policy Act (NEPA)

b. Summary of Requirement

In 2018, stakeholders commented on a proposed draft Environmental Impact Statement (EIS); however, the RMP was neither completed during the first Trump Administration nor withdrawn by the Biden Administration.

c. Proposed Action: Revise and Finalize RMP

A finalized RMP would clarify the rules for managing the area and remove uncertainty about whether DOI actions are based on the final 1988 RMP or on a new draft. Clear information on the location of protected areas, right-of-way exclusion and avoidance zones, and other access and mitigation requirements is essential to support effective development planning and decision-making. The Carlsbad area already generates considerable royalties, which are expected to increase significantly over the next few years. Production growth will depend on industry's ability to execute new projects, attain new leases, and comply with access limitations resulting from the RMP.

The proposed 2018 RMP Draft would impact oil and gas activities across important portions of the planning area. BLM's preferred Alternative "C" and less restrictive Alternative "D" define right-of-way exclusion and avoidance zones that either prohibit surface disturbance in exclusion zones or restrict it in avoidance zones, including in key development areas. This could limit development potential or require extensive infrastructure workarounds that increase both the environmental footprint and regulatory burden.

Procedurally, the 2018 draft RMP could be finalized without additional public comment. However, the proposed changes should be discussed with industry to understand whether alternatives could be found that would reduce some of the proposed access restrictions, for example, by instituting reasonably feasible mitigation requirements in lieu of “no go” zones.

3. Applications for Permit to Drill Processing Issues

a. Requirement and Authority

Mineral Leasing Act of 1920

Federal Oil and Gas Royalty Management Act (FOGRMA)

Other Authorities such as National Environmental Protection Act (NEPA), National Historic Preservation Act (NHPA), Endangered Species Act (ESA), etc.

b. Summary of Requirement

BLM is obligated to process Applications for Permits to Drill (APDs), and approvals must be obtained before drilling operations can begin.

c. Proposed Action: Revise APD Processes

Delays can often occur in processing APDs for several reasons. We encourage BLM to address the following issues to reduce regulatory burdens and increase efficiency:

- BLM’s AFMSS software is often not available. We understand that a newer version of software is currently being piloted in Carlsbad, and we recommend accelerating this pilot if possible.
- Field offices desperately need additional resources, including increased budgets to hire and retain skilled staff. This is especially critical for offices managing high-activity oil and gas development areas like Carlsbad.
 - Reallocation. We encourage BLM to allocate additional resources or allow less busy field offices to share the workload until a more permanent solution is established. With effective training and guidance, this could provide relief in Carlsbad.
 - External Contractors. BLM should also consider hiring external contractors. Companies could coordinate with trade organizations and contractors to enter a Memorandum of Understanding (“MOU”) with the BLM, similar to the approach for National Environmental Protection Act (“NEPA”), clarifying roles and responsibilities and specifying that the proponent bears the third-party costs. Nothing prohibits BLM from taking this approach. To ensure

legal feasibility, third party staff would report directly to BLM. For example, authorizing language could include: *“The agency may authorize a contractor, under the supervision and direction of the agency, to facilitate the permit process related to the drilling of oil and gas wells by reviewing and approving permits, including, but not limited to Application for Permit to Drill, Right of Way, Commingling, creation of Participating Areas, Communitization Agreements and Sundries related to the same. The cost of the contractor may be paid by the applicant if the contractor has entered into a memorandum of understanding with the agency that ensures the contractor remains independent from the applicant.”*

- Skilled staff for surface reviews. Sufficient staff are often unavailable for surface reviews. Retaining and hiring new staff to work on these reviews is an ongoing challenge because of the level of knowledge and skill required. There is an immediate need to exempt these employees from the hiring freeze, especially since the federal hiring process can take as long as two years, causing many qualified candidates to be lost while waiting for their security clearances. These positions could also be made more competitive with the private sector by addressing the high cost of living in Carlsbad.

Minor structural changes to the APD approval process could also significantly reduce burdens on both the BLM and companies.

- Develop an expedited option with an additional fee to help offset costs.
- Work with State agencies to avoid redundant reviews. APDs require approval at the Federal and State level. BLM and State agencies should work together to split the workload and avoid redundant reviews. An MOU template could be developed at the Federal level to outline the key principles of such interactions.
- Clarify which significant changes require sundries. BLM has discretion to determine whether an APD change is substantial enough to require a sundry notice, and that discretion is often applied inconsistently. Some field offices require sundries for any APD change, surface or subsurface, which can unnecessarily delay progress. In the 18-24 months that it takes to get an APD approved, minor changes sometimes require additional sundry notices. It could be more efficient if APD reviews were to focus on surface impacts and correlative rights. Changes that do not cause additional surface disturbance, do not infringe on correlative rights, and do not significantly change the wellbore trajectory could be reviewed as-drilled (this could include but not be limited to, changes to hole

size, casing size, top of cement, cement type, lateral shortages, take point changes, KOP changes, deeper or shallower wellbores within the same formation, BOPs).

- Issue only one letter containing deficiencies. Currently, deficiencies are communicated as they are found in the approval process, leading to months-long delays before the technical APD review can even begin. This would help both BLM and companies determine when an APD package is in fact complete. Remedies should include:
 - Modifying AFMSS to allow different reviewers to compile deficiencies into one letter.
 - Developing stronger guidelines for deficiencies.
- Authorize staggered starts to surface construction. Given APD backlogs, companies would benefit from being able to commence well pad and ROW construction prior to APD approval. BLM should introduce a process by which companies can begin surface (well pad) construction as soon as the NEPA approval process has cleared, independent of whether an APD for that well pad has already been approved. In fact, it would be optimal if BLM could introduce a process by which companies can apply for well pad construction prior to submitting APD's. To ensure responsible use of the land surface, such approval could come with remediation stipulations should operators be unable to demonstrate sufficient progress toward wellpad use within a prescribed amount of time.

4. Low Credit Limits on Pay.gov

a. Requirement and Authority

Bureau of Fiscal Service policy for credit card limit based upon 31 USC 3301-3303, 31 USC 3720, and 15 USC 1693o-2.

Treasury Financial Manual (TFM), Part 5, Chapter 7000, Credit and Debit Card Collection Transactions.

Note: There is no statutory requirement for \$24,999.99. It is based on federal policy applicable to all federal agencies.

b. Summary of Requirement

Pay.gov currently features a \$24,999.99 credit card limit.

c. Proposed Action: Increase Credit Card Limit

The current \$24,999.99 credit card limit on pay.gov effectively means that companies can submit 1 APD per day. The credit card limit should be raised to at least \$100,000 so that companies can submit multiple APDs at once. This will reduce the burden of delays on companies.

5. Fluid Mineral Leases and Leasing Process Rule

a. Requirement and Authority

43 CFR Parts 3000, 3100, 3110, 3120, 3130, 3140, 3150, 3160, 3170, and 318089 *Federal Register* 30916, April 23, 2024

Fluid Mineral Leases and Leasing Process
Inflation Reduction Act

b. Summary of Requirement

BLM adopted rules revising fees, rents, royalties, and bonding requirements related to oil and gas leasing, development, and production pursuant to the IRA. The BLM also changed the established process for leasing.

c. Proposed Action: Rescind or Revise Rule

API supports the President’s Executive Order (EO) 14154 entitled *Unleashing American Energy*, which encourages energy exploration and production on federal lands and waters and promotes affordable and reliable energy and natural resources. The Secretary of the Interior also issued Secretary’s Order (SO) No. 3418 supporting the President and identifying certain actions for further revision, suspension, or rescission (including this Rule). We agree with the EO and the SO’s stated objectives. In particular, we remain concerned about unnecessarily burdensome provisions that eliminate nationwide bonding, expand BLM discretion, and establish preferencing criteria. For example, rather than relying on existing robust planning and environmental review processes, the Final Leasing Rule increases BLM’s discretion to implement procedural and case-by-case changes. Also, in addition to instituting a preference for contiguous acreage, BLM’s changes increase its discretion to require modifications and institute lease stipulations – even after the lease is issued.

An appropriately robust federal leasing program should include:

- Holding quarterly lease sales as required by law, featuring ample acreage and appropriate terms consistent with pre-2021 activities.
- Offering at least the minimum required acreage per year.

- Ensuring that offered acreage includes actually nominated acreage (43 USC §3006), or an explanation of why nominated acreage was not included.
- Eliminating preference criteria for contiguous acreage in lease sale decisions (i.e., preference that O&G acreage be adjacent to each other).
- Removing BLM’s ability to count acreage they self-nominate for IRA Section 50265 compliance total purposes (i.e., only land receiving an EOI from industry should count toward Section 50265 totals).
- Reinstating past Expression of Interest (EOI) processes.
- Resetting APD timeframes to an initial term of four years, instead of their recently reduced three-year timeframe with no opportunity for renewal. Permitting delays, supply challenges, and other unforeseen factors render three years insufficient.
- Restoring previous limits on how far BLM can request a site be moved and on time-based access limitations for the distance BLM can request a site be moved and time-based access limitations – specifically, returning to the 200-meter distance and 60-day access limitation.
- Restoring permanent well abandonment timelines to seven years from the current four. At a minimum, allow for a phase-in of the timeline.
- Addressing shut-in and suspension considerations.

6. Waste Prevention, Production Subject to Royalties, and Resource Conservation Rule

a. Requirement and Authority

43 CFR Parts 3160 and 3170

89 Federal Register 25378, April 10, 2024

Waste Prevention, Production Subject to Royalties, and Resource Conservation

MLA, MLAL, Federal Oil and Gas Royalty Management Act (FOGRMA), FLPMA, IRA, Indian Mineral Leasing Act of 1938, and Indian Mineral Development Act of 1982.

b. Summary of Requirement

This Final Rule’s stated objective was to reduce the waste of natural gas from venting, flaring, and leaks during oil and gas production activities on federal and Indian leases. The final rule imposed burdensome new requirements for managing royalty payments.

c. Proposed Action: Rescind or Revise Rule

API supports the President’s Executive Order 14154 entitled *Unleashing American Energy* encouraging energy exploration and production on federal lands and waters and promoting affordable and reliable energy and natural resources. The Secretary of the Interior

also issued Secretary’s Order No. 3418 supporting the President and identifying certain actions for further revision, suspension, or rescission, including this rule.

While the BLM should rightfully ensure it receives appropriate royalties for hydrocarbons produced on federal lands, compliance concerns with the rule remain. These include critical calculation issues and the need for Alaskan companies to seek annual waivers due to the quarterly requirement to perform optical gas imaging (OGI) surveys because they simply can’t be done from November to May. OGI cameras do not work in the extreme cold of Alaska winters. Revisions should allow for annual OGI monitoring in Alaska, consistent with EPA requirements under OOOOa and OOOOb).

7. Rights-of-Way, Leasing, and Operations for Renewable Energy Rule

a. Requirement and Authority

43 CFR Part 2800

89 *Federal Register* 35634, May 1, 2024

Energy Act of 2020

b. Summary of Requirement

This Rule includes provisions for reducing acreage rents and capacity fees, and it expedites the processing of solar and wind energy applications in a manner that gives them preference over other energy sources.

c. Proposed Action: Rescind or Revise Rule

The Secretary of the Interior identified this rule in Secretary’s Order No. 3418, featuring actions for further revision, suspension, or rescission. We support this rescission because the terms BLM proposed in this rule are substantially more generous than the not-to-exceed 30-year grants for ROWs under the Mineral Leasing Act (MLA) for oil and gas pipelines and related facilities. By effectively subsidizing wind and solar projects with preferential rates, the rule would alter basic principles of federal land management, create an unlevel playing field among energy sources, and potentially restrict access for oil and gas development in some areas for decades.

Rather than using its oversight authority over the multiple uses of federal lands to advance specific policy priorities, BLM should fairly and consistently implement changes to streamline all forms of energy development on federal lands. The rule should be rescinded and repropose with lease terms on par with those granted to other federal land users – or include

the statutorily required showings in 3 U.S.C. § 3003, along with clear provisions ensuring continued access for traditional energy development.

8. Management and Protection of the National Petroleum Reserve in Alaska (NPR-A) Rule

a. Requirement and Authority

43 CFR Part 2360

Management and Protection of the National Petroleum Reserve in Alaska

89 *Federal Register* 38712, May 7, 2024

Naval Petroleum Reserves Production Act (NPRPA)

b. Summary of Requirement

The Rule includes numerous new requirements restricting the exploration, development, and production of oil and gas within the National Petroleum Reserve in Alaska.

c. Proposed Action: Rescind Rule

API welcomes provisions in Executive Order 14153 (“Unleashing Alaska’s Extraordinary Resource Potential”) and Secretary’s Orders 3422 and 3418 that properly balance the Secretary’s responsibilities to provide for oil and gas leasing, exploration, and development consistent with the energy needs of the nation and protecting important surface resources in the reserve, including rescission of the 2024 NPR-A rule. The oil and gas industry in Alaska is committed to responsibly developing Alaska’s abundant supply of natural resources for the benefit of Alaskans and the nation, providing economic and national security for many generations to come.

As provided in our comments on the 2024 NPR-A rulemaking, the 2024 Rule lacks a legal basis for enactment because it conflicts with the Naval Petroleum Reserve Production Act of 1976. The rule was also misguided because it unduly restricts energy development in the NPR-A, jeopardizes economic growth and revenue for local Alaskan communities and the nation, undermines conditions necessary to support an oil and gas leasing program, and introduces uncertainties that appear designed to encourage litigation. We support the proposal published in the Federal Register on June 3, 2025, to rescind the 2024 NPR-A rule.

9. Proposed Resource Management Plan Amendment (RMPA) and Final EIS for Greater Sage-Grouse Rangewide Planning

a. Requirement and Authority

43 CFR Part 2360

89 *Federal Register* 9031, November 15, 2024

Notice of Availability of the Proposed Resource Management Plan Amendment and Final Environmental Impact Statement for Greater Sage-Grouse Rangewide Planning

FLPMA, NEPA

b. Summary of Requirement

The RMPA proposed to change goals, objectives, and management from previous planning efforts in 77 land use plans to enhance Greater Sage-Grouse (GRSG) conservation through management of sagebrush habitats on BLM-administered lands. The planning area included portions of 10 Western states with GRSG habitats: California; Colorado; Idaho; Montana; Nevada; North Dakota; Oregon; South Dakota; Utah; and Wyoming. It encompasses nearly 121 million acres of BLM-administered public land. Decisions resulting from this amendment effort could impact up to 69 million acres of BLM-administered lands associated with the applicable GRSG habitat management areas. Notice of Availability of the Proposed RMPA was issued by USACE on November 15, 2024.

c. Proposed Action: Revise EIS

API supports the President's Executive Order 14154 entitled *Unleashing American Energy* encouraging energy exploration and production on federal lands and waters and promoting affordable and reliable energy and natural resources. API also welcomes Secretary's Order 3414, titled "Unleashing American Energy," which directs his assistant secretaries to develop action plans to review and, as appropriate, revise all relevant draft and finalized resource management plans. This includes plans related to the "Notice of Availability of the Proposed Resource Management Plan Amendment and Final Environmental Impact Statement for Greater Sage-Grouse Rangewide Planning." After important revisions have been made as outlined in the protest and past comments submitted by API, we support the reissuance of the RMPs. The newly introduced "priority habitat management areas" are essentially more extensive No Surface Occupancy zones which should be revisited and revised. BLM's reliance on the Targeted Annual Warning System (TAWS), which allows BLM to impose restrictions without first establishing causality, should be rescinded.

10. Proposed Notice to Lessees 5 (not yet finalized)

a. Requirement and Authority

89 *Federal Register* 90027, Nov. 14, 2024
43 CFR 3164.2, 43 CFR Subparts 3174, 317

b. Summary of Requirement

BLM proposed adopting a Notice to Lessees No. 5 (NTL-5), on rules on when and how operators are expected to comply with certain requirements in the oil and gas measurement regulations, which became effective in January 2017.

c. Proposed Action: Rescind Proposed NTL-5

Comments on BLM's proposed Notice to Lessee 5 (NTL-5) closed in December 2024, and the final notice was not issued prior to the end of the Biden Administration. The proposal clarified when the regulated community must comply with certain equipment and gas analysis reporting requirements outlined in the oil and gas measurement regulations that took effect in 2017. A key component was the requirement for the use of only equipment which has been approved by BLM.

The proposal should be withdrawn for multiple reasons. The approval deadlines are burdensome because BLM has not approved any equipment in the eight years since this rule became effective, making the deadlines unrealistic. Additionally, it does not allow time for market realities that reflect delays between purchase and implementation.

Instead of finalizing this notice, BLM should withdraw the proposal and include applicable, reasonable requirements in a new proposal for the site security and measurement rule (see below).

11. Site Security and Measurement Rule and Associated Adjustments in 43 CFR 3174 and 3175

a. Requirement and Authority

43 CFR 3170, 3173, 3174, and 3175, eff. Jan. 2017
81 *Federal Register* 81516, 81462, and 81356, Nov. 17, 2016
85 *Federal Register* 55940, Sept. 10, 2020

b. Summary of Requirement

In 2016, the BLM issued three final rules dealing with onshore oil and gas measurement and site security. Then, in response to the Executive Order 13783, Promoting Energy Independence and Economic Growth (March 28, 2017), and Secretary's Order No. 3349,

American Energy Independence, (March 29, 2017), BLM issued proposed rules in 2020. These rules were withdrawn and never finalized.

c. Proposed Action: Revise Rules

Since the existing BLM rules governing site security and measurement of oil and gas leases became effective in January 2017, significant implementation challenges have placed burdens on both BLM and industry. Gaps and inconsistencies exist concerning measurement accuracy, verifiability, and accountability. Although the first Trump Administration proposed modifications in 2020, the Biden Administration withdrew that proposal before finalization.

Modifying the 2017 Onshore Order Rules to enhance production and royalty accountability while reducing unnecessarily burdensome current requirements is essential for improving efficiency.

BLM should include regulatory language approving commingling applications using measurement devices for each source or utilizing an allocation method in accordance with API Manual of Petroleum Measurement Standards (MPMS) Chapter 20. Allocation by well test is preferred, with allocation by meter serving as a backup. This would greatly reduce the Facility Measurement Points (FMPs), which have tighter uncertainty requirements. These industry standards have been in effect since December 2017 and provide the proper technical support for accurate commingling, without imposing undue hardship from restrictive measurement tolerances or special equipment.

Within this rulemaking, BLM should also adopt the API/GPA standards of production measurement in their entirety and accept measurement devices that meet applicable standards (rather than requiring BLM to review and approve each device proposed). This would reduce the burden on both BLM and industry, while obviating the need for a separate NTL-5 dealing with equipment approvals.

Developing these equipment lists has proven more burdensome for BLM than initially anticipated. Therefore, BLM should remove references to approved measurement equipment (e.g., for LACT meters and flow conditioners in 43 CFR 3174 and 3175).

12. BLM Instructional Memoranda

a. Requirement and Authority

These are policy memoranda that are non-binding and decisions based on the memoranda cannot be adjudicated.

b. Summary of Requirement

BLM issues instructional memoranda on various topics of interest to lease holders. These IMs are not rules and thus not subject to notice and comment. Instead, the IMs “are directives that supplement the BLM manual sections and handbook,” and are designed to be used by BLM employees to interpret rules and policies.

c. Proposed Action: Rescind or Revise IM’s/PIM’s

We support BLM’s inactivation and ultimate withdrawal of instructional memoranda that are either overly burdensome to the regulatory community and/or inconsistent with the current Administration’s policy goals. To date, the Administration has inactivated the following memoranda:

- IM 2025-004: Adaptive Management Science & Policy
- IM 2024-040: Socioeconomic in Land Use Planning and NEPA
- IM 2024-038: Restoration and Mitigation Leasing
- IM 2024-037: Development and Revision of Land Health Standards
- IM 2024-036: Watershed Condition Assessments
- IM 2023-037: Mitigation Fund Holder Policy
- IM 2023 – 011: Approved Application for Permit to Drill Extensions
- IM 2023-010: Oil and Gas Leasing – Land Use Planning and Lease Parcel Reviews
- IM 2023-009: Decision to Grant O&G Lease Reinstatements
- IM 2023-008: Impacts of the IRA of 2022 to O&G Leasing Program
- IM 2023-007: Evaluating Competitive O&G Lease Sale Parcels for Future Lease Sales
- IM 2023-006: Implementation of Section 60265 of the IRA for EOIs
- PIM 2022-001: NEPA Compliance for APDs where NEPA Prepared to Support the Authorizing Lease is Under Review Related to Litigation
- IM 2022-057: Forced Pooling Requests
- IM 2021-039: Orphaned Well Identification, Prioritization, Plugging, and Reclamation
- IM 2021-027: O&G Leasing – Land Use Planning & Lease Parcel Reviews

We recommend that BLM re-evaluate PIM 2018-014 on Directional Drilling into the Federal Mineral Estate from Well Pads on Non-Federal Locations (see item 15 below).

13. Orphan Wells

a. Requirement and Authority

b. Summary of Requirement

This legislation set aside \$4.7 billion towards plugging of orphan wells at the state level and other related funding.

c. Proposed Action: Prioritize Federal Infrastructure Funds Over Further Studies

BLM should continue funding orphan well closures on federal lands and work to streamline the appropriation of federal infrastructure funds to state oil and gas regulating agencies for carrying out plugging activities in their States (e.g., Formula grants). Currently, state regulators face significant challenges in receiving federal approvals for their proposed plugging activities and programs. Though federal infrastructure funds are available, they are not readily accessible. The prompt distribution of these funds plays a key role in the timely closure of orphaned wells.

For regulatory efficiency, BLM should continue to leave responsibility for setting well plugging practices, requirements, and standards on non-Federal lands with the States. State regulators have the best local knowledge of the geological conditions and technical standards/practices that apply within their jurisdiction.

BLM should focus Congressional funding on actually plugging orphan wells rather than generating federal studies that potentially overlap with state, Intergovernmental Oil and Gas Compact Commissioners (IOGCC), or individual agency responsibility (e.g., BLM and DOE). The National Academies of Science's Orphaned Well Study (and associated advisory team) to should be brought to a timely conclusion after its current deliverable is completed.

14. PIM 2018-014 on Directional Drilling into the Federal Mineral Estate from Well Pads on Non-Federal Locations.

a. Requirement and Authority

Not statutory or rule-based but agency policy guidance issued for complying with NEPA, ESA, and NHPA.

b. Summary of Requirement

This Instruction Memorandum (IM) is a permanent policy (as opposed to temporary instruction memorandum) providing "lasting guidance" unless superseded or deleted. It includes procedures for processing Federal Applications for Permit to Drill (APD) proposing to

drill into and produce leased Federal minerals from well pads on entirely non-Federal locations.

c. Proposed Action: Rescind and Revise PIM

BLM should re-evaluate PIM 2018-014 on Directional Drilling into the Federal Mineral Estate from Well Pads on Non-Federal Locations. Reducing the need to approve or prescribe access conditions on non-federal surfaces in fee-fee-fed and certain fee-fed situations (where the federal government owns less than 50 percent of the minerals and does not own the surface estate) would reduce unnecessary paperwork and allow BLM to focus limited resources on more critical priorities. Ideally, clear regulatory boundaries should be established to define when federal drilling approvals are required and when they are not. While regulatory revisions are in progress, an updated IM or PIM should be released that reduces the need for federal approvals in these situations.

C. BUREAU OF OCEAN ENERGY MANAGEMENT (BOEM) AND BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT (BSEE)

Concerning the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement's (BSEE) management and regulation of offshore oil and gas activities on the U.S. Outer Continental Shelf, industry has steadfastly maintained that offshore oil and gas production requires an effective regulatory regime that allows for safe and timely lease development under a predictable permitting system. Industry continues to encourage BOEM and BSEE to maintain effective regulations to manage exploration, development, production, and decommissioning activities with clear timelines and expedient paths for permitting approvals. The enormous capital investment and long lead times for planning and execution make regulatory certainty critical in offshore oil and gas investment decisions. Where appropriate, performance-based standards are preferable to allow companies to apply innovative solutions in their operations that meet regulatory expectations, rather than overly prescriptive and rigid regulations. BSEE currently incorporates a number of industry standards by reference, we believe this process is deregulatory through the use of industry consensus standards and encourage the continued incorporation of new and updated standards to keep pace with technology and keep agency references consistent with industry developments.

In considering any modification, reconsideration, or revocation of regulations, we encourage the agencies to examine offshore regulations through the lens of maintaining effective, purpose-driven oversight while reducing regulatory burdens on both the agencies and industry. The agencies should focus on improving regulatory certainty while maintaining a

predictable regulatory structure that accomplishes needed safety and environmental protection goals. Industry has previously highlighted many areas that could be improved, and we stand ready to work with the agencies to address any shortcomings identified during this regulatory review.

D. OFFICE OF NATURAL RESOURCES REVENUE

1. Eliminate Keepwhole Contract Requirements

a. Requirement and Authority:

30 CFR 1206.142(a)(3)

b. Summary of Requirement:

30 CFR 1206.20 defines *Keepwhole contract* as a processing agreement under which the processor delivers to the lessee a quantity of gas after processing equivalent to the quantity of gas that the processor received from the lessee prior to processing, normally based on heat content, less gas used as plant fuel and gas unaccounted for and/or lost. This includes, but is not limited to, agreements under which the processor retains all NGLs that it recovered from the lessee's gas.

The requirement to report this type of sale as processed gas can be found under 30 CFR 1206.142(a)(3). As noted in the definition, gas sold under this type of contract results in payment by the purchaser of an equivalent unprocessed gas volume and value, so the seller doesn't have the information necessary to report residue, natural gas liquids (NGL), or other various products. Under ONRR's reporting framework, this results in a Reporter doing a series of calculations to **estimate** the residue and NGL volumes and values. The reporting requirement is so complicated, ONRR has issued multiple, multi-page, Dear Reporter letters attempting to explain how it is to be completed. See, e.g., 2012 Keepwhole Dear Reporter Letter, 2018 Keepwhole Dear Reporter Letter.

c. Proposed Action: Rescind

The request is to eliminate this completely from the regulations and guidance documents. Federal royalty reporting should align with how the product is sold and valued in the arm's-length sales agreement. The current requirement results in a complicated series of accounting exercises to estimate volumes and values of processed gas products that the Reporter did not receive. This makes auditing time consuming and complicated for the auditors for little or no additional value. Keepwhole requirements also raise disputes about whether unprocessed gas ever went through a gas processing facility, regardless of sales contract terms or heat content. Most gas that is sold under this type of arrangement has a heat content close to methane, so the gas stream does not contain many entrained natural gas liquids. This requirement results in a lot of administrative work for the Reporter and the Agency to yield little useful information.

Removal of the explicitly stated boosting disallowance regulation 30 CFR 1202.151(b); 30 CFR 1206.153(c)(8) (this was implemented prior to wide use of cryogenic gas processing that requires temperature and pressure drops to extract natural gas liquids). Changes in gas pressure are part of the natural gas liquids extraction process (processing) or movement of the gas off the lease to a point of sale (transportation).

2. Dual Accounting on Indian Lands

a. Requirement and Authority:

30 CFR § 1206.173

b. Summary of Requirement:

These regulations were amended in August 1999, effective January 2000. In the Dear Payor letter dated December 1, 1999, summarizing the changes and giving guidance to payors, under the heading, “B. How do I make a dual accounting election?” the ONRR states, “If you are required to perform dual accounting, you must elect to perform ***either*** actual dual accounting, under 30 CFR § 206.176 (64 FR 43506) [*Note - regulation renumbered to 30 CFR 1206 in 2010*], ***or*** the alternative methodology for dual accounting...” Additionally, the alternative methodology for dual accounting was provided as a replacement for actual dual accounting, as indicated by the use of “either” and “or” in the quoted sentence. This was reinforced by other statements, including the final rule published at 64 FR 43506 (August 10, 1999), in which the MMS estimated that “this information collection will result in a decrease to industry of about 2,755 burden hours annually. The MMS attributes this decrease primarily to the decrease in the number of responses to only actual cost information as discussed above. A further decrease will result from certain lessees ***electing the alternative method for valuing processed gas, which requires no processing allowance to be taken and no accompanying allowance report to be submitted.***”

c. Proposed Action: Revise

To clarify the original objective to simplify dual accounting on applicable Indian leases, we request that a sentence be added to the regulations in 30 CFR 1206.176, stating that only one form of dual accounting is required.

3. Eliminate Boosting Disallowance Regulation

a. Requirement and Authority:

30 CFR 1202.151(b); 30 CFR 1206.153(c)(8)

b. Summary of Requirement:

The regulation that disallows boosting was implemented prior to the widespread use of cryogenic gas processing, which requires temperature and pressure drops to extract natural gas liquids.

c. Proposed Action: Revise

Remove explicitly stated boosting disallowance regulations. Changes in gas pressure are part of the natural gas liquids extraction process (processing) or movement of the gas off the lease to a point of sale (transportation) and should be allowed in the regulations.

4. Eliminate BLM GARVS Regulations and Dynamic Gas Sampling Frequency Regulations

a. Requirement and authority:

43 CFR 3175; 43 CFR 3175.115

b. Summary of Requirement:

This regulation is not enforceable because a reporting system has not been developed.

c. Proposed Action: Rescind

If this regulation were enforceable, it would impose unnecessary administrative burdens on both operators and the agency due to the need for regular gas sample analysis reporting. The associated dynamic gas sampling frequency regulations were supposed to be adjusted to require regularly scheduled sampling as part of the transition to the GARVS system, but this adjustment never occurred. Regularly scheduled sampling would meet regulatory needs while reducing industry burdens associated with dynamic sampling.

5. ONRR's Enforcement Practices

a. Requirement and Authority

b. Summary of Requirement

ONRR has an extensive data accuracy program. That program includes full audits and less detailed levels of review, like its “volume comparison” program used to identify discrepancies between volumes reported on the Form ONRR-4054 (production report) and on the Form ONRR-2014 (royalty report). And, ONRR uses various types of enforcement actions, including orders and referrals to the Office of Enforcement for civil penalty review. Some of ONRR’s enforcement practices exceed its statutory authority, are inefficient, and are unfair. Three examples are illustrative:

- *First*, the manner in which ONRR conducts its volume comparison program effectively requires lessees to undertake restructured accountings without observing the clear statutory prerequisites and requirements that must be satisfied for ONRR’s issuance of a restructured accounting directive under 30 U.S.C. 1724(d)(4).
- *Second*, in connection with its volume comparison program, ONRR frequently issues orders or initiates civil penalty actions based only on the existence of a volume discrepancy and without first determining the cause of the discrepancy or specifying any error or violation. But where ONRR has not actually identified an error (e.g., payment error) or a violation, it is premature for ONRR to pursue an order or civil penalties. See 30 USC 1702(26) (orders must “assert a specific, definite, and quantified obligation claimed to be due” and articulate the basis for that claim); 30 USC 1719 (the trigger for any civil penalty is ONRR’s identification of a “violation”).
- *Third*, often ONRR’s orders and civil penalty claims arise from erroneous BLM data, over which lessees have no control. This issue arises in the context of volume comparisons but is not limited to volume comparisons. Exposing lessees to orders and civil penalties based on erroneous data over which the lessees have no control raises serious questions of due process and fairness.

c. Proposed Action: Review and Revise.

Review and revise ONRR’s enforcement processes to align with its statutory authority and to ensure efficiency and fairness. For instance, identifying volume discrepancies may be a very useful tool for ONRR to facilitate or focus an ONRR audit. But the mere existence of a volume discrepancy should not be the basis of an ONRR enforcement action that, under the statute, must be predicated by a finding of an error or violation.

E. U.S. FISH AND WILDLIFE SERVICE

1. Final Revised Regulations Protecting Endangered and Threatened Species (Sections 4, 4(d), and 7) of the Endangered Species Act

a. Requirement and Authority

50 CFR Part 17

89 *Federal Register* 23919, April 5, 2024

Endangered and Threatened Wildlife and Plants; Regulations Pertaining to Endangered and Threatened Wildlife and Plants; Endangered Species Act

b. Summary of Requirement

The previous Administration reduced regulatory clarity and created the opportunity for greater subjectivity in the revised 2024 ESA implementation regulations. The Section 4 rule ignores potential economic impacts of listing determinations. The Section 7 rule revised and expanded the scope of reasonable and prudent measures as part of an incidental take statement. The Section 4(d) rule reinstated FWS's blanket approach in lieu of a species-specific approach. The new rule should repeal these provisions, which undermine efforts for the conservation and recovery of threatened species.

c. Proposed Action: Re-introduce the 2019 Rule

API supports the President's Executive Order 14154 entitled *Unleashing American Energy* encouraging energy exploration and production on federal lands and waters, and promoting affordable and reliable energy and natural resources. API also welcomes Secretary's Order 3414, titled "Unleashing American Energy" which directs his assistant secretaries to specifically develop action plans to review and, as appropriate, revise all relevant draft and all finalized resource management plans, including these particular sections of the Endangered Species Act, which as colloquially referred to as "foreseeable future" (Section 4), "critical habitat" (Section 7) regulations, along with application of the blanket Section 4(d) rule. We support the reissuance of these rules with a more holistic perspective toward carrying out the intent of the Act and allowing the Service to plan for and facilitate the conservation of species while empowering President Trump's Energy Dominance agenda.