August 24, 2026

<u>Via Regulations.gov</u>

Steve Pearce, Director
U.S. Department of the Interior
Bureau of Land Management
1849 C St. NW, Room 5646
Washington, DC 20240

Re: Oil and Natural Gas Associations' Comments on BLM's Proposed Rule, Oil and Gas Leasing, 91 Fed. Reg. 38,084 (June 24, 2026), RIN 1004-AF05, Docket ID: BLM-2025-0037 ("Proposed Rule")

Dear Director Pearce:

The American Petroleum Institute ("API"), the New Mexico Oil & Gas Association, the Petroleum Alliance of Oklahoma, the Utah Petroleum Association, and the Petroleum Association of Wyoming(collectively "the Associations") appreciate the opportunity to submit comments on the above-referenced Bureau of Land Management ("BLM") Proposed Rule.

The Associations fully support BLM's goal to "enhance the administration of oil and gas-related activities on America's public lands." This Proposed Rule promotes American energy dominance and implements the will of the American people by crystallizing the mandates of the One Big Beautiful Bill Act ("OBBB") and Royalty Resiliency Act ("RRA"), as well as Executive Orders including E.O. 14154 ("Unleashing American Energy"), E.O. 14156 ("Declaring a National Energy Emergency"), and E.O. 14247 ("Modernizing Payments To and From America's Bank Account"). In recent years, "burdensome and ideologically motivated regulations have impeded the development of [America's energy and natural] resources, limited the generation of reliable and affordable electricity, reduced job creation, and inflicted high energy costs upon our citizens." E.O. 14154, 90 Fed. Reg. 8353 (Jan. 20, 2025). Now more than ever, U.S. energy security is paramount. Amending BLM's leasing regulations to bolster oil and natural gas-related activities at home will help stimulate the American economy, provide jobs, and break the shackles of U.S. dependence on foreign sources of energy. Moreover, oil and natural gas production occurring domestically and on federally-managed lands is preferable to other locations that have a more significant environmental footprint. BLM should promptly issue a final rule adopting this Proposed Rule with clarifying modifications suggested herein.

THE ASSOCIATIONS' INTERESTS

API is the only national trade association representing all facets of the oil and natural gas industry, which supports more than 11 million U.S. jobs and nearly 8 percent of the U.S. economy. API's approximately 600 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms. They provide most of the nation's energy and are backed by a growing grassroots movement of Americans. Many API members have a keen interest in the Proposed Rule because they currently hold interests in or operate federal onshore oil and natural gas leases throughout the United States.

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 over 1,000 members, 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 9th in annual natural gas production. New Mexico is attracting interest and attention from around the globe, as the Permian Basin undergoes a resurgence of production and investment activity.

The **Petroleum Alliance of Oklahoma** is the largest oil and gas trade association in the Mid-Continent and the only trade association in Oklahoma to represent all sectors of the state's oil and natural gas industry. Representing more than 1,700 individuals and member companies, the Alliance's membership includes oil and natural gas producers, service providers to the oil and natural gas industry, midstream companies, refiners, and other associated businesses. Our members include companies of all sizes, ranging from small, family-owned companies to large, publicly traded corporations. Our members are responsible for 83% of all operated crude oil and natural gas production in Oklahoma. When non-operated production is considered, we estimate our members produce, transport, process, and refine more than 97% of Oklahoma's crude oil and natural gas. Additionally, our members have operations, assets, or interests in most of the United States' oil and natural gas producing regions as well as internationally. Our members develop private, state, and federal minerals and operate on federal lands in Oklahoma and in other states.

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, to major oil and natural gas companies widely recognized as industry leaders responsible for driving technology advancement resulting in environmental and efficiency gains. UPA members operate extensively on federal lands and have a long history of stewardship and conservation.

PAW represents companies involved in all aspects of responsible oil and natural gas development in Wyoming, including upstream production, oilfield services, midstream processing, pipeline transportation and essential work such as legal services, accounting, consulting and more.

GENERAL COMMENTS

Together with their member companies, the Associations are committed to ensuring a strong, viable U.S. oil and natural gas industry capable of meeting the energy needs of our nation in an efficient and environmentally responsible manner. Toward those ends, the Associations support BLM's efforts to promote efficiency and eliminate unnecessary barriers to energy production on America's federal lands. In particular, the Associations generally support BLM's proposed changes implementing the OBBB and RRA, in addition to recent Executive Orders. *See* Pub. L. No. 119-21, 139 Stat. 72 (2025); Pub. L. No. 118-81, 138 Stat. 1520 (2024); 90 Fed. Reg. at 8353; 90 Fed. Reg. 8433 (Jan. 29, 2025); 90 Fed. Reg. 14001 (Mar. 25, 2025). The Proposed Rule is a marked improvement on and appropriately corrects misplaced amendments to BLM's oil and gas leasing regulations adopted in 2024. API herein suggests further amendments for BLM's consideration in its final rule to optimize clarity and utility in implementation.

The Proposed Rule respects the following foundational concepts:

1. BLM must operate within the bounds of its statutorily granted authority.

2. Onshore federal oil and natural gas should remain a viable and attractive investment option with a balanced, predictable, and equitable leasing and lease management process.

3. Stifling regulatory and financial burdens have prevented BLM from issuing and companies from procuring oil and gas leases and have disincentivized investors.

4. Federal agencies like BLM have been bogged down by unnecessarily duplicative processes that waste time and stretch agency resources. Agencies should not waste American taxpayer dollars on ineffective, inefficient processes.

5. The United States is experiencing—and may, for the near future, continue to experience—energy insecurity as a result of global developments and conflicts.

6. Environmental goals and efficient oil and natural gas leasing processes can coexist.

The Associations also refer BLM to, and incorporate by reference, their submitted comments on related regulatory proposals.[1]

Federal onshore oil and natural gas leasing is critical to American energy dominance in the U.S. and globally. The U.S. is a global leader in both energy production[2] and emissions reductions.[3] Oil and natural gas exploration and development on federal lands and waters provide enormous benefits to our nation and its citizens—for our economy, our environment, and our national security. Because of the vital importance of energy production on public lands, overreaching land management regulations place our domestic energy supply at risk. Reduced production on federal lands also harms local communities that depend upon the jobs and revenues generated by lawful energy development.

The U.S. oil and natural gas industry produces and delivers nearly 70% of the energy our country uses. Our nation and the world will continue to need reliable, affordable oil and natural gas energy that will serve as the foundation for broader opportunities for decades to come. Oil and natural gas production on public lands is a crucial part of the nation's program for energy security and economic strength. Likewise, the oil and natural gas industry is essential to supporting a modern standard of living by providing communities with access to affordable, reliable, and cleaner energy. The industry's top priority remains public health and safety, and our member companies have well-established policies in place for proactive community engagement and feedback aimed at fostering a culture of trust, inclusivity, and transparency. In this regard, it is crucial to bear in mind that oil and natural gas development on federal lands promotes investment in rural areas where state and local economies depend on the industry for jobs, continued economic prosperity, and state severance taxes and local taxes generated from these projects.

Just as importantly, the Associations' members support the health and sustainability of public lands and resources. The oil and natural gas industry employs technology and strategies as part of its support for environmental stewardship—taking measures to prioritize protecting public health and the environment, while working to deliver plentiful energy. Measures for the protection of species, habitats, and groundwater are all part of the Associations' members' approach to oil and natural gas development, and projects are designed, managed, and operated to identify and address potential environmental impacts associated with activities ranging from

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[1] *See, e.g.*, API *et al.* Sept. 22, 2023 Comments on BLM's Proposed Rule, Fluid Mineral Leases and Leasing Process, 88 Fed. Reg. 47,562 (July 24, 2023), RIN 1004-AE80, Docket ID: BLM-2023-0005.

[2] According to the Energy Information Administration, the United States is ranked first globally in total energy production from both natural gas and from petroleum and other liquids. U.S. Energy Info. Admin., *Total Energy Production from Natural Gas*, https://www.eia.gov/international/rankings/world?.pa=287&u=2&f=A&v=none&y=01%2F01%2F2021.

[3] According to EPA, "Between 1970 and 2020, the combined emissions of the six common pollutants (PM2.5 and PM10, SO2, NOx, VOCs, CO and Pb) dropped by 78 percent. This progress occurred while U.S. economic indicators remain strong." EPA, *Progress Cleaning the Air and Improving People's Health* (May 1, 2023), https://www.epa.gov/clean-air-act-overview/progress-cleaning-air-and-improving-peoples-health#pollution.

initial exploration to eventual closure. The Associations' members make unparalleled efforts to improve the compatibility of their operations with the environment while responsibly and economically developing energy resources and supplying high quality products and services to consumers. Indeed, across these varied operations, the Associations' members are working continually to reduce impacts to air, water, and land resources, including to protected species and habitats. At the same time, the Associations' members implement and improve innovative practices and technology while continuing to bolster research that looks for new ways to further enhance environmental performance.

In addition, the Associations and their members monitor, compile, and report emissions data per government regulations and on a voluntary basis as appropriate, conduct studies with academic institutions, and work closely with state and federal regulators. This type of collaboration has resulted in improved habitat and species health. For example, modern energy production methods and technologies have resulted in a 70% reduction in surface disturbance when compared to historical practices.[4] The industry also works with many stakeholder groups to understand wildlife migration patterns and routes in areas where operations occur. In particular, oil and natural gas production on BLM lands provides immense value for the nation. BLM manages approximately 245 million acres of surface estate on public lands in the United States (more than any other federal agency).[5] BLM also manages the federal government's onshore subsurface mineral estate (approximately 700 million acres).[6]

The Congressional Research Service ("CRS") recently explained the enormous importance of oil and natural gas production on federal lands to the federal government, the states, local communities, and the nation as a whole.[7] Production of oil and natural gas from onshore federal lands represents almost 10% of total domestic production of crude oil and natural gas. CRS found that total revenues from oil and natural gas leases on onshore federal lands exceeded \$4.2 billion in fiscal year 2019. This substantial return for the taxpayer is comprised of royalty and interest payments, bonuses, rentals, and other sources. In turn, these funds were disbursed to states (more than \$2 billion), the Reclamation Fund (more than \$1.5 billion), and the U.S. Treasury (\$444 million), among other recipients.[8]

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[4] *See* David H. Applegate & Nicholas Owens, *Oil and Gas Impacts on Wyoming's Sagegrouse: Summarizing the Past and Predicting the Foreseeable Future*, 8 HUMAN–WILDLIFE INTERACTIONS 284, 289–90 (2014), https://www.researchgate.net/publication/267765279_Oil_and_Gas_Impacts_on_Wyoming%27s_Sagegrouse_Summarizing_the_Past_and_Predicting_the_Foreseeable_Future.

[5] The White House, *Department of the Interior*, *in* THE BUDGET FOR FISCAL YEAR 2024 (2023), https://www.whitehouse.gov/wp-content/uploads/2023/03/int_fy2024.pdf.

[6] BLM, *About the BLM Oil and Gas Program*, https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/about#:~:text=The%20BLM%20manages%20the%20Federal,benefit%20of%20the%20American%20public.

[7] BRANDON S. TRACY, CONG. RES. SERV., R46537, REVENUES AND DISBURSEMENTS FROM OIL AND NATURAL GAS PRODUCTION ON FEDERAL LANDS (2020), https://crsreports.congress.gov/product/pdf/R/R46537.

[8] *Id.*

More recent data published by the Office of Natural Resources Revenue ("ONRR") shows that, for fiscal year 2025, federal leases generated more than $14.6 billion in revenues (from bonus bids, royalties, rents, and other sources).[9] For fiscal year 2025, ONRR disbursed over $4.0 billion in funds collected from leasing activities on federal lands and waters to 34 states.[10] As stated by CRS, "[f]ederal revenues from oil and natural gas production on federal lands support a range of federal and state programs and activities."

Relevant benefits also extend beyond direct proceeds from BLM onshore oil and gas leases. The Associations refer BLM to and incorporate by reference the attached analysis of "Economic Benefits of Onshore Federal Oil and Natural Gas Leasing."[11] Based on reliable modeling, in fiscal year 2022, onshore federal oil and natural gas development supported nearly 250,000 jobs, generated $19.4 billion in labor income, and contributed $36.7 billion to U.S. Gross Domestic Product ("GDP"). More broadly, between fiscal year 2013 and fiscal year 2022, onshore federal oil and natural gas leasing supported an average of 190,000 jobs, generated $13.4 billion in labor income, and contributed $24.2 billion to GDP each year.

The Proposed Rule preserves and enhances these far-ranging benefits from oil and natural gas leasing on federal lands. It would remedy unjustified and ill-advised constraints and uncertainty on leasing and corresponding production that BLM imposed in 2024. Vague rules and standards create substantial uncertainty, undermine investor confidence, and reduce the value and reliability of partnerships with federal agencies on shared efforts to responsibly operate on and around federal lands and resources. Instead, the Proposed Rule would fulfill enduring directives to BLM for "improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends." E.O. 13563. Reduction of unnecessary costs and burdens generated by the Proposed Rule would help ensure these important resources and benefits remain available to the American people for years to come.

SECTION-BY-SECTION COMMENTS

For ease of reference, the Associations' comments below follow the same organization of sections as in the Proposed Rule. Many of the modifications to sections in the Proposed Rule do not include any substantive changes to BLM's existing regulations. The Associations are not providing any comment on those sections, and generally support those modifications.

The Associations offer comments on certain sections with proposed changes to the Proposed Rule's regulatory text for BLM's consideration in a final rule. For clarity, throughout

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[9] *Interior Announces $14.61 Billion in Fiscal Year 2025 Energy Revenue* (Nov. 24, 2025) [*hereinafter FY 2025 Announcement*], https://www.doi.gov/pressreleases/interior-announces-1461-billion-fiscal-year-2025-energy-revenue.

[10] *Id.*

[11] Economic Benefits of Onshore Federal Oil and Natural Gas Leasing from 2013-2022 September 2023.pdf.

these comments, the Associations provide suggested regulatory text revisions in redline format to facilitate BLM's consideration:

- Recommended language for removal is indicated in ~~strikethrough text~~, except where the Associations recommend deletion of a provision of the Proposed Rule in its entirety.
- Recommended language for addition is indicated in underlined text.

References herein to existing regulatory sections are to title 43 of the Code of Federal Regulations unless specified otherwise.

I. PART 3000

A. § 3000.5 Definitions.

The Associations generally support BLM's proposed changes to the scope and language of this section. These changes appear to be non-substantive and align with the Associations' prior submitted comments to BLM.

The Associations recommend that BLM remove the definition of "Acreage for which expressions of interest ("EOI") have been submitted" rather than move it to § 3100.5. That definition is unnecessary because BLM proposes to also remove § 3120.33, the only substantive regulation in the existing regulations or the Proposed Rule where that term appears. "Acres offered for lease" would be the remaining operative definition in the amended regulations and would not consider whether EOIs have been submitted for that acreage.

BLM also should clarify in any final rule how it would calculate "Acres offered for lease," which would now be defined in § 3100.5. As explained below, consistent with OBBB requirements, proposed § 3120.60 provides that BLM "will hold a replacement sale within 30 calendar days after a competitive auction when 25 percent or greater of the acreage offered does not receive bids." Clarifying the methodology by which BLM calculates total acreage offered and the percentage that receives no bids would ensure proper application of § 3120.60.

B. § 3000.120 Fee schedule for fixed fees.

The Associations generally support BLM's proposed changes to its fixed fee schedule for oil and natural gas processing and filing fees. The fees that BLM adopted in 2024 were inflated unnecessarily; BLM's proposed changes restore reasonableness and proportionality relative to BLM's corresponding administrative effort. We also favor a fixed fee as opposed to fees determined on a case-by-case basis. We agree with BLM's rationale as laid out in the preamble: these changes would introduce efficiencies to the leasing process. Moreover, these changes would appropriately recognize that BLM's costs for complying with the National Environmental Policy Act ("NEPA") do not belong in the leasing application fee. Nothing in NEPA prohibits an applicant from preparing or assisting with the preparation of any BLM NEPA document, which would reduce BLM's costs. We additionally support removal of the filing fee for renewal exploration permits in Alaska for BLM's stated reasons.

BLM should, however, make other revisions to a final rule. In subsection (a), BLM asserts authority to adjust the fixed fees annually "according to the change in the Implicit Price Deflator for Gross Domestic Product." This automatic inflation provision is contrary to the requirements for establishing these fees and should be removed. As BLM explains in the preamble, establishing these fees is a multi-factor process taking into account BLM's actual costs and other factors such as the monetary value of the right or privilege, the monetary value to the applicant, the efficiency factor, the public benefit factor, and the public service factor. BLM nowhere identifies BLM authority to assume that any or all of these factors would justify an automatic annual adjustment based solely on inflation. Instead, to adjust a fixed fee, BLM must re-apply all of the factors, make a new determination as to whether the fee warrants an adjustment, and similarly codify that determination via rulemaking.

In addition, BLM still intends to publish fixed fee adjustments on BLM's website and announce adjustments annually in the Federal Register. Because the fixed fees initially would be set by regulation, BLM must correspondingly amend any fixed fee through a regulatory change for it to have legal effect. BLM should adopt any fixed fee adjustments through *notice and comment* rulemaking because the public should have the opportunity to address BLM's application of the above-described factors in adjusting any fixed fee. Therefore, BLM should modify § 3000.120(a) as follows: .

Recommended Revision:

> (a) The table in this section lists the services that require payment of fixed fees to the BLM. ~~The fixed fee amounts are posted on the BLM website (https:// www.blm.gov) and published in a Federal Register notice.~~ These fees are nonrefundable and must be included with documents filed under this chapter. BLM may adjust these fees periodically by final rule with the opportunity for notice and comment, and adjusted f~~F~~ees will ~~be adjusted annually according to the change in the Implicit Price Deflator for Gross Domestic Product since the previous adjustment and will subsequently~~ be posted on the BLM website (https://www.blm.gov) ~~and announced annually in the Federal Register~~ before October 1 each year. Revised fees are effective each year on October 1.

For consistency and the convenience of the regulated community, BLM also should publish the updated fixed fees annually on its website.

II. SUBPART 3100

BLM proposes revising this part's authority citation to remove reference to the Federal Land Policy and Management Act of 1976 ("FLPMA"). Executive Order 14270, "Zero-Based Regulatory Budgeting To Unleash American Energy," directs "certain agencies," including BLM, to "incorporate a sunset provision into their regulations governing energy production to the extent permitted by law." 90 Fed. Reg. 15,643 (Apr. 9, 2025). For BLM, that Executive Order applies to regulations issued pursuant to FLPMA, but not the Mineral Leasing Act

("MLA"). In the preamble of the Proposed Rule, BLM proffers that, though BLM's regulations reference FLPMA, "these regulations are primarily established under the MLA and its authority." Thus, BLM proposes removing references to FLPMA in its authority citations in this subpart to properly avoid application of the sunset provisions under E.O. 14270. BLM proposes to similarly remove references to FLPMA as authority elsewhere in its regulations, including subparts 3120, 3134, 3140, 3152, and 3165.

The Associations agree with BLM that its oil and gas leasing regulations should not be subject to a sunset date under E.O. 14270. That includes the entirety of the Proposed Rule. Such sunsetting would needlessly inject substantial uncertainty for industry, BLM, and the public alike, and would disrupt long-term planning necessary for efficient and productive development of domestic oil and natural gas on federal lands. However, API cautions against BLM's sole reliance on the MLA as authority for Part 3100. BLM's prior rulemakings for oil and natural gas leasing relied on FLPMA. And as the Proposed Rule notes, other BLM provisions applicable to oil and gas leasing reference FLPMA. For example, 43 C.F.R. § 3100.5 defines "[a]vailable" as, in part, "those lands that have been designated as open for leasing under a land use plan developed under section 202 of the Federal Land Policy and Management Act of 1976 …." FLPMA thus offers further support for the Proposed Rule, and BLM might consider retaining FLPMA in its authority citations.

Most importantly, omitting a reference to FLPMA is unnecessary to avoid application of E.O. 14270. It also provides that "[t]he OMB Director may exempt a new regulation or amendment from the requirements of this paragraph if he determines that the new regulation or amendment has a net deregulatory effect." Exec. Order No. 14,270, 90 Fed. Reg. 15,643, 15,645 (Apr. 9, 2025). Since this Proposed Rule would have a "net deregulatory effect," BLM when submitting its final rule to OMB could request that OMB utilize this provision of the Executive Order to avoid any sunsetting for purposes of this rulemaking.

A. § 3100.5 Definitions.

The Associations refer BLM to the above comments under § 3000.5.

B. §§ 3100.31, 3100.32, 3100.33 Options.

BLM proposes removing all mention of option agreements from its regulations because industry has never filed options with the BLM. In the preamble, BLM notes that it "cannot prohibit options and would continue to accept option agreements for inclusion in the lease file for a lease with the understanding that BLM's acceptance of an option does not mean it is approved or valid." Based on that understanding, we do not oppose BLM's proposal to remove these three regulatory sections, but request that BLM elsewhere in its oil and natural gas leasing regulations codify its preamble statement that BLM would remain amenable to option agreements as warranted going forward.

III. SUBPART 3101

A. § 3101.12 Surface use rights.

In this section, BLM proposes to revert siting distance and timing limitations for surface disturbance operations to pre-2024 levels that had persisted for over three decades: 200 meters and 60 days. The Associations support these changes and agree with BLM's assessment in the preamble that the levels adopted in 2024 unnecessarily burden operators and improperly limit the exercise of lease rights. As BLM notes, operators should not have to endure siting measures that stretch "halfway across an average-sized lease" and timing of surface distribution operations that "limit a lessee to only being able to develop its lease for 3 months out of each year."

The Associations, however, are concerned by other statements in the Proposed Rule's preamble that could be construed as reserving open-ended authority to restrict or relocate lease activities, particularly after-the-fact via conditions of approval ("COAs") for applications for permits to drill ("APDs") on issued leases. For example, the preamble avers that the Interior Board of Land Appeals "has upheld the BLM's authority to move operations and confirmed that the siting and timing parameters in the regulations are only minimums." Similarly, while the OBBB only allows BLM to impose stipulations or mitigation requirements in a lease that are included in the Resource Management Plan ("RMP") governing the lands, the preamble asserts that BLM interprets that restriction to not apply to COAs for APDs, and that BLM "retains its authority" to include site-specific COAs "to address operational specifics and site-specific concerns."

The Associations disagree with BLM's stretched interpretation of the OBBB and other applicable law. It is well-established that the issuance of a federal onshore oil and gas lease entitles the lessee to develop its lease subject to only limited, reasonable restrictions. *Conner v. Burford,* 848 F.2d 1441 (9th Cir. 1988). That is, consistent with the MLA, BLM cannot wholly prevent lessees from engaging in all surface-disturbing activities necessary for mineral development, except where the lease it issues states otherwise, principally in a no-surface-occupancy provision. Consistently, courts typically find that onshore federal leasing is the point that results in an irretrievable commitment of resources for oil and gas development, effectively eliminating the no action alternative and generally requiring more detailed environmental review prior to lease issuance onshore compared to earlier stages onshore or leasing offshore.[12] The

[12] *See, e.g., id.* at 1451; *New Mexico ex rel. Richardson v. Bureau of Land Mgmt.*, 565 F.3d 683, 718 (10th Cir. 2009) (lessee "cannot be prohibited from surface use of the leased parcel once its [non-no surface occupancy ("NSO")] lease is final"); *see also Pennaco Energy, Inc. v. U.S. Dep't of the Interior*, 377 F.3d 1147, 1160 (10th Cir. 2004) (the lease provided lessees with certain rights and did not give the federal government the authority to deny drilling activity); *Sierra Club v. Peterson*, 717 F.2d 1409, 1412, 1415 (D.C. Cir. 1983) (BLM must either prepare an Environmental Impact Statement before leasing or "retain the authority to preclude surface disturbing activities until an appropriate environmental analysis is completed"); *Ctr. for Biological Diversity v. BLM*, 937 F. Supp. 2d 1140, 1153 (N.D. Cal. 2013) (non-NSO leases required environmental analysis prior to issuance even though they contained provisions allowing BLM to deny all surface disturbing activities if threatened or endangered species are found); Bureau of Land Mgmt., U.S. Dep't of the Interior, BLM Manual H-1624-1 Planning for Fluid Mineral Resources, at I-2 (1990), https://www.blm.gov/sites/blm.gov/files/uploads/Media_Library_BLM_Policy_Handbook_H_1624_1.pdf ("By law, these impacts must be analyzed before the agency makes an irreversible

BLM standard lease form also does not subordinate the oil and gas lessee's rights to any subsequently issued right for other uses or users; rather, it does the opposite. *See* BLM Form 3100-11 (March 2023) ¶ 6 ("Lessor reserves the right to continue existing uses and to authorize future uses upon or in the leased lands, including the approval of easements or rights-of-way. Such uses must be conditioned so as to prevent unnecessary or unreasonable interference with rights of lessee.").

While certain COAs at the APD stage may be appropriate in some circumstances, COAs should not become a ubiquitous tool to impose what are effectively new lease stipulations after a lease is issued. Nor should BLM take an overly expansive view of an RMP's terms, or its silence, or broadly reinterpret "RMP objectives," to impose new stipulations or mitigation measures that unduly constrain operations on an issued lease. Unduly impeding on-lease surface use impermissibly deprives a lessee of a vested right to develop its minerals, potentially constituting a taking of a lessee's property right or a material breach of contract, and potentially subjecting the United States to substantial contract damages or payment of just compensation.[13]

To avoid these legal and operational risks, and to instead preserve lease rights and enable energy dominance, BLM should instead adhere strictly to applicable law, including the OBBB. The Associations recommend that BLM remove the phrase "At a minimum" in the final sentence of proposed § 3101.12, and also consider removing the preceding sentence (beginning with "Such reasonable mitigation measures may include, but are not limited to,…"). BLM also should not deem its enumerated distance and timing restrictions as "minimums," when the regulatory text "up to" expressly envisions smaller distance and timing restrictions. In the regulatory text or at least in the preamble of a final rule, BLM should more clearly explain the circumstances under which it may pursue more restrictive COAs and how BLM will ensure those COAs remain within RMP bounds. In doing so, before imposing greater restrictions, BLM should expressly recognize the need for supporting data or other scientific justification; the geology, topography, and surface owner requirements (including wildlife, cultural, wetland, and similar issues) that inform well placement; and lessee or BLM rights to encroach on off-lease properties, particularly those that may be held by different entities. Any BLM directive to move a well location must not result in a loss of maximum efficient recovery of oil or natural gas; add significant costs; or materially change access routes, surface disturbance, or availability of utilities or infrastructure compared to a lessee's chosen surface location. BLM regulations also should not support waste of oil and gas resources, nor should they provide a basis for BLM to contravene the lease contract. Adding these clarifying points and assurances would enhance certainty for operators necessary to justify substantial investments in oil and natural gas development on BLM-managed lands.

B. §§ 3101.21 through 3101.25 Acreage Limitations.

BLM proposes moving these sections to subpart 3102 because acreage limitations impact both lease issuance and the acquisition of lease interests via assignments, transfers, and mergers.

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commitment. In the fluid minerals program, this commitment occurs at the point of lease issuance.").

[13] *See Mobil Oil Prod. Southeast, Inc. v. U.S.*, 530 U.S. 604 (2000); *Amber Res. Co. v. U.S.*, 68 Fed. Cl. 535 (2005).

The Associations support this non-substantive change, but note that these existing provisions already regulate the acreage that a person may "hold, own, or control" by any means, not only via initial lease issuance.

C. § 3101.52 Action by the Bureau of Land Management.

Section 50101(d)(1) of the OBBB amended the MLA and requires that leases issued under the MLA "be subject to the terms and conditions of the approved resource management plan." The Secretary "may not require any stipulations or mitigation requirements not included in the approved resource management plan." Accordingly, BLM proposes eliminating language from existing § 3101.52(a) allowing BLM's authorized officer to add stipulations outside the scope of the RMP. The Associations support this change, which comports with existing law. As noted above regarding proposed § 3101.12, BLM also should ensure that it follows the same limited approach after lease issuance.

BLM states in the preamble, however, that it is interpreting the OBBB's restriction on imposing stipulations and mitigation measures beyond the RMP to only apply to "lands managed by the BLM or private surface," and not to parcels managed by other federal surface management agencies like the U.S. Forest Service ("USFS") or the Department of War ("DoW"). BLM states that it "will continue to apply relevant stipulations specified by those agencies." This appears to be an overstatement of other agencies' authority to limit or veto acreage for federal oil and natural gas lease sales. While § 3101.52(b) (unchanged by the Proposed Rule) recognizes that consent by another agency is necessary only where "consent or concurrence is required by law," BLM in its final rule should consider associated regulatory changes to clarify this point and strictly adhere to OBBB and legal requirements. These changes would be consistent with and a logical outgrowth of the Proposed Rule.

First, BLM should not endorse improperly broad consent authority of surface managing agencies for public domain lands. While Section 352 of the Mineral Leasing Act for Acquired Lands ("MLAAL"), 30 U.S.C. § 352, allows for consent conditions in certain instances for oil and gas leases on acquired lands—providing that "[n]o mineral deposit covered by this section shall be leased except with the consent of the head of the executive department, independent establishment, or instrumentality having jurisdiction over the lands containing such deposit … and subject to such conditions … to insure the adequate utilization of the lands for the primary purposes for which they have been acquired or are being administered"—there is no such general statutory consent provision for oil and natural gas leasing on public domain lands other than national forests (*see* 30 U.S.C. § 226(f)). Existing § 3101.52(c) differentiates between "recommendations" and "consent" of a surface managing agency. Former § 3101.7-1(b) (replaced in 2024) likewise made clear that a consultation or recommendation role does not equate to an absolute consent role. BLM does not have the authority to delegate to another federal agency the Secretary's authority to decide which public domain lands should be offered for lease.

Second, BLM should not continue to endorse broad consent authority for other bureaus of the Department of the Interior. The Proposed Rule's retention of the definition of "surface managing agency" in § 3000.5 that was adopted in 2024, as well as of § 3101.51 and other provisions of § 3101.52, could be read to enable other Interior agencies (like the U.S. Fish &

Wildlife Service) to prevent leasing of acquired lands even though they are not an "executive department" under the MLAAL. The overly broad definition of surface managing agency also could be read to convey such consent authority for public domain lands under the MLA, even if BLM or the Secretary (the head of the executive department) desired to lease those parcels. BLM therefore should re-institute the longstanding definition of surface managing agency in § 3000.0-5 of the pre-2024 regulations.

Because the Proposed Rule likely did not (and cannot) intend to create such expansive consent authority for other agencies, and to ensure consistency throughout BLM's oil and natural gas leasing regulations, the Associations recommend that BLM's final rule make the following conforming regulatory changes, and also include clarifying preamble text consistent with the Associations' comments herein.

Recommended Revisions:

§ 3000.5 Definitions

…

Surface managing agency means any Federal agency~~, other than the BLM,~~ outside of the Department of the Interior having management responsibility for the surface resources that overlay federally owned minerals.

…

§ 3101.51 General Requirements.

~~Public domain and a~~Acquired lands will be leased only with the consent of the surface managing agency~~,~~. ~~which,~~ BLM will require the consent of the surface managing agency for public domain lands only if there is a statutory requirement for such consent. ~~u~~Upon the surface managing agency's receipt of a description of the lands from the authorized officer, it will report to the authorized officer that it consents to leasing with stipulations, if any, or withholds consent or objects to leasing.

§ 3101.52 Action by the Bureau of Land Management.

(a) Where the surface managing agency on acquired lands, or for other lands for which the surface managing agency has statutory authority to consent to leasing, has consented to leasing with required stipulations, and the Secretary decides to issue a lease, the authorized officer will incorporate the stipulations into any lease which it may issue.

IV. SUBPART 3102

A. § 3102.20 Non-US citizens.

In this section, BLM clarifies that citizens of countries denying comparable mineral leasing privileges to U.S. citizens or corporations "may not hold interest in a federal lease." The Associations generally support equitable treatment of U.S. interests abroad. Consistent with the future effective date of any final rule, the Associations request that BLM clarify the inapplicability of this provision to existing lease interest holders.

V. SUBPART 3103

A. § 3103.11 Form of remittance.

E.O. 14247 directs agencies to eliminate antiquated payment methods and transition to electronic means. To that end, BLM proposes removing references to personal checks, cashier's checks, and money orders and adding the phrase "or other digital payment options" when describing forms of remittance for fees, rentals, and royalty. The Associations generally support this change, but note that individualized circumstances may require flexibility on a case-by-case basis. While BLM recognizes this in the preamble—noting that it "would allow alternative payment options from an individual or entity if they request and qualify for an exception from submitting an electronic payment on a case-by-case basis"—the Proposed Rule's regulatory text includes no such exception. The final rule's regulatory text thus should reflect this alternative case-by-case option, at least in general terms, and potentially add what alternative payment options would be accepted, the process for submitting a request, its timing, and who would qualify.

VI. SUBPART 3104

A. **§ 3104.1 Bond amounts.**

The Associations generally support BLM's proposal to reduce the excessive 15-to-20 fold increases in the minimum amounts for individual lease bonds and statewide bonds adopted in 2024. The Associations support the principle that existing lease interest owners and their operators should be responsible for fulfilling all lease obligations, including decommissioning. This is a burden that should not be placed on the American taxpayer or predecessor interest owners that may have assigned away their lease interest years, or even decades, ago. Yet, the Proposed Rule justifiably would pare back the increases in 2024 that were excessive, unduly tied up valuable capital, and threatened the vitality of ongoing and planned operations, particularly for smaller operators. And BLM still retains authority and mechanisms to address heightened risks on a case-by-case basis as appropriate. As BLM notes in the preamble, adequacy reviews under Instruction Memorandum 2024–014, Oil and Gas Bonds Adequacy Reviews, and BLM regulations at 43 C.F.R. § 3104.50, enable BLM to account for changing risks by increasing bond amounts and "barr[ing] lessees who fail to provide increased bond amounts from obtaining additional oil and gas leases."

The Associations disagree with BLM's general preamble statement that "reducing the minimum bonding amounts could delay reclamation of orphaned wells by an estimated 1,440 to 2,400 days annually, leading to nonmonetized environmental costs such as postponed improvements in soil stability, water quality, and habitat recovery." BLM provides inadequate justification or evidence for any blanket conclusion that reduced bond amounts would lead to delayed reclamation. In fact, unplugged wells account for a very small percentage of total wells on BLM-managed lands, and are being actively remediated, consistent with data compiled by the Government Accountability Office. Moreover, the minimum bond amounts should be more in line with the average cost of plugging orphan wells than the excessive 2024 amounts. *See, e.g.*, Interstate Oil & Gas Compact Commission Report (2024).

In the preamble, BLM also posits that lessees bonded under the increased regulatory minimums adopted in 2024 would be able to request a decrease from BLM after a new rule takes effect. The Associations instead submit that any newly-adopted minimum bonding levels should instead apply immediately to leases subject to the elevated bonding levels adopted in 2024. An automatic decrease will allow BLM to act efficiently instead of tying up lessees' valuable capital while BLM sorts through applications. BLM thereby can focus on case-by-case bond adequacy reviews where an increase may be warranted.

In addition, BLM should consider the existence of parallel non-federal bonding requirements and take the opportunity to clarify the relationship with federal bonding. Duplicate or even triplicate bonding obligations can yield the same, or exacerbated, negative effects on oil and natural gas production as BLM's own ill-conceived increased bonding requirements.

Furthermore, in response to BLM's request for comment on whether to reestablish both nationwide and unit operator bonds, the Associations support BLM doing so in the final rule. As BLM correctly notes in the preamble, and consistent with the Associations' prior submitted comments to BLM, these bonds "streamline financial assurance requirements for operators." Nationwide bonds provide lessees and operators a financial tool to mitigate bonding costs by spreading them out over a larger universe of leases. Nationwide bonds promote efficiencies by allowing BLM the ability to cover de minimis acreage positions across multiple states. Further, nationwide bonds favorably reduce overall risk by spreading it over a larger geographical area. Restoration of the pre-2024 regulations' nationwide bonds, and approximation of unit operator bonds to statewide bonds, is more reasonable than their wholesale elimination.

VII. SUBPART 3105

A. § 3105.1 Reporting and payment for production.

BLM proposes adding this new section to implement Section 2 of the RRA, which amended the Federal Oil and Gas Royalty Management Act of 1982 ("FOGRMA"), 30 U.S.C. § 1721(j), to facilitate reporting and payment of royalties on oil and gas production pending BLM's approval of a proposed unit or communitization agreement ("CA"). Pursuant to the RRA amendment and the Proposed Rule, lessees are able to report and pay royalties to ONRR using the terms of the allocation in the proposed agreement pending BLM's review. The Associations support the RRA and corresponding updates to BLM's regulations to ensure consistency in the RRA's application. To that end, however, the Associations urge BLM to revise this section in the final rule to adhere to the RRA's text.

As written, the Proposed Rule omits certain key requirements in the RRA. The RRA provides that the Secretary will issue a determination of allocations of production for a unit or CA within 120 days of a request for determination. Once the determination is issued, the lessee or its designee must "correct such reports and the amount of royalties paid on oil and gas production under the unit or communization agreement" within three months. Moreover, any interest on obligations subject to the determination is waived if corrections are made within that timeframe. These provisions should be reflected in the regulatory text of the final rule.

Meanwhile, proposed paragraph (b) of this section appears to go beyond the RRA. In subsection (b)(1), BLM would require applicants to "provide a list of wells with existing production that would contribute production to the area to be included in the proposed agreement." Subsection (b)(2) would require applicants to submit a "completion report for all wells that would contribute production to the area" in the proposed agreement. BLM should eliminate these requirements that impose additional burdens on lessees not required by the RRA and that duplicate other reporting requirements. First, all requests for BLM's approval of a proposed unit or CA, and for approval of determinations of allocations of production for a unit or CA, include a full description of the leases, whether federal or non-federal, to which production will be allocated and the proportions of agreement production to be so allocated. Second, any well penetrating a federal lease will have been issued an APD, and BLM will be in possession of all records associated with the drilling of those wells, including well completion reports. Finally, if a well on non-federal lands is the basis of the request for approval to BLM, information regarding that well will be included with the request for approval.

At minimum, BLM should more fully explain its perceived need for these additional submissions and why they would not impose undue burdens on operators contrary to the letter and spirit of the RRA.

VIII. SUBPART 3106

A. § 3106.20 Qualifications of assignees and transferees.

This section relates to ensuring that persons who receive transfers of record title or operating rights in federal oil and natural gas leases meet the requirements to hold federal lease interests. BLM proposes to clean up this section by eliminating repetitive and unnecessary language—"and post any bond that may be required" and "only responsible and qualified lessees may own, hold, or control an interest in a lease"—already covered under 43 C.F.R. subpart 3102, subpart 3104, and § 3106.71. The Associations agree with this cleanup proposal. For further simplicity, BLM should consider eliminating confusing cross-references and including all qualifications in a single section of its oil and gas leasing regulations.

IX. SUBPART 3107

A. § 3107.10 Extension by drilling.

This section relates to extension of lease terms by actual drilling operations. Among its proposed changes to this section, BLM would amend paragraph (b) by replacing the phrase "a reasonable person seriously looking for oil or gas" with "a prudent operator" because it is "the more commonly understood legal standard" for conducting actual drilling operations. While the Associations agree that a prudent operator standard is a term more commonly utilized by industry and BLM, BLM should confirm that this amendment would not reflect a substantive change from existing practice, and specifically would not increase drilling requirements for lessees. If BLM does intend a substantive change, then BLM at minimum must explain that changed standard and specifically what factors BLM would employ thereunder.

BLM also proposes to amend this section by eliminating the model forms located in subpart 3186. The Associations direct BLM to the comments below under subpart 3186.

B. § 3107.52 Undeveloped parts of leases in their extended term.

BLM proposes to eliminate this section because it only applies to leases issued before September 2, 1960, and BLM is unaware of nonproducing extant leases that old. The Associations also have no knowledge of such leases, and we accordingly support this change.

X. PART 3110

BLM in 2024 removed noncompetitive leasing provisions from its regulations. In these new proposed sections, BLM reintroduces noncompetitive leasing, consistent with Section 50101(a)(2) of the OBBB and revocation of the Inflation Reduction Act ("IRA") provisions that had ended noncompetitive leasing. BLM proposes to craft new noncompetitive leasing provisions rather than reinstate prior such regulations due to an additional OBBB limitation—Section 50101(c)(3)(B) of the OBBB requires BLM to hold replacement sales for competitive lease sales that do not sell 25 percent or more of the acreage offered, delaying a prospective lessee ability to submit a noncompetitive lease application. BLM also proposes that the parcel description in the noncompetitive lease application "must exactly match the parcel land description of a parcel that was offered in the competitive auction." As further discussed below, the Associations support BLM's reintroduction of regulations on noncompetitive leasing, but request that BLM consider providing more specificity and workability in its final rule to afford more certainty to potential lessees.

A. § 3110.1 Lands accessible for noncompetitive leasing.

BLM proposes that "lands accessible for noncompetitive leasing" would be those lands offered competitively but that received no bid. These lands would become accessible on the first business day following the last day of a competitive or replacement auction, whichever is later. They would be accessible for a period of two years. To reduce uncertainty and ensure a smooth process, BLM's final rule should specify how exactly this process will take place.

Because of the new OBBB requirements, BLM should specify when prospective noncompetitive bidders will know whether BLM received bids sufficient to meet OBBB requirements. As noted above, Section 50101(c)(3)(B) of the OBBB requires BLM to hold replacement sales for competitive lease sales that do not sell 25 percent or more of the acreage offered. However, the Proposed Rule does not specify when or how prospective noncompetitive bidders will know whether BLM received bids for 75 percent or more of the acreage offered. If noncompetitive bids are submitted the next day after the initial competitive sale, but BLM later rejects them because there will be a replacement auction due to insufficient competitive sales, those submitters may experience confusion and competitive disadvantage. BLM should avoid such situations by detailing the process for submitting noncompetitive bids in these circumstances.

Furthermore, BLM should specify how it will calculate whether it has received bids for 75 percent or more of the acreage competitively offered. Will BLM add the competitive lease sale and replacement sales together to meet the 75 percent threshold (e.g. 50 percent of tracts bid on at competitive sale, plus 25 percent or more bid on at replacement sale), or must the replacement sale alone meet the 75 percent threshold?

B. § 3110.2 Application requirements.

BLM proposes application requirements for noncompetitive leases. The Associations generally support these proposed provisions with one exception. As noted above, proposed subsection (a)(5) provides that the description of the parcel of interest "must exactly match the parcel land description of a parcel that was offered in the competitive auction." BLM should eliminate this precision requirement, which is unnecessarily restrictive; it could prevent applicants from bidding on a portion of a parcel and prevent parcels from being reconfigured to facilitate leasing, thereby needlessly blocking certain parcels from oil and gas development.

C. § 3110.3 Priority.

BLM proposes a process for how noncompetitive lease applications receive priority. Consistent with 43 C.F.R. § 1821.11, BLM would consider applications based on the date and time of filing. BLM would consider applications submitted on the first business day post-competitive or replacement sale as "simultaneously filed." If "simultaneously filed," BLM would then, consistent with 43 C.F.R. § 1822.18, select a single application, and if that application does not yield issuance of a lease, offer it to the next qualified applicant.

The Associations generally support this proposed section, with one further clarification. Proposed subsection (c) provides that, if a correction is made to a noncompetitive lease application (whether elected by the applicant or necessitated by the authorized officer), "priority will be determined as of the date the application has been corrected and is complete." BLM should modify the regulations to clarify that elective or necessary corrections affecting priority only include substantive changes, not simple mistakes like typographical errors or formatting issues.

D. § 3110.4 Action on an application.

BLM proposes to identify the actions it may take on noncompetitive leasing applications. BLM specifies that it would not issue any noncompetitive lease until it takes final action on a prior application. To accept and issue the noncompetitive lease application, the BLM authorized officer must sign the lease form and deliver a copy to the applicant. BLM would reject applications not properly filed, applications for lands not offered in a competitive sale, and lands leased competitively.

The Associations generally agree with these provisions. However, BLM should clearly and specifically state the reasons for rejecting a noncompetitive lease application under proposed subsections (d) or (e). Also, subsection (c) provides that applications made using old lease forms may be allowed, but the applicant would be bound by the terms and conditions on the current form. For this subsection, the Associations direct BLM to the comments on Subpart 3186 below.

E. § 3110.5 Noncompetitive lease terms.

BLM proposes standard terms for noncompetitive leases. BLM would issue noncompetitive leases for a 10-year primary term, and the lease would become effective on the first day of the month following the issuance date. Upon written request before signature of the lease by the authorized officer, the effective date could be earlier—the first day of the month of issuance. Consistent with § 3120.72, "[n]oncompetitive future interest leases …will be effective as of the date the mineral interests vest in the United States." The Associations note that these terms appear to mirror those for competitive leases and thus take no issue with the proposed text.

F. § 3110.6 Reversionary noncompetitive leases.

BLM proposes an avenue for private lease holders on certain lands to continue on a noncompetitive lease where the United States has a vested future interest in the mineral estate to which the private lease was subject. The Associations support this effort by BLM to ensure no "gap" in leasing of these lands that could impede oil and gas production. However, BLM should incorporate in this section the complete MLA eligibility criteria at 30 U.S.C. § 226(b)(3)(A).

XI. PART 3120

A. § 3120.11 Lands offered for competitive leasing.

The Associations generally support BLM's proposed clarifying changes in this section to streamline processes and clean up unnecessary regulatory language. Among other revisions, BLM proposes changing the title of the section to "Lands offered for competitive leasing" rather than "Lands available for competitive leasing" and removing the phrase "eligible and available" from the opening sentence. As BLM explains in the preamble, this change will "clarify that the list of lands described in this section are not automatically available for leasing." BLM also removes references to options, since the Proposed Rule would eliminate options. On this point, the Associations direct BLM to the comments above under §§ 3100.31 through 3100.33. BLM also proposes removing subsection (g), which listed "[l]ands that were offered on a previous sale for which no bid was accepted or received."

The Associations support this change, which reflects the reintroduction of noncompetitive leasing and proposed incorporation of replacement sales in § 3120.60. On these points, the Associations also direct BLM to the comments above under part 3110 and below under § 3120.60. Generally, these changes promote efficiency by enabling leasing of unsold parcels without waiting for BLM to make lands available under competitive sales. In its final rule, BLM should ensure that such changes remain faithful to the precise governing statutory text.

B. § 3120.31 Expression of interest process.

BLM proposes streamlining the expression of interest (EOI) process by removing requirements that the submitter "identify the United States mineral ownership by percentage" for fractional interest lands and identify the private surface owner's name and address for split estate lands. The Associations support BLM's effort to eliminate undue burdens and streamline processes consistent with the OBBB and Executive Orders. The Associations also support BLM's efforts to limit regulatory requirements to the actual text of the MLA. As BLM correctly notes in the preamble, the MLA "does not require the BLM to notify the private surface owners when the BLM plans to offer Federal oil and gas interests underlying their land."

In its final rule, BLM should resolve a potential disconnect with its preamble text that could be read to suggest that lessees must identify the percentage of federal fractional interest and submit title documentation to obtain expedited processing. The Proposed Rule's preamble states that BLM "nevertheless encourages" submitters to provide this information so that BLM can move "more quickly" and "reduc[e] the time BLM would otherwise have to spend." Such submissions are not truly "voluntary" if the consequence of non-submission is undue delay.

C. § 3120.32 Expression of interest leasing preference.

BLM proposes to remove this section in its entirety. The Associations strongly agree with BLM's proposed revision. While BLM's stated reasons, including ensuring timely compliance with the OBBB's 18-month EOI deadline, provide sound justification for removing this section, there are other meritorious reasons for doing so as well.

As the Associations previously commented to BLM, this section's novel preference criteria adopted in 2024 were subjective and ill-defined, and comprised one of the most problematic aspects of that prior rulemaking. BLM never explained why the preference criteria were needed in the first place. Existing laws such as FLPMA, the Clean Water Act, the Endangered Species Act, and the National Historic Preservation Act already balance multiple uses, protect water bodies and species on BLM lands, and work to preserve cultural resources. The MLA does not—and has never—vested BLM with jurisdiction to achieve the same ends as these other statutes. Moreover, the section appeared to grant BLM unbridled discretion, specifying that enumerated criteria were "minimum" considerations. It effectively enabled BLM to wield any criteria to reduce federal oil and natural gas leasing—whether or not those criteria were expressly adopted in a final rule. Vague rules and standards create substantial uncertainty, undermine investor confidence, and reduce the value and reliability of partnerships with federal agencies on shared efforts to responsibly operate on and around federal lands and resources. Retaining these criteria would directly contradict Congress' and the Executive Branch's stated goals for regulatory certainty to support energy development on federal lands. BLM is correct to reexamine these provisions now and reach a different and more justified conclusion to remove them.

The Associations and their member companies support these proposed changes because they share the same commitment as BLM to environmental and community values. Our industry strives to ensure safe and responsible operations, respecting the communities and the environment where the industry operates. As the preamble points out, impacts are greatly reduced with today's well drilling and completion technology. Lessees may now elect where practicable (as opposed to where being compelled by BLM) to horizontally drill well laterals from many miles away while avoiding impacts to any sensitive resources located on a BLM lease. Lessees also operate pursuant to well-developed state programs that demonstrate oil and natural gas development's successful coexistence with wildlife conservation. Furthermore, Operators may choose to undertake their own mitigation efforts to address local concerns. Yet the preference criteria adopted in 2024 enable BLM to prejudge how operations on a tract would be conducted to determine whether to exclude the lands entirely from leasing. Overall, these preference criteria are vague, duplicative of other statutes, and preemptive. Accordingly, the Associations support BLM's efforts to eliminate these preference criteria.

D. § 3120.42 Posting timeframes.

BLM proposes eliminating existing subsections (a) and (b) of this section, which provide for a 30-day scoping period on the preliminary parcel list for an upcoming lease sale and 30-day comment period on the NEPA document for a lease sale. BLM also proposes reducing the Notice of Competitive Lease Sale from 60 to 45 calendar days and the protest period from 30 to 10 calendar days.

Generally, the Associations support efforts to introduce efficiency and remove redundancy. These proposed changes would not eliminate NEPA review, land-use planning participation, or the protest process. We agree with BLM that preexisting scoping and comment periods are not required by the MLA, NEPA, or any other law. Moreover, as BLM notes, they are redundant. BLM conducts its own environmental reviews, which already include opportunities for public comment. BLM in its final rule should also specify that other justifications exist for removing these barriers, such as differing congressional and Executive Branch policies such as those reflected in the OBBB and recent Executive Orders driving American energy dominance and fulfillment of ever-increasing energy demand. BLM's drawing of manageable lines in the Proposed Rule tracks with other NEPA streamlining occurring administratively and judicially, including the rescission of the Council on Environmental Quality's regulations and much of the Department of the Interior's NEPA regulations, which properly recognize that NEPA should not reach beyond its reasonable procedural bounds. *See* 91 Fed. Reg. 8738 (Feb. 24, 2026); 91 Fed. Reg. 618 (January 8, 2026); *Seven County Infrastructure Coalition v. Eagle County*, 605 U.S. 168 (2025).

In addition, BLM proposes adding a new subsection (d) providing that, if BLM decides not to hold a scheduled quarterly lease sale, BLM will post public notice. BLM does not specify where such notice would appear. The preamble, however, suggests the National Fluids Lease Sale System, state-office web pages, or public rooms as possibilities. BLM should make clear where such notices ultimately will be posted. Also in the preamble, BLM notes that it "would hold replacements [sic] sales, as provided in proposed § 3120.60, when a regularly scheduled sale is canceled, delayed, or deferred, including for a lack of eligible parcels." Section 3120.60, however, does not include any mention of cancellation, delay, deferral, or lack of eligible parcels. It instead addresses the situation where "25 percent or greater of the acreage offered does not receive bids." BLM should ensure that its statement in the preamble about holding replacement sales appears in the text of a final rule. BLM should also ensure that it is complying with its legal obligation to hold rather than cancel quarterly lease sales.

E. § 3120.60 Parcels not bid on at auction.

BLM proposes changes to this section to implement OBBB requirements. BLM proposes holding a replacement sale within 30 days of a competitive auction where 25 percent or greater of the acreage offered does not receive bids. Those lands would then become accessible for noncompetitive leasing for two years after the later of the original or replacement sale, consistent with new part 3110. The Associations support these proposed changes and understand the proposed replacement sale timeframes to comply with and enable a faster timeframe than the "same fiscal year" provision of the OBBB. The Associations also direct BLM to the comments above under § 3120.42.

F. § 3120.73 Compensatory royalty agreements.

In this section addressing drainage of unleased federal minerals included in a producing unit or CA, BLM proposes to add a final sentence: "The BLM may use such agreements until the BLM issues a competitive lease for unleased lands included in a compensatory royalty agreement" ("CRA"). In the preamble, BLM states that any CRA would automatically terminate upon issuance of a federal lease. The preamble further states that the CRA "would enable ONRR to establish a revenue account for earned royalty payments with a formal agreement in place for enforcement." The Associations support this provision.

XII. PART 3130

A. § 3134.1 Bonding.

In this section involving certain leases in Alaska, BLM proposes several changes for general clean-up, including correcting citations. The Associations disagree with one aspect of these proposed changes, namely to remove all references to nationwide bonds. Rather, as noted above, the Associations support BLM reestablishing nationwide bonds in its final rule. The Associations direct BLM to the comments above under § 3104.1.

XIII. PART 3150

A. § 3152.3 Renewal of exploration permit.

BLM proposes eliminating the filing fee for exploration permit renewals in Alaska, which BLM states that it rarely collects. The Associations support this change.

XIV. SUBPART 3160

A. § 3165.1 Relief from operating and/or producing requirements.

Primarily, BLM proposes removing requirements not mandated by the MLA for lease suspension applications. The Associations generally support these changes providing greater flexibility for lease suspensions.

First, BLM proposes eliminating subsection (c), which currently provides that BLM "will not approve an application for a suspension of a lease where the applicant only cites, as the basis for the suspension, a pending application for permit to drill filed less than 90 calendar days prior to the expiration date of the lease." Instead, BLM would consider suspensions outside of that rigid timeline. The Associations support this change, which provides flexibility and makes practical sense considering the agency's policy against premature suspensions and BLM's own delays in processing APDs and suspensions. It further eliminates uncertainty surrounding the timing for submitting and adjudicating APDs and requests for suspensions, incorporating individual circumstances. As BLM states in the preamble, this proposed change accounts for "unforeseen issues," and incorporates individual circumstances where operators are "diligently working with the BLM and other State and Federal agencies but are unable to get the APD submitted within this timeframe due to reasons beyond their control."

Second, BLM proposes eliminating the phrase "of operations and production" from new subsection (c) to clarify that this section applies to suspensions under both MLA sections 17 and 29. The Associations support this clarifying change.

Third, BLM proposes eliminating subsections (d) and (e) of the existing rule, which place time limits on suspensions—limits not required by the MLA. Proposed subsection (d) would instead provide that a suspension lifts when "the basis provided for the suspension no longer exists," when lifting the suspension is in the public interest, or "as otherwise stated by the authorized officer in the approval letter." The Associations support practical change and agree with BLM that this modification will bolster development and introduce flexibility tailored to individual circumstances.

Finally, BLM proposes a new subsection (e), which comports with the MLA's requirements. Section 17(i) of the MLA provides that "[n]o lease issued under this section shall expire because operations or production is suspended under any order, or with the consent, of the Secretary." Subsection (e) would allow a suspension of operations at any time during the lease. The Associations agree with BLM that *Savoy Energy*, LP, 178 IBLA 313 (2010), which interpreted that the "suspension of operations provision . . . applies only to leases that have a well capable of production," improperly narrows the MLA's scope. Each of the uncontrollable circumstances the Proposed Rule's preamble enumerates—e.g., an avalanche, a pandemic, waiting on a state-required permit, weather conditions, and litigation, among other conditions—has potential to prevent lessees from commencing operations. BLM's addition here would properly account for that uncertainty and displace the Interior Board of Land Appeals' inconsistent holding going forward.

XV. SUBPART 3180

A. § 3181.1 Preliminary consideration of unit agreement.

BLM proposes to remove this section's reference to Appendix A, which would no longer exist in the regulations due to the proposed elimination of subpart 3186. The Associations refer BLM to the comments below under Subpart 3186.

XVI. SUBPART 3186

BLM proposes to entirely remove this subpart and its five appendices and to move all model forms to the BLM forms web page because doing so eliminates unnecessary requirements consistent with recent Executive Orders. The Associations are concerned that moving model forms to BLM's web page enables BLM to revise forms without the safeguards of public notice and comment. If BLM's final rule adopts its proposal as is and moves the forms to the BLM forms web page, then the final rule text should at least specify that BLM will provide public notice when making changes to any of those forms.

MISCELLANEOUS

The Associations recommend that BLM in a final rule include an additional change that is consistent with BLM's Proposed Rule and would be a logical outgrowth of its efforts to streamline processes and reduce regulatory and administrative burdens in the leasing program.

Recommended Revision

§ 3108.21 Automatic termination.

…

> (b) A deficiency will be considered nominal if it is not more than $100 per acre or more than 5 percent of the total payment due, whichever is ~~less~~ greater. The designated ONRR office will send a Notice of Deficiency to the lessee. The Notice will allow the lessee ~~15~~ 30 calendar days from the date of receipt or until the due date, whichever is later, to submit the full balance due to the designated ONRR office. If the payment required by the Notice is not paid within the time allowed, the lease will have terminated by operation of law as of its anniversary date.

This change would support the spirit of BLM's Proposed Rule by reducing unnecessary administrative burdens, improving regulatory efficiency, and avoiding disproportionate consequences for minor or inadvertent payment discrepancies. The existing nominal deficiency threshold is outdated and does not scale with the value or acreage of modern federal oil and natural gas leases. Updating the threshold to apply on a per-acre basis, and using the greater of that amount or 5 percent of the total payment due, would better distinguish between immaterial payment errors and deficiencies significant enough to warrant potential lease termination.

The change also would help focus BLM and ONRR resources on material compliance issues rather than minor accounting discrepancies that can trigger avoidable reinstatement petitions and associated administrative processing. Inadvertent calculation errors, acreage discrepancies, or payment processing issues should not result in automatic lease termination where the lessee has substantially complied and promptly cures the deficiency after notice.

Extending the cure period from 15 days to 30 calendar days is similarly consistent with BLM's stated goal of streamlining and modernizing the leasing program. A 30-day cure period better accounts for corporate payment systems, internal review procedures, mail or notice delays, and coordination among ONRR, BLM, lessees, and operators, while still preserving accountability for timely payment of the full amount due.

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Thank you for BLM's efforts in the Proposed Rule to improve federal oil and natural gas leasing and for the opportunity to provide these comments. The Associations and their members remain committed to working with BLM on the subject matter of the Proposed Rule. Please do not hesitate to contact us if you have any questions.

Sincerely,

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