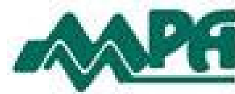

March 31, 2026

Via Federal eRulemaking Portal: http://www.regulations.gov

U.S. Department of the Interior
Director (630), Bureau of Land Management
1849 C St. NW, Room 5646
Washington, DC 20240
Attn: 1004-AF38

Re: Requirements for Site Security and Production Handling; Applying for Commingling and Allocation Approval. 43 CFR Part 3170. RIN 1004-AF38. Docket BLM–2025–0070.

To Whom It May Concern:

The American Petroleum Institute ("API"), Independent Petroleum Association of America ("IPAA"), Alaska Oil and Gas Association ("AOGA"), Colorado Oil and Gas Association ("COGA"), Montana Petroleum Association ("MPA"), New Mexico Oil and Gas Association ("NMOGA"), North Dakota Petroleum Council ("NDPC"), the Petroleum Alliance of Oklahoma, the Petroleum Association of Wyoming, and the Western States Petroleum Association

("WSPA")— collectively "The Associations" — respectfully submit the following coalition comments on the Bureau of Land Management's ("BLM") proposed Requirements for Site Security and Production Handling; Applying for Commingling and Allocation Approval ("Proposed Rule") that was published in the Federal Register on January 30, 2026.[1] This letter contains both our substantive comments and a suggested redline of regulatory text (Attachment 1). On March 2, 2026, the API and ten industry partners submitted comments to the BLM in response to the Office of Management and Budget's Information Collection Request ("ICR") pertaining to the revised information collection requirements in the Proposed Rule. The ICR comments are provided as Attachment 2 and incorporated herein.[2]

We appreciate the Administration's support and commitment to facilitate the clear direction Congress expressed in the One Big Beautiful Bill Act of 2025 ("OBBBA")[3] to "broaden[s] BLM's authority to authorize commingling beyond the narrow scope reflected in the current version of 43 CFR Section 3173.14(a)"[4] and "to promote oil and gas production on Federal, Indian, private and State lands."[5] We agree that commingling is a valuable tool with the potential to reduce duplicative surface infrastructure, prevent stranded assets, reduce production costs, and ensure that the public continues receiving a fair return from the use of public resources.

Overall, we support the BLM's efforts to remove barriers to oil and gas development by "providing greater flexibility to oil and gas operators to coordinate their operations and reduce overall costs of producing oil and gas."[6]

However, our thorough review and assessment of this Proposed Rule found significant technical and policy concerns which are unnecessarily burdensome, vague, and – most concerning – contravene Congressional direction by effectively prohibiting commingling in many, if not, most contexts. Critical challenges with the Proposed Rule include but are not limited to its failure to meet the OBBBA mandate of providing for the utilization of an approved periodic well testing methodology as one of the options for volume measurement allocation; the unwarranted introduction of impractical (and even unmanageable) notification, consent, and access requirements; and unreasonable re-filing requirements that would add both administrative burden and regulatory uncertainty. Collectively, the totality of the newly proposed regulatory obligations

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[1] 91 Fed. Reg. 4045, Jan. 30, 2026.
[2] OMB Control Number 1004-0137 (RIN 1004-AF38), Docket BLM–2025–0070. API, American Exploration and Production Council, Independent Petroleum Association of America, GPA Midstream Association, Colorado Oil and Gas Association, Montana Petroleum Association, New Mexico Oil and Gas Association, North Dakota Petroleum Council, the Petroleum Alliance of Oklahoma, the Petroleum Association of Wyoming, and the Utah Petroleum Association, ICR Comment Letter, Mar. 2, 2026.
[3] One Big Beautiful Bill Act of 2025, Pub. L. No. 119-21, 139 Stat. 72 (codified as amended at 30 U.S.C. Section 226(q).
[4] IM 2025-035, Commingling of Oil and Gas Production, Aug. 11, 2025 ("IM 2025-035"). See also BLM, "BLM proposes updates to modernize oil and gas rules and support domestic energy," Press Release. Jan. 29, 2026 ("BLM Press Release, Jan. 2026").
[5] 91 Fed. Reg. at 4046.
[6] 91 Fed. Reg. at 4048.

appears inconsistent with the Congressionally-authorized requirements and out of step with the President's de-regulatory agenda.

Our members have significant technical knowledge and expertise in this area; therefore, we provide detailed comments and recommended revisions to the Proposed Rule to aid the BLM in the finalization of a workable rule.

We look forward to working with the BLM to tailor the required provisions to avoid unintended consequences, fulfill the Congressional intent for increased commingling, and solidify another valuable building block in the President's legacy of energy dominance.

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I. Executive Summary

We appreciate the Administration's commitment to the **clear direction Congress expressed in the One Big Beautiful Bill Act of 2025 ("OBBBA") concerning Section 226(q) of the Mineral Leasing Act** to "broaden(s) BLM's authority to authorize commingling beyond the narrow scope reflected in the current version of 43 CFR Section 3173.14(a)"[7] and to "promote oil and gas production on Federal, Indian, private, and State lands."[8]

Commingling — the process of combining oil or gas production from two or more sources into a single stream for measurement and processing — is an immensely valuable tool with far-reaching benefits including but not limited to, reducing duplicative surface infrastructure, improving resource recovery, minimizing environmental impacts, preventing stranded assets, reducing production costs, facilitating operational efficiencies, and most importantly, ensuring that the public continues receiving a fair return from the use of public resources.[9]

Congress recognized these vital benefits and specifically provided for three separate and distinct methodologies for commingling approvals, that if met, require mandatory BLM approval. Unfortunately, Congress's specific direction and intent to expand commingling are not fully realized in the Proposed Rule. Significant procedural, practical, and technical obstacles in the Proposed Rule will very likely prove insurmountable in practice, and function to deter and discourage operators from applying for commingling and provide unreasonable justifications for the BLM to disapprove or delay applications.

Based on the extensive legal, technical, and regulatory experience of our members in the oil and natural gas industry, we offer specific recommendations that: 1) align the Proposed Rule with the express mandatory authority provided in the OBBBA, 2) clarify and expand discretionary pathways for commingling approvals, 3) remove unnecessary and burdensome notice and consent requirements, and 4) streamline approval processes.

Mirroring the OBBBA, we provide a clear, legally durable, and efficient framework for the BLM's commingling approvals. We believe that revising the Proposed Rule to conform with Congressional direction and intent, is also the most effective way to achieve the intended positive outcomes detailed in the Economic Analysis.

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[7] IM 2025-035.
[8] 91 Fed. Reg. at 4046.
[9] See BLM, "Interior Department updates commingling policy to strengthen energy production and safety," Press Release. Aug. 20, 2025; 91 Fed. Reg. at 4046; and BLM Press Release, Jan. 2026,

Key recommendations include:

Section 3173.1. Definitions

- We recommend clarifying the "Acceptable methodology" definition to match the OBBBA language specifying three separate and distinct pathways by which BLM "shall approve" commingling and allocation approvals: 1) an allocation measurement device for each commingled source, 2) an allocation method that achieves plus or minus 2 percent volume measurement uncertainty levels during the production phase reported on a monthly basis, **or** 3) use of an approved periodic well testing methodology.

- Reflecting the OBBBA, our plain reading of the statute is that the plus or minus 2 percent uncertainty level is specific only to the allocation method pathway under Option 2 of the OBBBA, and we recommend additional technical guidance clarifying volume measurement certainty levels and calculation methods for this option.

- For clarity and consistency in applying the third method, we also recommend a definition of an "Approved periodic well testing methodology" to include applicable methodologies for periodic well testing that is approved by a state conservation commission or a generally acceptable industry standard.

- We also provide further refinements to the "Overriding considerations" definition, recommend restoring the long-standing definition of "Economically marginal property," and ask to delete the definition of "Access" in keeping with our recommendation to remove the Proposed Section 3173.15(m).

Section 3173.14. Conditions for Commingling and Allocation Approval (Surface and Downhole)

- We recommend reorganizing Proposed Section 3173.4(a) to cover the three mandatory methods under the OBBBA that the BLM "shall approve" commingling when the operator satisfies one of these three pathways as defined as "Acceptable methodology."

- Consistent with the current rule and recognizing the OBBBA's language relating to the BLM's discretionary authority, we propose recommendations to the Proposed Section 3173.4(b) to apply to conditions that do not meet the criteria specified under paragraph (a). These include additional instances where an applicant can demonstrate mitigating technical or economic justifications which can allow the BLM to authorize higher volume measurement uncertainty levels than plus or minus 2 percent for allocation methodology, or authorize a periodic well testing methodology that deviates from the proposed definition of "Approved periodic well testing methodology."

- We support the BLM's recommendation to add a 60-day time period for BLM reviews and approvals of commingling applications. To ensure efficient and timely processing of the application, we also recommend that the BLM issue a notice to the applicant providing a list of deficiencies within the first 30 days thus allowing the BLM and the applicant an opportunity to resolve any issues or concerns.

- We propose removal of internal inconsistencies in the Proposed Section 3173.14(4)(ii) that references the BLM's current rules under 43 CFR Part 3170, Subparts 3174 and 3175 pertaining to facility management point ("FMP") standards which do not apply to the Proposed Rule's consideration of allocation meters.

- We recommend new Sections 3173.14(d), (e), and (f). The new Section 3173.14(d) is intended to clarify the federal-state structure and recognize that nothing in this rule shall supersede state spacing, pooling, or production regulations. We also recommend moving the Proposed Section 3173.14(b)(3) to a new Section 3173.14(e), a general condition applicable to any commingling and allocation approvals, because the Proposed Section 3173.14(b) pertains to specific conditions for discretionary commingling approvals. Lastly, new Section 3173.14(f) simply clarifies, in keeping with current agency practice that when ownership and royalty rates are identical for all sources in a commingling and allocation approval, then the BLM shall approve commingling regardless of the methodology being proposed.

Section 3173.15. Applying for a Commingling and Allocation Approval

- Our review finds that the Proposed Section 3173.15 includes several new notice, documentation, and application submittal requirements that exceed the OBBBA mandate, are duplicative with existing state processes, impose unreasonable compliance costs, and introduce requirements that would be entirely impractical to implement.

- We recommend removing the Proposed Section 3173.15(d) requiring a list of all impacted private leases by numbers which will add a substantial impediment to commingling and allocation approvals ("CAAs") due to the lack of publicly available information. It is also inconsistent with other similar BLM processes. For example, no comparable requirements exist for federal communization agreements.

- We recommend non-substantive cleanup changes to Section 3175.15(e)(2), and we recommend removing the Proposed Section 3173.15(c) for consistency with the OBBBA and our corresponding rule recommendations.

- We support the BLM's the Proposed Section 3173.15(k) which seeks to provide more flexibility in certain documentation provisions, requiring only the most recent gas analyses or oil gravity for commingling applications, and allowing the use of analogous BTU content and/or oil gravity data from nearby wells where the BTU content or oil gravity is

unknown. Field-specific data is not always easily available during the application stage, and we recommend an additional provision allowing gas analysis data to be submitted with the completion reports if no data exists at the time of application for the leases, unit PAs, or CAs covered by the application or nearby wells.

- We recommend removing burdensome and redundant notice and consent requirements under the Proposed Section 3173.15(j), and the Proposed Sections 3173.15(l)-(n). We find that these requirements exceed statutory authority and are regulatory rather than deregulatory in nature with unworkable requirements being added as conditions for commingling approvals.

Section 3173.16. Existing Commingling and Allocation Approvals

- We appreciate the Proposed Section 3173.16's grandfathering provisions, however, we find the language to be unnecessarily restrictive because while it allows existing commingling and allocation approvals to remain in effect, it requires "any modifications to existing leases, unit PAs, or CAs" to undergo reapplication. For administrative efficiency and to limit unnecessary reapplications, for prior authorized and existing commingling and allocation approvals in effect at the time of reapplication, we recommend that only modifications involving changes to the allocation method should be required to undergo the reapplication process. Routine changes such as adding or removing infill wells, plugging or abandoning wells, or revising layouts of facility or participating areas should only require a sundry notice.

In summary, we submit a redlined version of the Proposed Rule as well as section-specific discussion and revisions for the BLM's consideration. We look forward to working with the BLM in implementing a commingling rule that strictly aligns with the OBBBA and overall reflects a deregulatory agenda that will modernize the existing restrictive commingling approach with greater operational efficiencies, streamlined government processes, lower surface impact, and increased domestic energy production.

II. About the Associations

API is a national trade association representing approximately 600 member companies involved in all aspects of the oil and natural gas industry. API's members include producers, refiners, suppliers, pipeline operators, and marine transporters, as well as service and supply companies that support all segments of the industry. API and its members are dedicated to meeting environmental requirements while economically developing and supplying energy resources for consumers. Our members lease, explore, and produce oil and gas on federal lands, giving them a substantial interest in this rulemaking.

IPAA serves as an informed voice for the exploration and production segment of the industry, and advocates its members' views before the United States Congress, The White House, and federal agencies. IPAA represents the thousands of independent oil and natural gas producers and service companies across the United States.

AOGA is a professional trade association whose mission is to foster the long-term viability of the oil and gas industry in Alaska for the benefit of all Alaskans. AOGA's 14 member companies account for the majority of oil and gas exploration, development, production, transportation, refining, and marketing activities in Alaska."

COGA is a non-profit trade organization that represents over 200 companies throughout the state of Colorado. For nearly 40 years, COGA has sought to create a thriving, innovative and respected oil and natural gas industry in Colorado that embodies the values of our communities, prioritizes the protection of our environment, and provides the natural resources that advance our society. COGA provides a positive, unified, and proactive voice for the oil and natural gas industry in Colorado.

MPA is a Montana-based trade association representing over 150 member-companies involved in all aspects of the oil and natural gas industry. MPA's members include producers, refiners, suppliers, pipeline operators, transporters, and mineral owners as well as service and supply companies that support all segments of the industry and employ a substantial number of hard-working Montanans.

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.

Established in 1952, **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.

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.

The **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.

WSPA is a non-profit trade association that represents companies that safely explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California, Washington, Oregon, Nevada, and Arizona.

III. We support the overall policy objectives of the Proposed Rule; however, removal of several burdensome new provisions that constrain commingling is necessary to bring the Proposed Rule into compliance with the Executive Order ("EO") 14192, "Unleashing Prosperity Through Deregulation."

We support modernizing commingling regulations, removing longstanding barriers to efficient production operations, and allowing for increased accountability on Federal lands.

The Proposed Rule is currently classified as an "E.O. 14192 deregulatory action,"[10] and the BLM asserts that it is proposing the revisions "to address barriers that limit the BLM's ability to approve [CAAs] that involve multiple sources."[11]

However, our careful review and assessment of the provisions finds that the Proposed Rule's new requirements would effectively function to significantly constrain commingling approvals, reduce efficiencies, and increase comingling costs — thus resulting in fewer approved commingling applications and approvals.

[10] 91 Fed. Reg. at 4,049.
[11] *Id.* at 4,046.

To ensure that the Proposed Rule is considered (and in fact functions to be) de-regulatory rather than regulatory, we recommend that unnecessary restrictions on CAAs and increased administrative technical and procedural burdens must be removed.

IV. The Proposed Rule is bound by the clear Congressional mandate to expand commingling approvals under the OBBBA's Section 50101(d)(3) relating to the new subsection of the Mineral Leasing Act entitled — Commingling of Production. Therefore, new requirements that contravene the OBBBA statutory language must be removed while all requirements of OBBBA provisions must be fully implemented.

The OBBBA amends the Mineral Leasing Act, and is clear in its simplicity stating that the BLM "**shall approve applications allowing for the commingling of production** from 2 or more sources (including the area of an oil and gas lease, the area included in a drilling spacing unit, a unit participating area, a communitized area, or non-Federal property) **regardless of ownership, the royalty rates, and the number or percentage of acres for each source if the applicant agrees to install measurement devices for each source, utilize an allocation method that achieves volume measurement uncertainty levels within plus or minus 2 percent during the production phase reported on a monthly basis, or utilize an approved periodic well testing methodology."**[12] (emphasis added).

The OBBBA outlines three distinct and separate criteria under which the BLM is required to approve commingling, which are: 1) install allocation measurement devices for each source, 2) utilize an allocation method that achieves volume measurement uncertainty levels within plus or minus 2 percent, **or** 3) utilize an approved periodic well testing methodology.[13]

Additionally, the OBBBA language defines a single source as production from multiple oil and gas leases, drilling spacing units, communitized areas, or participating areas from a single wellbore.[14]

The OBBBA also clearly established the BLM is granted discretionary authority beyond the mandatory approvals discussed above by specifying that "[n]othing in this subsection shall prevent the Secretary of the Interior from continuing the current practice of exercising discretion **to authorize higher percentage volume measurement uncertainty levels if appropriate technical and economic justifications have been provided."**[15] (emphasis added).

Understanding this mandate, the BLM issued Instruction Memorandum 2025-034 ("IM 2025-034") to field offices which clarified the BLM's authority for commingling beyond the

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[12] OBBBA.
[13] *Id.*
[14] *Id.*
[15] *Id.*

narrow scope in the current version of 43 CFR Section 3173.14(a). IM 2025-034 clearly states the field offices "should keep in mind the goal of the OBBB to broaden the applicability of commingling" and to "err on the side of approval rather than denial."[16] Additionally, the BLM only asks the field offices to request additional documentation for applications involving state or private cases granting the BLM access to the measurement system, and to coordinate commingling applications involving Indian leases with the Bureau of Indian Affairs to ensure that tribes and Indian mineral owners consent to including the lease in the commingling application before approving the application.[17]

In the IM 2025-034, the BLM also clearly mirrors the OBBBA by providing that the field offices will review commingling applications to ensure that the applicant agrees: a) to install measurement devices for each source; b) uses an allocation method that achieves volume measurement uncertainty within plus or minus 2 percent; or c) proposes a periodic well testing methodology for approval. The IM 2025-034 provides for higher uncertainty on a case-by-case basis for applications that provide technical or economic justifications.[18] The BLM also explains that since the OBBBA defines production from multiple cases downhole as a single source, field offices should not require approval of a commingling application before operators combine production downhole, and that field offices should request allocation methodologies from the operator when production from multiple cases are combined downhole in a single production stream.[19]

Similarly, within the preamble of the Proposed Rule, the BLM also explains it is undertaking this Proposed Rule pursuant to Congress's direction in the OBBBA, since the current outdated and restrictive commingling requirements have resulted in unnecessary operational costs, administrative delays, and underutilization of CAAs – especially in areas with mixed ownership, complex spacing rules, or marginal production facilities.[20] The BLM further explains that the proposed revisions are intended to promote operational efficiency, reduce surface disturbance through centralized facilities, prevent premature abandonment of wells, and ensure accurate royalty accounting while increasing overall production and recovery of federal minerals.[21]

Thus, each revision or addition to the Proposed Rule must adhere to the statute – i.e., the BLM's commitment to modernize these regulations for multiple reasons must nevertheless remain consistent with the OBBBA's specific goals and requirements for the swift and efficient consideration of commingling applications.

A. Under *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court case that overturned the principle of special deference afforded to

[16] IM 2025-034.
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] 91 Fed. Reg. at 4046.
[21] *Id*.

administrative agencies in interpreting applicable laws; the Proposed Rule must now adhere to the "single, best meaning" of the OBBBA that was "fixed at the time of enactment."

Given the seismic shift in administrative law with the *Loper Bright* decision,[22] and sharing the BLM's goals to promulgate a legally durable rule, we offer this analysis for the BLM's consideration. In its June 28, 2024 decision, the Supreme Court overturned its long-standing "Chevron Doctrine," which required courts to afford special deference to a federal administrative agency's interpretation of applicable law within its enforcement purview on the theory that an agency specializing in, say, environmental regulation, has a special expertise in the environmental laws it enforces.[23] While *Loper Bright* allows courts to afford "respect" to agencies' factual and technical determinations, it requires courts to consider questions of law de novo and exercise independent judgement to determine the "single, best meaning" of a statutory provision that was "'fixed at the time of enactment.'"[24]

This doctrinal change means that courts will no longer defer to agency interpretations simply because they are permissible constructions of a statute. When courts have cases challenging agencies' interpretations of their governing statutes, they must now set aside any agency rule, policy or other directive that is based on an interpretation that does not reflect the "single, best meaning" of a statute.[25]

As applied here, the *Loper Bright* decision means that the Proposed Rule is not entitled to deference under the Chevron Doctrine, but instead, the Proposed Rule must adhere to the "single, best meaning" of the OBBBA that was "'fixed at the time of enactment.'"[26] That is, the OBBBA is clear in its language and intent that the Secretary of the Interior "shall approve applications allowing for the commingling of production from 2 or more sources" (and regardless of ownership, the royalty rates, and the number of percentage of acres for each source) if the applicant agrees to utilize one of the three specified methods.[27]

Outside of the mandatory provisions, the BLM can also encourage further commingling under the OBBBA's language stating that the BLM can continue their current practice of authorizing higher percentage volume measurement uncertainty levels "if appropriate technical and economic justifications have been provided."[28] Even in this context, *Loper Bright* is very clear in stating that where Congress has vested an agency with delegated authority, courts must still

[22] *Loper Bright Enterprises v. Raimondo,* 603 U.S. __ (2024); 144 S. Ct. 2244 (2024) ("*Loper Bright*").
[23] *Id.* at 2266.
[24] *Id.* (citing *Wisconsin Central Ltd. v. U.S.*, 585 U. S. 274, 284, 138 S.Ct. 2067, 201 L.Ed.2d 490 (2018)).
[25] *Id.*
[26] *Id.*
[27] OBBBA.
[28] *Id.*

ensure that the agency has stayed within "the boundaries of the delegated authority" and "ensuring that the agency has engaged in 'reasoned decision-making' within those boundaries."[29]

B. The Associations recommend an overall framework for CAAs that stays within the boundaries of the delegated and mandated authority provided under the OBBBA.

In response to the Agencies' solicitation of feedback on the Proposed Rule — including whether the requirements are necessary to effectuate the purposes of the OBBBA, and whether the proposed changes should be made "in light of the broad mandate in the OBBBA to allow for commingling"[30] — the Associations provide for the BLM's consideration, a redlined version of the rule proposing language that if adopted, will provide a lawful and durable regulatory framework that adheres to the OBBBA and is consistent with administrative agency authority under *Loper Bright*. These changes are necessary to comply with the explicit Congressional direction and will provide for strong legal foundation to withstand any potential future legal challenges.

While section-specific comments are discussed below, we recommend an overall structure that follows the OBBBA's framework within the Proposed Rule. As such, along with the definitions, we provide recommended language for the Proposed Section 3173.14 pertaining to "Conditions for commingling and allocation approval (surface and downhole)" mirroring the first part of the OBBBA in listing the conditions whereby the BLM "shall approve" CAAs if the Applicant agrees to any one of the three acceptable methodologies provided in the OBBBA.[31] The Proposed Rule does not follow this crucial structure and provides two methodologies for most cases (installation of measurement devices and plus or minus 2 percent uncertainty allocation). It fails to offer a direct pathway for approved periodic well testing methodology.

We recommend that the Proposed Section 3173.14(b) should be reserved for discretionary consideration of additional conditions that can apply based on the last prong of the OBBBA's Section 50101(d)(3) that allows the agency to approve higher percentage volume measurement uncertainty levels "if appropriate technical and economic justifications have been provided" as well as other longstanding discretionary authority relating to overriding considerations and other factors such as meeting the definition of an "Economically marginal property."

The Proposed Section 3173.15 relating to application submittal requirements for CAAs must follow the Congressional mandate that "the Secretary shall approve" commingling applications if one of the three methods outlined in the OBBBA are agreed to by the operator, and

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[29] *Loper Bright* at 2263 (citations omitted).
[30] 91 Fed. Reg. at 4048-4049. Note: Our comments and recommended changes are in response to the Proposed Rule, and if adopted, will be within the scope (i.e. logical outgrowth) of the Proposed Rule as available for notice and comment under Administrative Procedure Act, 5 U.S.C. Sections 551-559.
[31] OBBBA.

with additional discretionary case-by-case authority provided to the BLM.[32] No other conditions for CAA approvals are stipulated. Thus, any additional procedural conditions or technical hurdles that the BLM proposes without reasonable basis must be removed or revised (i.e., consent from all mineral owners, documentation for surface access, proof that all leases, unit PAs, or CAs are producing in paying quantities (or for federal leases, capable of production of paying quantities), multiple layers of operator agreements, and a numbered listing of all private leases). As such, our recommended language strips any additional requirements that are untethered to the statutory language and the Administration's deregulatory agenda.

Attachment 1 includes our recommended changes to the Proposed Rule. Additional section-specific comments are provided below.

C. Significant practical and technical obstacles in the application and approval process for CAAs exceed the OBBBA mandate, and we also provide section-specific recommendations.

The Proposed Rule adds substantial procedural requirements beyond the OBBBA's conditions to obtain CAAs, including notice and consent requirements to all interest owners as conditions of CAAs. These raise significant practical and technical obstacles, which will very likely prove insurmountable in practice and/or function to discourage operators from applying for commingling and provide unreasonable justifications for the BLM to disapprove or delay applications. Additionally, both operators and BLM field offices will likely face significant technical uncertainties regarding varied and inconsistent interpretations of critical technical standards as well as the documentation necessary to demonstrate satisfying those standards – in both original reviews and audit situations.

Our members have identified specific concerns likely to make commingling a practical impossibility including but not limited to the following:

i. Requiring consent from hundreds (or sometimes even thousands) of mineral owners, some of whom may be unlocatable or unknown.

ii. Requiring a list of all private lease numbers in a CAA application where operators lack access to this type of information.

iii. Requiring documentation that the operator has secured all necessary access rights from the surface owners; operators cannot guarantee cooperation from surface owners in split estates (and such a practice is contrary to the current oil and gas law structure in most states).

iv. Requiring operators to reapply for CAAs for any modification to existing CAAs.

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[32] *Id.*

These requirements would likely create infeasible requirements for both applicants and approvers — and therefore would certainly function to deter rather than encourage commingling.

We offer recommendations to resolve these issues in our section-specific comments relating to the Proposed Sections 3173.1, 3173.14, 3173.15, and 3173.16 in Sections VII-X of our comment letter.

V. Adopting the Associations' recommended changes, which revise the Proposed Rule to conform with Congressional intent is the most effective way to achieve the intended positive outcomes detailed in the Economic Analysis.

The Economic Analysis of the Proposed Rule concludes that modernizing commingling regulations could generate up to $2.5 billion in economic benefits by allowing operators to combine production from multiple leases using shared facilities and modern measurement technologies.[33]

Unfortunately, our members' practical field experience indicates that the analysis underestimates the effects of additional administrative and compliance burdens of the Proposed Rule as currently written which would not only add cost, but more importantly, act to inhibit commingling from occurring. As we have discussed above, many of the additional requirements of the Proposed Rule such as those related to additional notice and consent requirements introduce not only significant administrative costs but in fact pose unresolvable impracticalities to meeting the documentation requirements for operators. Given these concerns, the benefits of a CAA are significantly minimized and the actual use of CAAs may be considerably lower than anticipated in the Economic Analysis unless these requirements are removed. There are also limits with modeling assumptions and we appreciate the BLM recognizing these deficiencies and requesting additional data points to model the impacts of the rule.[34]

We support the BLM in their efforts, and as experienced operators that strive for operational excellence and compliance with industry and regulatory standards, we provide detailed recommendations for the BLM's consideration. If adopted, these recommendations will provide appropriate streamlining for CAA approvals, improve efficiencies for the BLM staff and operators, and help enable the development of previously uneconomic federal mineral resources. These are the types of benefits detailed in the Economic Analysis but not currently justified by the text of the Proposed Rule.

VI. Federal commingling rules must also work within the existing state-specific framework for oil and gas law; therefore, a final rule must recognize and avoid conflicting with state spacing, pooling, and production regulations that govern CAAs. Where a conflict occurs, state-specific laws and rules should govern,

[33] BLM, Commingling Oil and Gas Production, Economic Analysis, Aug. 2025 ("Economic Analysis").
[34] *Id.* at 8-9.

and overall, the BLM should remove any regulatory requirements for CAA approvals that are duplicative with applicable state requirements.

CAA documentation requirements are well-established at state levels. Western states have extensive experience and functional rules in place. Any proposed rule at the federal level should recognize existing state frameworks and work in concert with existing paradigms. We encourage the BLM to work closely with its counterparts at state regulatory authorities including, for example, the North Dakota Industrial Commission and New Mexico Oil Conservation Commission which reviews and approves commingling of production with state spacing units through the sundry approval process.

We recommend the following new provision to be added as the new Section 3173.14(d) (Condition for commingling and allocation approval (surface and downhole)).

Nothing in this subpart shall be construed to supersede State spacing, pooling, or production regulations. BLM may coordinate with State regulatory authorities and will approve CAAs that meet the applicable requirements in the State in which the CAA is proposed.

VII. Proposed Section 3173.1. Definitions and Acronyms

A. The Proposed Rule problematically departs from the OBBBA Section 5010(d)(3) by not reflecting each of the OBBBA's three acceptable methodologies for obtaining commingling approval. To remedy this, we provide recommended language for the definition of "Acceptable methodology."

By failing to match the OBBBA's language, the Proposed Rule as written introduces ambiguities in the CAA process. For example, the OBBBA does not limit BLM's discretion to a 5 percent uncertainty level but instead allows BLM to approve higher percentage volume measurement uncertainty levels if technically and economically justified. Those conditions are contemplated within a case-by-case paradigm as the BLM's "current practice" referenced in the OBBBA, and while the upper limit may fall within plus or minus 5 percent in many cases for technical reasons, anchoring 5 percent in the rule language unnecessarily constrains the flexibility provided for in the OBBBA that contemplates a longer durable rule that provides flexibility to accommodate special circumstances. The OBBBA is also very clear in the language authorizing the three methodologies with only one methodology requiring volume measurement uncertainty thresholds, while source metering and periodic well testing have their own separate pathways.

We recommend that the BLM reflect the clear language specifying the three types of methodologies authorized under the OBBBA as follows.

Acceptable methodology means, consistent with 30 U.S.C. 226(q), any one of the following, individually or in combination: (1) use of ~~a~~ an allocation measurement device for each commingled

source, (2) ~~a description of how the applicant will use~~utilize an allocation method that achieves volume measurement uncertainty levels within plus or minus 2 percent during the production phase reported on a monthly basis, ~~or up to five percent if there are appropriate technical and economic justifications,~~ or (3) use of an approved periodic well testing methodology.

B. Notably, the substantive portion of the Proposed Rule currently omits the third methodological approach, "Use of an approved periodic well testing methodology" in its substantive rules. We request that beyond a general reference in the definition of "approved methodology," "Approved periodic well testing methodology" be separately defined to clearly delineate the testing methodologies that the BLM is required to approve. Accordingly, we offer a new Proposed Definition of "Approved periodic well testing methodology.

The OBBBA Section 5010(d)(3) clearly directs the Secretary to "approve applications allowing for commingling of production from 2 or more sources" when applicants choose one of three options:

i. Installing allocation measurement devices for each source,

ii. Utilizing an allocation method achieving plus or minus 2 percent volume measurement uncertainty level; or

iii. Utilizing an approved periodic well testing methodology.[35]

As discussed above, the BLM guidance IM 2025-34 restates these three mandatory methods and separately allows the BLM to approve CAA applications with a higher percentage volume measurement uncertainty level if the applicant provides appropriate technical and economic justifications. The IM 2025-34 further states that the field offices will work with the applicant to resolve applications that do not address one of these three requirements.[36]

Though the BLM's Proposed Rule defines "Acceptable methodology" to include the three methodologies provided by the OBBBA, the preamble discussion as well as the conditions of CAAs in the Proposed Section 3173.14 omits the third and arguably most important option, namely, the use of an approved periodic well testing methodology.[37] Instead, the preamble explains that it adds the new definition to clarify the level of measurement uncertainty included the commingling approval, but makes no reference to the third acceptable methodology of an approved periodic well testing methodology. The same is true in the preamble discussion pertaining to

[35] OBBBA.
[36] IM 2025-034.
[37] 91 Fed. Reg. at 4048.

Proposed Rule Section 3173.14(a) discussing "certain enumerated conditions" that must be met for production to be commingled.[38]

Specifically, the Proposed Rule does not outline a clear regulatory path for the BLM to approve periodic well testing. The new Proposed Section 3173.14(a)(4) only provides pathways for FMPs compliant with Subparts 3174 and 3175, allocation methods achieving plus or minus 2 percent volume-measurement uncertainty, or use of allocation methodologies outlined in Subparts 3174 and 3175.[39] However, Subparts 3174 and 3175 govern FMPs, not well testing protocols.

In short, the BLM's Proposed Rule ignores the "or" structure in the OBBBA and instead uses an "and" conjunction that would require volume measurement uncertainty levels to fall within plus or minus 2 percent for all commingling applications (or up to 5 percent if there are appropriate technical and economic justifications)."[40] This is further undermined by the fact that approved well testing standards or protocols are missing from the substantive provisions of the Proposed Rule.

Given these facts, the BLM's Proposed Rule not only fails to match the OBBBA but will also function to limit commingling approvals to far fewer than those intended by Congress. To resolve inconsistencies between the legislative requirements and the Proposed Rule, we recommend that the BLM provide substantive provisions to ensure that the third option is fully provided for in the rule as a clear and distinct pathway for mandatory CAA approval pursuant to the OBBBA.

To allow for this third option to be a viable implementable methodology, there needs to be clarity on what periodic well testing methodology will be approved. The BLM should be required to approve commingling utilizing methodologies approved by state agencies and/or that are generally accepted industry standards or practices.

We caution the BLM against reinventing the wheel by creating new standards, and instead recommend that the BLM tether the Proposed Rule's methodologies to existing state requirements that govern in several states, or where state requirements do not exist, to robust industry standards that, as a matter of practice, the BLM already relies on for critical technical requirements (see 43 CFR Section 3174.3 for list of industry standards that are incorporated by reference). Such a definition would reduce ambiguity in implementing this methodology and ensure a consistent approach that is clearly understood by operators and can be reasonably applied by the BLM.

[38] *Id.* at 4048.
[39] *Id.* at 4052-53.
[40] *Id.* at 4052, 43 CFR Section 3173.14(b)(4).

It is also important to note that well testing is an acceptable methodology and contemplated within the broader DOI regulatory sphere.[41] These minimum frequencies and durations that we recommend are more stringent than what is required as a minimum in the offshore regulations.[42]

We propose the following definition for "Approved periodic well testing methodology."

Approved periodic well testing methodology means either of the following: (1) a methodology that has been approved by a State Conservation Commission or similar body for use of periodic well testing in the state where the commingling occurs; or (2) a generally accepted industry standard for periodic well testing methodology, for example, a method set forth in API Manual of Petroleum Measurement Standards Chapter 20.5 (Recommended Practice for Application of Production Well Testing in Measurement and Allocation, Dec. 2017, as amended), utilizing, at a minimum, monthly well tests of at least twelve hours cumulatively in duration for each well.

C. The "Overriding considerations" definition should be further refined to generally encompass physically, economically, or technically impractical conditions and impacts — as well as provide clarifications and examples of conditions that will be covered.

This definition of "Overriding considerations" allows the BLM to consider approval of commingling applications in situations that do not specifically meet the regulatory requirements in 43 CFR Section 3173.14(a).[43] This is an important provision providing much needed flexibility to operators and allows for commingling, for example, in special circumstances involving site-specific and infrastructure constraints as well as operational costs of recovering resources. Yet, it is limited to physically impractical scenarios, and no other clarifying language is provided. Based on our extensive experience and the OBBBA's mandate to broaden CAAs, we recommend providing additional examples of the types of overriding considerations that would be acceptable. These should include, for example, considerations related to the reducing of environmental impacts to the surface or air quality as well as conditions that enable additional production which may benefit taxpayers.

We propose the following revisions to the Proposed Section 3173.1.

Overriding considerations means any condition that is in the public interest, including but not limited to, reduced surface impacts, potentially reduced emissions or emissions intensity, enabling additional production, or other conditions that make~~s~~ non-commingled measurement physically,

[41] See for example, Bureau of Safety and Environmental Enforcement's applicable provisions under 30 CFR Part 250 (Oil and Gas and Sulphur Operations in the Outer Continental Shelf).
[42] *Id.*
[43] 91 Fed. Reg. at 4048.

economically, environmentally, or technically impractical ~~or that results in unnecessary or undue impacts~~.

D. The Associations ask the BLM to restore the proposed removal of the definition of "Economically marginal property," which has value in connection with new recommended language in Section 3173.14(b)(1).

The BLM proposes to remove the definition of ''Economically marginal property'' because according to the BLM, this concept is no longer a factor in the BLM's analysis of a commingling application.[44] The BLM explains that opening up Section 3173.14 means that under the current framework, certain minerals produced from the leases could not be commingled if federal interests were disproportionate to one another, but under the OBBBA, if certain conditions are met, then these types of production could be commingled, and the BLM is obligated to approve such commingling if those conditions are met.

The BLM notes that it promotes additional protection through the combination of producing wells and marginal wells or stripper wells.[45] We agree with this policy that encourages combining production from wells to replace infrastructure costs, and our only recommendation would be to continue to include the definition of "economically marginal property" so that there is regulatory certainty as well as consistency with the meaning of this term when applied in the substantive provision relating to CAAs in Section 3173.14(a)(1). This is a longstanding definition that both the operators and the BLM staff are familiar with and have experience applying the objective economic tests, such as the royalty net present value to evaluate and make determinations on economically marginal properties.

Specifically, as discussed below, we recommend adding language that any federal or Indian lease, unit PA, or CA that meets the definition of an economically marginal property can be considered for a CAA even if federal interests are disproportionate to one another. As such, we recommending restoring the current definition as follows.

Economically marginal property means a lease, unit PA, or CA that does not generate sufficient revenue above operating costs, such that a prudent operator would opt to plug a well or shut-in the lease, unit PA, or CA instead of making the investments needed to achieve non-commingled measurement of production from that lease, unit PA, or CA. A lease, unit PA, or CA may be regarded as economically marginal if the operator demonstrates that the expected revenue (net any associated operating costs) generated from crude oil or natural gas production volumes on that property is not sufficient to cover the nominal cost of the capital expenditures required to achieve measurement of non-commingled production of oil or gas from that property over a payout period

[44] *Id.*
[45] *Id.* at 4046.

of 18 months. A lease, unit PA, or CA can also be considered economically marginal if the operator demonstrates that its royalty net present value (RNPV), or the discounted value of the Federal or Indian royalties collected on revenue earned from crude oil or natural gas production on the lease, unit PA, or CA, over the expected life of the equipment that would need to be installed to achieve non-commingled measurement volumes, is less than the capital cost of purchasing and installing this equipment. Both the payout period and the RNPV are determined separately for each lease, unit PA, or CA oil or gas FMP. Additionally, oil FMPs are evaluated using estimated revenue (net of taxes and operating costs) from crude oil production, as defined in this section, while gas FMPs are evaluated using estimated revenue (net of taxes and operating costs) from natural gas production, as defined in this section.

E. Given our recommendation to remove the Proposed Section 3173.15(m) relating to unnecessary documentation requirements for the operator to secure access rights, we also recommend removing the corresponding definition of "access."

The Proposed Section 3173.15 includes new provisions requiring the operator to document that it has secured all access rights, and along with such requirement, the BLM explains that it includes a new paragraph in the definition of "access" allowing the BLM to have access to facilities that may be located on state or private lands so that it can ensure proper accounting of produced federal and Indian oil and gas resources.[46]

As explained below in the discussion pertaining to Proposed Section 3173.15(m), BLM inspectors do not need to require operators to obtain a written agreement allowing BLM officials to enter onto private or state lands. While operators can facilitate surface access, the BLM does not need private surface agreements to exercise federal inspection authority. We recommend that the BLM review applicable state law access rights.[47] Operators should only be obligated to make reasonable efforts to secure access rights and lack of surface owner cooperation should not preclude an operator from attaining CAA approval.

Therefore, we recommend the following deletion.

~~Access means:~~
~~(i) The ability to add liquids to or remove liquids from any tank or piping system, through a valve or combination of valves or by moving liquids from one tank to another tank; or~~

~~(ii) The ability to enter any component in a measuring system affecting the accuracy of the measurement of the quality or quantity of the liquid being measured; or~~

[46] *Id.* at 4048.
[47] For example, see North Dakota — N.D.C.C. Section 38-11.1-04 (operators have the right to use surface as reasonably necessary for mineral development subject to surface damage compensation).

~~(iii) A written agreement that BLM officials can enter onto private or State lands for inspection and enforcement actions conducted by the BLM.~~

VIII. Section 3173.14. Conditions for Commingling and Allocation Approval (Surface and Downhole)

A. The Proposed Section 3175.14 (including the measurement uncertainty provisions and lack of periodic well testing methodology) raises serious legal and technical concerns. Failure to address these issues will result in a rule that is inconsistent with the OBBBA and will pose enormous implementation challenges for both companies and the BLM. We therefore offer recommendations within the Proposed Section 3173.14.

We provide a detailed revision to the Proposed Section 3173.14 that aligns strictly with the OBBBA. For example, under the Proposed Rule, an "Acceptable methodology" requires plus or minus 2 percent uncertainty or plus or minus 5 percent with justification "between the allocation point and the FMP."[48] This is contrary to the plain language of the OBBBA. Also, the Proposed Rule lacks granularity explaining critical items including but not limited to the following:

i. How to calculate uncertainty.

ii. How to document compliance with uncertainty requirements.

iii. Whether "between the allocation point and the FMP" refers to the cumulative uncertainty of the entire allocation and measurement system including multiple meters.

iv. Examples of what constitutes adequate "technical and economic justification."[49]

Without clear standards, every application becomes a subjective negotiation. Operators will not know whether their prospective methodology will be approved. The BLM will not have criteria for consistency among different applications or field offices; therefore, field offices may decline commingling applications for lack of clear guidance. Furthermore, auditors will have no basis for determining whether decisions were appropriate.

Even if a technical guidance document is later issued, safe harbor methodologies must be embedded in the rules with specific examples of acceptable technical or economic justifications for higher percentage volume measurement uncertainties (i.e. over plus or minus 2 percent). At the very least, as discussed above, a maximum of 5 percent that is proposed must be removed from a

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[48] 91 Fed. Reg. at 4052. 43 CFR Section 3173.1(a) and 43 CFR Section 3173.14(a)(4)(ii).

[49] 43 CFR Section 3173.1(a).

regulatory requirement since none is specified in the OBBBA but can be considered in the context of agency discretionary authority as noted in the recommended revisions.

To provide further clarification on the OBBBA's language, we propose language that covers the 3 mandatory methods listed in the OBBBA under Section 3173.14(a) where BLM shall approve CAAs under those specified conditions; and a discretionary case-by-case section allowing operators the flexibility to choose options where they do not meet the Section 3173.14(a), and for the BLM to utilize its discretionary authority under Section 3173.14(b).

For example, given the discretionary authority as related to technical and economic justifications, we provide recommended language that specifies that to the extent an applicant is not able to meet the definition of "Acceptable methodology" in Section 3173.1, but can demonstrate mitigating technical or economic justifications, BLM may approve an allocation method that deviates from the "Acceptable methodology" definition in Section 3173.1, for example, by authorizing higher volume measurement uncertainty levels than outlined under Option 2 of the "Acceptable methodology" definition or by authorizing a periodic well testing methodology that deviates from "Approved periodic well testing methodology" as defined in Section 3173.1.

We also believe that specific examples of what would be considered acceptable technical or economic justification for higher percentage volume measurement uncertainties should be provided in the guidance after the rule is finalized. Those should include, among others, situations involving: 1) very low-volume stripper wells where plus or minus 2 percent accuracy would require disproportionately expensive metering; 2) remote facilities where installation of high precision equipment would be costly vis a vis the federal royalty; and 3) temporary gathering system configurations during facility construction or repair.

We also support the new requirement specifying that the BLM shall approve CAAs within 60 days of submission of a completed CAA. Within this timeframe, we believe it would be helpful to facilitate efficient CAA processing for the BLM to provide a notice within 30 days identifying any application that is incomplete and providing the applicant with very specific descriptions of the deficiencies to correct. This will greatly aid the BLM's approval process within the timeframe provided by providing time early in the process for the BLM and the applicant to work through any issues promptly and achieve swift resolution.

We also recommend removing the word, "accurate," from the Proposed Section 3173.14(a) because it is not in the OBBBA and potentially introduces an additional requirement beyond "acceptable methodology" especially since "accuracy" is a highly subjective standard.

We also recommend removing the Proposed Section 3173.14(a)(5)(ii). The Proposed Section 3173.14(a)(5)(ii) requires an attestation that the applicant has notified each interest owner by sending a copy of the application and the attachments to the CAA by certified mail, return

receipt requested to each owner.[50] This is an enormous burden and entirely impractical to implement given that information about mineral interest owners is very difficult to attain for operators. This requirement is unsupported by the OBBBA and practically infeasible and therefore must be eliminated. Moreover, adding this requirement to the Proposed Section 3173.14(a)(5) creates conflicting obligations because all the requirements relating to the components of a CAA application are in the Proposed Section 3173.15 (Applying for a CAA). Generally, we recommend that all submittal requirements for a CAA should be in Section 3173.15.

We recommend clarifying provisions to aid the operators and the BLM staff in navigating these rules. To that end, we propose a new Section 3173.14(d) to clarify the federal-state framework and to establish that nothing in the rule will supersede state spacing pooling, or production regulations. We also propose new Section 3173.14(e) as a non-substantive change from the Proposed Section 3173.14(b)(2) as a standalone provision that recognizes that written approval from the Bureau of Indian Affairs or allotted mineral interests and proper documentation from tribal mineral interests is required if applicable. Also, as mandated by OBBBA which opened commingling in all situations, we also add a new Section 3173.14(f) to clarify that the BLM shall approve commingling including when ownership and royalty rates are identical for all sources and regardless of the type of methodology that is used.

Based on our members' extensive experience and given the issues raised regarding the OBBBA's mandate, our proposed rule language provides the following revisions in the Proposed Section 3173.14, which leverages our proposed definitions of "Acceptable methodology" and "Approved periodic well testing" as discussed above.

(a) ~~Subject to the exceptions provided in paragraph (b) of this section, t~~The BLM ~~will~~ shall grant a CAA within 60 days of submission of the CAA, for all leases, unit PAs, or CAs including in instances where the proposed commingling of production involves production from federal, state, tribal, or private leases, unit PAs, or CAs, even if the interests at issues are disproportionate to one another, including interest that are subject to varying royalty rates, dissimilar fixed royalty rates, or revenue distributions if the following criteria are met:

(1) The operator or operators provides an acceptable methodology to the BLM for ~~accurate~~ allocation of production among the properties from which production is to be commingled (including a method for allocating produced water), as provided in 30 U.S.C. 226(q), with an agreement signed by all operators if there is more than one operator;

(2) The FMP(s) for the proposed CAA measure production originating only from the leases, unit PAs, or CAs in the CAA, and

[50] 91 Fed. Reg. at 4053.

(3) If production from an Indian lease is to be included in the CAA, the Bureau of Indian Affairs or Tribal approval, where necessary, approves of the inclusion of that production in the proposed CAA.

(4)~~ Subject to paragraph (c), t~~~~T~~he BLM will approve a CAA in instances where the proposed commingling of production involves production from leases, unit PAs, or CAs, even if the Federal interests at issue are disproportionate to one another, including Federal interests that are subject to varying royalty rates, dissimilar fixed royalty rates, or revenue distributions, but only if the following conditions are met:~~ The BLM receives a complete CAA from the applicant pursuant to 43 CFR Section 3173.15 that includes a statement by the applicant confirming that the applicant will comply with state legal requirements, if any, for the proposed commingling if private or state interests are included in the CAA.

~~(i) Production from each lease, unit PA, or CA is measured by an FMP that satisfies the requirements under subpart 3174 for oil measurement or subpart 3175 for gas measurement; or~~

~~(ii) The proposed commingling allocation methodology demonstrates the installation of measurement devices for oil and gas sources that: (1) can reasonable achieve volume measurement uncertainty levels with plus or minus (±2 percent), between the allocation point and FMP (including offlease measurement FMPs, where applicable), during the production phase of the well or (2) uses the allocation methods and reporting requirements provided in subpart 3174 and subpart 3175 as reported on a monthly basis using a twelve-month average.~~

~~(5) The BLM will approve a CAA under this section only after:~~

~~i) The applicant provides notice to all interest owners of the production to be commingled or, in lieu of notice, the applicant provides to the BLM a signed operator agreement that includes a methodology that is acceptable to the BLM for accurate allocation of production among the properties from which production is to be commingled (including a method for allocating produced water); and~~

~~ii) The BLM receives a complete CAA from the applicant pursuant to 43 CFR 3173.15 that includes a statement by the applicant attesting that, on or before the date the applicant submitted the CAA, the applicant notified each interest owner by sending a copy of the application and the attachments to the CAA, by certified mail, return receipt requested to each interest owner.~~

(b) The BLM may also approve a CAA in instances where the proposed commingling of production involves production from Federal and non-Federal leases, unit PAs, or CAs, even if the Federal interests at issue are disproportionate to one another, including Federal interests that are subject to varying royalty rates, dissimilar fixed royalty rates, or revenue distributions that do not

meet the criteria of paragraph (a) of this section. In order to be approved under this paragraph, a CAA must meet at least one of the following conditions:

(1) At least one lease or leases (Federal, Fee, State, or Indian), unit PA, or CA, or any combination thereof, meets the definition of an economically marginal property in this section;

~~(1)~~ (2) The average monthly production over the preceding 12 months for each lease, unit PA, or CA proposed for the CAA on an individual basis is less than 1,000 Mcf of gas per month, or 100 bbl of oil per month;

~~(2)The CAA, which includes Indian leases, unit PAs, or CAs, has been authorized under tribal law or otherwise approved by a tribe or the allottees of the allotted lease;~~

(3) The CAA covers the downhole commingling of production from multiple formations that are covered by separate leases, unit PAs, or CAs, where the BLM has determined that the proposed commingling from those formations is an acceptable practice for the purpose of increasing ultimate economic recovery and resource conservation; or

(4) There are overriding considerations that indicate the BLM should approve a commingling application: (i) in the public interest notwithstanding potential negative royalty impacts from the allocation method, unless Indian leases or mineral interests are to be included, in which case the CAA cannot be approved; or (ii) if the operator reasonably demonstrates that approval is necessary to prevent waste or increase ultimate recovery, but only to the extent that such considerations outweigh the possibility of incremental error in measurement of the quantity or quality of production, unless Indian leases or mineral interests are to be included, in which case the CAA cannot be approved; (iii) under either (i) or (ii), the BLM may approve a CAA if ~~the Indian mineral owner consents to the CAA and has been made aware of the potential negative royalty impact~~ written approval from the Bureau of Indian Affairs for allotted mineral interests and proper approval documentation for tribal mineral interests, if applicable, are provided and describe potential monthly royalty variance(s).

(5) To the extent an applicant is not able to meet the definition of "Acceptable methodology" under 3173.1, but can demonstrate mitigating technical or economic justifications, the BLM may approve a CAA allocation method that deviates from the "Acceptable methodology" definition under 3173.1, for example, by authorizing higher volume measurement uncertainty levels than outlined under Option 2 of the "Acceptable methodology" definition or by authorizing a periodic well testing methodology that deviates from "Approved periodic well testing methodology" as defined under 3173.1.

(c) The BLM shall issue a notice if the application is incomplete within 30 days of a CAA submission, noting deficiencies. If the applicant meets the requirements for a CAA in this subpart, the BLM shall approve ~~will issue~~ the CAA within 60 days of submission of a complete CAA, unless an additional 30 days is necessary to complete any required environmental analysis. A complete CAA includes all applicable requirements from (a) or ~~and~~ (b) of this section and §3173.15.

(d) Nothing in this subpart shall be construed to supersede State spacing, pooling, or production regulations. BLM will coordinate with State regulatory authorities and will approve CAAs that meet the applicable requirements in the State in which the CAA is proposed.

(e) For any approval under subpart (b), written approval from the Bureau of Indian Affairs or allotted mineral interests and proper documentation from tribal mineral interests is required, if applicable.

(f) When ownership and royalty rates are identical for all sources in a CAA, then BLM shall approve the commingling application regardless of the allocation methodology being proposed.

IX. Section 3173.15. Applying for a Commingling and Allocation Approval

A. Newly proposed impractical requirements to the CAA process must be removed or revised because they exceed the OBBBA, impose unreasonable costs, and are duplicative with existing state processes. These include: i) The Proposed Section 3173.15(j)'s documentation requirements related to those capable of producing in paying quantities; and ii) The Proposed Section 3173.15(l)-(n)'s documentation requirements demonstrating that all other interest owners consent to both CAAs and the BLM's inspection of the equipment, the operator has secured access rights from surface owners, and the operator maintains and operates the measurement equipment that is not located on a federal or Indian lease.

The Proposed Rule introduces several new notice and documentation requirements that far exceed the OBBBA mandate and are not only unnecessary but also unmanageable and introduce burdensome compliance hurdles for applicants.

These requirements are entirely contrary to the OBBBA requiring approval of CAAs "regardless of ownership" with no additional notice or consent requirements added.[51] The IM 2025-34 also only asks field offices to request additional documentation for applications involving state or private cases granting BLM access to the measurement system (which is not required in

[51] OBBBA.

the OBBBA), and only required consent from tribes and Indian mineral owners before approving an application.[52]

For the Proposed Sections 3173.15(l)-(n), the BLM notes that it is proposing to "add three new paragraphs to address the expansion of the types of mineral interests that can be included in an application."[53] This is problematic on several counts. First, there appears to be a lack of consistency in the BLM's use of the overly broad term "interest owners" in the Proposed Section 3175.15(l) because it seems to be inadvertently combining working interest owners with economic and operational responsibility with interest owners who have no operational authority (e.g., royalty owners). Second, these provisions appear to oversimplify the complex state of oil and gas law throughout the nation affecting mineral interests and leap into ownership issues for CAAs approvals even though the OBBBA mandates the approval of CAA applications regardless of ownerships. Third, these new provisions appear to be inconsistent with the BLM's own practice with federal communitization agreements which do not require identifying or obtaining consent from individual private mineral interest owners. The CAA process should reflect consistent practices based on the OBBBA and BLM policy and not introduce unnecessary processes.

As it stands, the new requirements directly contravene the OBBBA, the Congressional intent, and the BLM's own objectives to ensure a rule that broadens CAA approvals and "promotes operational and business efficiencies."[54]

Following the discussion of these new provisions, the BLM also asks whether the requirements are "those necessary to effectuate the purposes of the OBBBA," and the clear answer is a resounding no.

We provide the following list of specific sections and our recommended reasons for their removal or revision.

i. The Proposed Section 3173.15(d) requires a CAA to include a list of all impacted private leases by numbers, which adds a substantial impediment to CAAs due to the lack of publicly available information. This creates an enormous and unnecessary barrier to attaining CAA which contravenes the intent of the OBBBA. Specifically, based on our members' extensive experience, we share the following variables that are outside of the control of a CAA applicant: 1) Large facilities may involve hundreds of private leases with different operators; 2) Private lease numbers are often not public information and frequently are not held in easily accessible formats (e.g., a centralized database); 3) The operator proposing the CAA often does not have access to other operators' private lease details; and operators may be governed by confidentiality provisions that prohibit sharing those

[52] IM 2025-034.
[53] 91 Fed. Reg. at 4049.
[54] *Id.* at 4046.

details outside of certain very limited scenarios; and 4) This information has no bearing whatsoever on appropriate production and royalty accountability. To underscore how impractical this is, no comparable requirement exists for federal communitization agreements. To avoid unnecessarily obstructing CAAs as well as to reduce the burdens on both applicants and agencies, companies should only be required to list federal and Indian leases.

ii. The Proposed Section 3173.15(j) requires documentation that each of the leases, unit PAs, or CAs proposed for CAAs are capable of production in paying quantities, and we recommend removing given the OBBBA provisions.

iii. The Proposed Section 3173.15((l) requires "documentation demonstrating that all interest owners, such as private, state, or Indian, consent to both the CAA and the BLM's inspection of equipment."[55] The BLM appears to propose to add a notice requirement as well as a consent requirement for all interest owners, which has absolutely no basis in the OBBBA. Beyond exceeding the OBBBA mandate, these competing sections will introduce unprecedented burdens to both the regulated community and agency staff in implementation, reducing efficiencies in the application process. Notably, the OBBBA requires approval "regardless of ownership" and does not require mineral owner consent.[56] State pooling laws also bind private mineral owners even without individual consent.[57] Practically speaking, universal consent is virtually impossible to obtain because a typical spacing unit can include anywhere from 200 – 400 individual mineral owners; many of whom are unknown, unlocatable, or deceased with disputed estates. Universal consent is therefore an impractical moving target that would directly impede the Congressional direction to facilitate commingling.

iv. The Proposed Section 3173.15(m) requires demonstrating that the operator has secured all necessary access rights from the surface owner for the BLM inspection. Again, this fails to recognize existing oil and gas law foundational paradigms where in many states (including Texas and North Dakota), surface and mineral rights are severed, with mineral interests possessing the dominant interest — thus allowing mineral owners to access the land and extract minerals without surface owner permission, so long as the usage is reasonable. Adding this documentation provision is not only contrary to the OBBBA but it also gives unprecedented authority to surface owners to potentially withhold access rights and block CAAs. And more importantly, for split estates, the BLM already has authority to inspect

[55] *Id.* at 4054.
[56] OBBBA.
[57] For example, N.D.C.C. Section 38.08-08 granting operators the authority to pool both federal and private mineral interests within a spacing unit upon approval by the North Dakota Industrial Commission. The state pooling authority does not require individual owner's consent.

private surface lands, and operators are obligated to make good faith efforts to facilitate access, but they are not required to attain separate access rights agreements to secure CAAs. The existing regulations already address surface access in the context of off-lease measurement in 43 CFR Section 3173.23. Additionally, this requirement would have disproportionate impacts in states including Wyoming and Colorado, where facilities are often located on private surface lands with minimal federal private surface and minimal federal Net Revenue Interest.

v. The Proposed Section 3173.15(n) requires documentation for those situations in which the measurement equipment is not located on a federal or Indian lease. Again, the OBBBA does not include any additional documentation requirements, and the preamble lacks reasoned justification for this addition.

We recommend that these following sections be revised or deleted.

~~43 CFR Section 3173.14(a)(5)(ii) The BLM receives a complete CAA from the applicant pursuant to 43 CFR 3173.15 that includes a statement by the applicant attesting that, on or before the date the applicant submitted the CAA, the applicant notified each interest owner by sending a copy of the application and the attachments to the CAA, by certified mail, return receipt requested to each interest owner.~~

43 CFR Section 3173.15(d) A list of all Federal~~, ~~or Indian~~, State, or private~~ leases, unit PA, or CA numbers in the proposed CAA, specifying the type of production (i.e., oil, gas, or both) for which commingling is requested;

43 CFR Section 3173.15(e)(2) To the extent known or anticipated, t~~T~~he location of existing or planned facilities and the relative location of all wellheads (including the API number) and piping included in the CAA, and existing FMPs or FMPs proposed to be installed ~~to the extent known or anticipated~~;

~~43 CFR Section 3173.15(j) Documentation demonstrating that each of the leases, unit Pas, or Cas proposed for inclusion in the CAA is producing in paying quantities (or, in the case of Federal leases, is capable of production in paying quantities) pending approval of the CAA; and~~

~~43 CFR Section 3173.15(l) Documentation demonstrating that all other interest owners, such as private, State, or Indian, consent to both the CAA and the BLM's inspection of the equipment to ensure compliance with §§ 3173, 3174, and 3175.~~

~~43 CFR Section 3173.15(m) Documentation demonstrating that the operator has secured all necessary access rights from the surface owner(s), whether private, State, or Indian, to ensure that~~

~~BLM staff may access the measurement facilities within the CAA for conducting and verifying production, measurement and royalty~~

~~43 CFR Section 3173.15(n) Documentation demonstrating that the operator maintains and operates the measurement equipment in accordance with §§ 3174 and 3175 for production equipment that is not allocated within a Federal or Indian lease, unit PA, or CA.~~

B. The Proposed Section 3173.15(k) is revised substantially to maintain the BLM's ability to ensure that productions streams for commingling are compatible by requiring the most recent gas analysis or oil gravity, and we support these revisions with one additional recommendation.

We appreciate the BLM revising the current requirements to provide all gas analyses or oil gravities depending on the type of production proposed for commingling, by proposing only requiring the most recent gas analysis or oil gravity for commingling applications.[58] The BLM also aims "to provide more flexibility and to address those situations for which the BTU or gravity is unknown"[59] by allowing the use of analogous BTU content and/or oil gravity data from nearby wells where the BTU content or oil gravity is unknown. Field-specific data is not always easily available during the application stage, and we recommend an additional provision allowing gas analysis data to be submitted with the completion reports if no data exists at the time of application for the leases, unit PAs, or CAs covered by the application or nearby wells.

We provide the following recommended language to add for further clarity.

43 Section 3173.15(k) Documentation demonstrating that the production from each of the leases, unit PAs, or CAs is compatible with each other by providing the following:

(1) The most recent gas analysis performed, including BTU content (if the CAA request includes gas), and the most recent oil gravity data (if the CAA request includes oil) from each of the leases, units, unit PAs, or CAs for inclusion in the CAA.

(2) In lieu of the requirements in paragraph (1), the operator or operators may instead

(i) submit a CAA for BLM consideration using analogous BTU content and/or oil gravity data from nearby wells for instances where BTU content and/or oil gravity are not explicitly known for the given leases, unit PAs or CAs~~.~~ or

(ii) submit gas analysis data with the completion reports if no data exists at the time of application for the leases, unit PAs or CAs covered by the application or nearby wells.

[58] 91 Fed. Reg. at 4049.
[59] *Id.*

X. Section 3173.16. Existing Commingling and Allocation Approvals

A. The Proposed Section 3173.16 is unnecessarily restrictive because while it would allow existing CAAs to remain in effect, any "modifications" to existing leases, unit PAs, or CAs would trigger a new complete reapplication and approval process. We recommend appropriately targeted language that would avoid substantial and unnecessary workload for both the BLM and companies. Appropriate grandfathering provisions are critical for a successful rule.

The Proposed Section 3173.16 allows existing CAAs to remain in effect; however, any "modification to existing leases, unit PAs, or CAs within the approved CAA" requires complete reapplication.[60] Without further defining the scope of modifications that require reapplication, the Proposed Rule risks requiring reapplications for minor modifications, including, for example, PA expansions. This would mean that any time an operator reapplied for a commingling permit, approvals already granted could be put in question, creating unmanageable risk barriers and making the process even more restrictive than under current regulation.

For ease of administrative efficiency and to limit unnecessary reapplications, we recommend that only modifications involving changes to the allocation method should require a reapplication. Modifications that do not change the allocation method should only require a sundry notice.

As currently drafted, the modification requirement will likely draw more applicants into the reapplication process than intended, leading to substantial increases in CAAs without providing any additional benefits to the taxpayer, applicant, or the BLM.

As such, we recommend that all existing commingling applications — including those approved under the expansive intent of the OBBBA — should be honored, with routine operational changes handled via sundry notices rather than the full reapplication process. Any other approach would essentially "trap" existing CAAs and incentivize operators to avoid associated improvements. We also recommend that the preamble provide an illustrative list of types of situations requiring a Sundry Notice Form 3160-5 versus a modification. For example, any time an operator adds or removes wells including but not limited to, adding infill wells or plugging and abandoning wells originally committed to a CAA, should be considered minor changes requiring a sundry notice only.

Notwithstanding overall provisions relating to modifications in other BLM rules, modification under this section should only cover those involving changes with allocation methodologies. This would align with the OBBBA's specific intent to open commingling

[60] *Id.* at 4054.

opportunities and remove burdensome procedural requirements which may serve to disincentivize operators from applying for CAAs.

Our recommended revisions are as follows.

All existing CAAs in effect on [EFFECTIVE DATE OF FINAL RULE] will remain in effect~~,~~. If ~~unless~~ the operator adds or removes wells or modifies ~~the facility layout, in which case~~ existing leases, unit PAs, or CAs in an approved CAA before or after the effective date of the Final Rule, a Sundry Notice Form 3160–5 notice will be required. ~~Otherwise, modifications to~~Additions to the contributing existing leases, unit PAs, or CAs, or modifications to the allocation methodology used within ~~the~~ an approved CAA will require the operator to reapply for commingling approval prior to implementing the proposed changes in accordance with the ~~existing regulations prior to implementing the proposed changes the~~ regulations in effect at the time of reapplication.

XI. After finalizing this Proposed Rule (which is narrowly purposed for CAAs), the BLM should undertake a subsequent rulemaking to address similarly outdated technical and administrative requirements under the onshore oil and gas measurement and site security rules under 43 CFR Part 3170, Subparts 3173, 3174, and 3175. Revisions should ensure consistency with the Administration's and Congress's goals to promote energy independence and remove regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation.

Recognizing challenges with the 2016 Final Rule relating to Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases; Site Security,[61] the first Trump Administration proposed rules to reduce unnecessary and burdensome regulatory requirements, which were never finalized.[62] The API along with 9 industry partners submitted detailed comments for the BLM's consideration.[63] While the OBBBA takes precedence, many of the issues raised then still apply and add value to the regulatory process.

As an additional step beyond this Proposed Rule pertaining to CAAs, we encourage the BLM to undertake a comprehensive rulemaking to address many of the remaining challenges and update the rules given the Administration's stated goals and objectives for energy independence and promoting economic growth.

[61] 81 Fed. Reg. 81365, 81 Fed. Reg. 81462, and 81 Fed. Reg. 81516, Nov. 17, 2016.
[62] 85 Fed. Reg. 55970, Sept. 10, 2020.
[63] API and 9 Industry partners, Comments relating to Revisions to the Oil and Gas Site Security, Oil Measurement, and Gas Measurement Regulations 43 CFR Part 3170, Nov. 9, 2020, https://www.ipaa.org/wp-content/uploads/2020/11/Final-Comments-on-BLM-SSM-Measurement-Rule.pdf

XII. Conclusion

We appreciate the opportunity to comment on this rulemaking and are available for further discussions at your convenience. If you have any questions, please reach out to us.

Sincerely,

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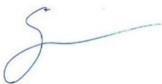

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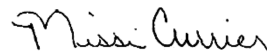

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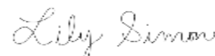

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Attachment 1: Associations' Recommended Redlined Rule Language for Proposed 43 CFR Sections 4173.1, 4173.14, 4173.15, and 4173.16.

Attachment 2: API and 10 Industry Partners' Comments to the Information Collection Request, OMB Control Number 1004-0137 (RIN 1004-AF38), Docket BLM–2025–0070. March 2, 2026.

Attachment 1: Associations' Recommended Redlined Rule Language for Proposed 43 CFR Sections 4173.1, 4173.14, 4173.15, and 4173.16.

Section 3173.1 Definitions and acronyms.

(a) As used in this subpart, the term:

Acceptable methodology means, consistent with 30 U.S.C. 226(q), any one of the following, individually or in combination: (1) use of ~~a~~ an allocation measurement device for each commingled source, (2) ~~a description of how the applicant will use~~ utilize an allocation method that achieves volume measurement uncertainty levels within plus or minus 2 percent during the production phase reported on a monthly basis, ~~or up to five percent if there are appropriate technical and economic justifications,~~ or (3) use of an approved periodic well testing methodology.

~~*Access* means:~~

~~(i) The ability to add liquids to or remove liquids from any tank or piping system, through a valve or combination of valves or by moving liquids from one tank to another tank; or~~
~~(ii) The ability to enter any component in a measuring system affecting the accuracy of the measurement of the quality or quantity of the liquid being measured; or~~
~~(iii) A written agreement that~~ BLM officials ~~can enter onto private or State lands for inspection and enforcement actions conducted by the BLM.~~

Appropriate valves mean those valves that must be sealed during the production or sales phase (e.g., fill lines, equalizer, overflow lines, sales lines, circulating lines, or drain lines).

Approved periodic well testing methodology means either of the following: (1) a methodology that has been approved by a State Conservation Commission or similar body for use of periodic well testing in the State where the commingling occurs; or (2) a generally accepted industry standard for periodic well testing methodology, for example, a method set forth in API Manual of Petroleum Measurement Standards Chapter 20.5 (Recommended Practice for Application of Production Well Testing in Measurement and Allocation, Dec. 2017, as amended), utilizing, at a minimum, monthly well tests of at least twelve hours cumulatively in duration for each well.

Authorized representative (AR) has the same meaning as defined in 43 CFR 3160.0–5.

Business day means any day Monday through Friday, excluding Federal holidays.

Commingling and allocation approval (CAA) means a formal allocation agreement to combine production from two or more sources (leases, unit PAs, CAs, or non-Federal or non-Indian properties) before that product reaches an FMP.

Economically marginal property means a lease, unit PA, or CA that does not generate sufficient revenue above operating costs, such that a prudent operator would opt to plug a well or shut-in the lease, unit PA, or CA instead of making the investments needed to achieve non-commingled measurement of production from that lease, unit PA, or CA. A lease, unit PA, or CA may be regarded as economically marginal if the operator demonstrates that the expected revenue (net any associated operating costs) generated from crude oil or natural gas production volumes on that property is not sufficient to cover the nominal cost of the capital expenditures required to achieve measurement of non-commingled production of oil or gas from that property over a payout period of 18 months. A lease, unit PA, or CA can also be considered economically marginal if the operator demonstrates that its royalty net present value (RNPV), or the discounted value of the Federal or Indian royalties collected on revenue earned from crude oil or natural gas production on the lease, unit PA, or CA, over the expected life of the equipment that would need to be installed to achieve non-commingled measurement volumes, is less than the capital cost of purchasing and installing this equipment. Both the payout period and the RNPV are determined separately for each lease, unit PA, or CA oil or gas FMP. Additionally, oil FMPs are evaluated using estimated revenue (net of taxes and operating costs) from crude oil production, as defined in this section, while gas FMPs are evaluated using estimated revenue (net of taxes and operating costs) from natural gas production, as defined in this section.

Effectively sealed means the placement of a seal in such a manner that the sealed component cannot be accessed, moved, or altered without breaking the seal.

Free water means the measured volume of water that is present in a container and that is not in suspension in the contained liquid at observed temperature.

Land description means a location surveyed in accordance with the U.S. Department of the Interior's Manual of Surveying Instructions (2009), that includes the quarter-quarter section, section, township, range, and principal meridian, or other authorized survey designation acceptable to the AO, such as metes-and-bounds, or latitude and longitude.

Maximum ultimate economic recovery has the same meaning as defined in 43 CFR 3160.0–5.

Mishandling means failing to measure or account for removal of production from a facility.

Overriding considerations means any condition that is in the public interest, including but not limited to, reduced surface impacts, potentially reduced emissions or emissions intensity, enabling additional production, or other conditions that make~~s~~ non-commingled measurement physically, economically, environmentally, or technically impractical~~ or that results in unnecessary or undue impacts~~.

Permanent measurement facility means all equipment constructed or installed and used on-site for 6 months or longer, for the purpose of determining the quantity, quality, or storage of production, and which meets the definition of FMP under § 3170.3.

Piping means a tubular system (e.g., metallic, plastic, fiberglass, or rubber) used to move fluids (liquids and gases).

Production phase means that event during which oil is delivered directly to or through production equipment to the storage facilities and includes all operations at the facility other than those defined by the sales phase.

Sales phase means that event during which oil is removed from storage facilities for sale at an FMP.

Seal means a uniquely numbered device that completely secures either a valve or those components of a measuring system that affect the quality or quantity of the oil being measured.

(b) As used in this subpart, the following additional acronyms apply:

BIA means the Bureau of Indian Affairs.

BMP means Best Management Practice.

CA means Communitization Agreement.

PA means Participating Area.

AO means Authorized Officer.

Section 3173.14 Conditions for comingling and allocation approval (surface and downhole)

(a) ~~Subject to the exceptions provided in paragraph (b) of this section, t~~The BLM ~~will~~ shall grant a CAA within 60 days of submission of the CAA, for all leases, unit PAs, or CAs including in instances where the proposed commingling of production involves production from federal, state, tribal, or private leases, unit PAs, or CAs, even if the interests at issues are disproportionate to one another, including interest that are subject to varying royalty rates, dissimilar fixed royalty rates, or revenue distributions if the following criteria are met:

(1) The operator or operators provides an acceptable methodology to the BLM for ~~accurate~~ allocation of production among the properties from which production is to be commingled (including a method for allocating produced water), as provided in 30 U.S.C. 226(q), with an agreement signed by all operators if there is more than one operator;

(2) The FMP(s) for the proposed CAA measure production originating only from the leases, unit PAs, or CAs in the CAA, and

(3) If production from an Indian lease is to be included in the CAA, the Bureau of Indian Affairs or Tribal approval, where necessary, approves of the inclusion of that production in the proposed CAA.

(4)~~ Subject to paragraph (c), t~~The BLM will approve a CAA in instances where the proposed commingling of production involves production from leases, unit PAs, or CAs, even if the Federal interests at issue are disproportionate to one another, including Federal interests that are subject to varying royalty rates, dissimilar fixed royalty rates, or revenue distributions, but only if the following conditions are met:~~ The BLM receives a complete CAA from the applicant pursuant to 43 CFR Section 3173.15 that includes a statement by the applicant confirming that the applicant will comply with state legal requirements, if any, for the proposed commingling if private or state interests are included in the CAA.

~~(i) Production from each lease, unit PA, or CA is measured by an FMP that satisfies the requirements under subpart 3174 for oil measurement or subpart 3175 for gas measurement; or~~

~~(ii) The proposed commingling allocation methodology demonstrates the installation of measurement devices for oil and gas sources that: (1) can reasonable achieve volume measurement uncertainty levels with plus or minus (+2 percent), between the allocation point and FMP (including offlease measurement FMPs, where applicable), during the production phase of the well or (2) uses the allocation methods and reporting requirements provided in subpart 3174 and subpart 3175 as reported on a monthly basis using a twelve-month average.~~

~~(5) The BLM will approve a CAA under this section only after:~~

~~i) The applicant provides notice to all interest owners of the production to be commingled or, in lieu of notice, the applicant provides to the BLM a signed operator agreement that includes a methodology that is acceptable to the BLM for accurate allocation of production among the properties from which production is to be commingled (including a method for allocating produced water); and~~

~~ii) The BLM receives a complete CAA from the applicant pursuant to 43 CFR 3173.15 that includes a statement by the applicant attesting that, on or before the date the applicant submitted the CAA, the applicant notified each interest owner by sending a copy of the application and the attachments to the CAA, by certified mail, return receipt requested to each interest owner.~~

(b) The BLM may also approve a CAA in instances where the proposed commingling of production involves production from Federal and non-Federal leases, unit PAs, or CAs, even if the Federal interests at issue are disproportionate to one another, including Federal interests that are subject to varying royalty rates, dissimilar fixed royalty rates, or revenue distributions that do not meet the criteria of paragraph (a) of this section. In order to be approved under this paragraph, a CAA must meet at least one of the following conditions:

(1) At least one lease or leases (Federal, Fee, State, or Indian), unit PA, or CA, or any combination thereof, meets the definition of an economically marginal property in this section;

~~(1)~~ (2) The average monthly production over the preceding 12 months for each lease, unit PA, or CA proposed for the CAA on an individual basis is less than 1,000 Mcf of gas per month, or 100 bbl of oil per month;

~~(2)The CAA, which includes Indian leases, unit PAs, or CAs, has been authorized under tribal law or otherwise approved by a tribe or the allottees of the allotted lease;~~

(3) The CAA covers the downhole commingling of production from multiple formations that are covered by separate leases, unit PAs, or CAs, where the BLM has determined that the proposed commingling from those formations is an acceptable practice for the purpose of increasing ultimate economic recovery and resource conservation; or

(4) There are overriding considerations that indicate the BLM should approve a commingling application: (i) in the public interest notwithstanding potential negative royalty impacts from the allocation method, unless Indian leases or mineral interests are to be included, in which case the CAA cannot be approved; or (ii) if the operator reasonably demonstrates that approval is necessary to prevent waste or increase ultimate recovery, but only to the extent that such considerations outweigh the possibility of incremental error in measurement of the quantity or quality of production, unless Indian leases or mineral interests are to be included, in which case the CAA cannot be approved; (iii) under either (i) or (ii), the BLM may approve a CAA if ~~the Indian mineral owner consents to the CAA and has been made aware of the potential negative royalty impact~~ written approval from the Bureau of Indian Affairs for allotted mineral interests and proper approval documentation for tribal mineral interests, if applicable, are provided and describe potential monthly royalty variance(s).

(5) To the extent an applicant is not able to meet the definition of "Acceptable methodology" under 3173.1, but can demonstrate mitigating technical or economic justifications, the BLM may approve a CAA allocation method that deviates from the "Acceptable methodology" definition under 3173.1, for example, by authorizing higher volume measurement uncertainty levels than outlined under Option 2 of the "Acceptable methodology" definition or by authorizing a periodic well testing methodology that deviates from "Approved periodic well testing methodology" as defined under 3173.1.

(c) The BLM shall issue a notice if the application is incomplete within 30 days of CAA submission, noting deficiencies. If the applicant meets the requirements for a CAA in this subpart, the BLM shall approve ~~will issue~~ the CAA within 60 days of submission of a complete CAA, unless an additional 30 days is necessary to complete any required environmental analysis. A complete CAA includes all applicable requirements from (a) or ~~and~~ (b) of this section and §3173.15.

(d) Nothing in this subpart shall be construed to supersede State spacing, pooling, or production regulations. The BLM may coordinate with State regulatory authorities and will approve CAAs that meet the applicable requirements in the State in which the CAA is proposed.

(e) For any approval under subpart (b), written approval from the Bureau of Indian Affairs or allotted mineral interests and proper documentation from tribal mineral interests is required, if applicable.

(f) When ownership and royalty rates are identical for all sources in a CAA, then BLM shall approve the commingling application regardless of the allocation methodology being proposed.

§ 3173.15 Applying for a commingling and allocation approval.

To apply for a CAA, the operator must submit the following, if applicable, to the BLM office having jurisdiction over the leases, unit PAs, or CAs from which production is proposed to be commingled:

(a) A completed Sundry Notice for approval of commingling and allocation (if off-lease measurement is a feature of the commingling and allocation proposal, then a separate Sundry Notice under 3173.23 is not necessary as long as the information required under 3173.23(b) through (e) and, where applicable, 3173.23(f) through (i) is included as part of the request for approval of commingling and allocation);

(b) A completed Sundry Notice for approval of off-lease measurement under 3173.23, if any of the proposed FMPs are outside the boundaries of any of the leases, units, or CAs from which production would be commingled (which may be included in the same Sundry Notice as the request for approval of commingling and allocation), except as provided in paragraph (a) of this section;

~~(c) A proposed allocation agreement with a calculated uncertainty percentage, including an allocation methodology (including allocation of produced water), with an example of how the methodology is applied, signed by each operator of each of the leases, unit PAs, or CAs from which production would be included in the CAA;~~

~~(d)~~(c) A list of all Federal~~,~~ or Indian, ~~State, or private leases,~~ unit PA, or CA numbers in the proposed CAA, specifying the type of production (i.e., oil, gas, or both) for which commingling is requested;

~~(e)~~(d) A topographic map or maps of appropriate scale showing the following:

(1) The boundaries of all the leases, units, unit PAs, or communitized areas whose production is proposed to be commingled; and

(2) To the extent known or anticipated, t~~T~~he location of existing or planned facilities and the relative location of all wellheads (including the API number) and piping included in the CAA, and existing FMPs or FMPs proposed to be installed ~~to the extent known or anticipated~~;

(f) A surface use plan of operations (which may be included in the same Sundry Notice as the request for approval of commingling and allocation) if new surface disturbance is proposed for the FMP and its associated facilities are located within the boundaries of the Federal or Indian lease, units, or CA from which production would be commingled;

(g) A right-of-way grant application (Standard Form 299), filed under 43 CFR part 2880, if the proposed FMP is on a pipeline, or under 43 CFR part 2800, if the proposed FMP is a meter or storage tank. This requirement applies only when new surface disturbance is proposed for the FMP, and its associated facilities are located on BLM-managed land outside any of the leases, units, or communitized areas whose production would be commingled;

(h) Written approval from the appropriate surface-management agency, if new surface disturbance is proposed for the FMP and its associated facilities are located on Federal land managed by an agency other than the BLM;

(i) A right-of-way grant application for the proposed FMP, filed under 25 CFR part 169, with the appropriate BIA office, if any of the proposed surface facilities are on Indian land outside the lease, unit, or communitized area from which the production would be commingled;

~~(j) Documentation demonstrating that each of the leases, unit PAs, or CAs proposed for inclusion in the CAA is producing in paying quantities (or, in the case of Federal leases, is capable of production in paying quantities) pending approval of the CAA;~~ and

~~(k)~~(j) Documentation demonstrating that the production from each of the leases, unit PAs, or CAs is compatible with each other by providing the following:

(1) The most recent gas analysis performed, including BTU content (if the CAA request includes gas), and the most recent oil gravity data (if the CAA request includes oil) from each of the leases, units, unit PAs, or CAs proposed for inclusion in the CAA.

(2) In lieu of the requirements in paragraph (1), the operator or operators may instead (i) submit a CAA for BLM consideration using analogous BTU content and/or oil gravity data from nearby wells for instances where BTU content and/or oil gravity are not explicitly known for the given leases, unit PAs or CAs~~.~~ or

(ii) submit gas analysis data with the completion reports if no data exists at the time of application for the leases, unit PAs or CAs covered by the application or nearby wells.

~~(l) all other interest owners, such as private, State, or Indian, consent to both the CAA and the BLM's inspection of the equipment to ensure compliance with §§ 3173, 3174, and 3175.~~

~~(m) Documentation demonstrating that the operator has secured all necessary access rights from the surface owner(s), whether private, State, or Indian, to ensure that BLM staff may access the measurement facilities within the CAA for conducting and verifying production, measurement and royalty.~~

~~(n) Documentation demonstrating that the operator maintains and operates the measurement equipment in accordance with §§ 3174 and 3175 for production equipment that is not allocated within a Federal or Indian lease, unit PA, or CA.~~

Section 3173.16 Existing commingling and allocation approvals

All existing CAAs in effect on [EFFECTIVE DATE OF FINAL RULE] will remain in effect~~,~~. If ~~unless~~ the operator adds or removes wells or modifies ~~the facility layout, in which case~~ existing leases, unit PAs, or CAs in an approved CAA before or after the effective date of the Final Rule,

a Sundry Notice Form 3160–5 notice will be required. ~~Otherwise, modifications to~~Additions to the contributing existing leases, unit PAs, or CAs, or modifications to the allocation methodology used within ~~the~~ an approved CAA will require the operator to reapply for commingling approval prior to implementing the proposed changes in accordance with the ~~existing regulations prior to implementing the proposed changes~~ the regulations in effect at the time of reapplication.

March 2, 2026

U.S. Department of the Interior, Director (630)
Bureau of Land Management
1849 C St. NW, Room 5646
Washington, DC 20240
Attn: 1004-AF38

Re: OMB Control Number 1004-0137 (RIN 1004-AF38) / (Docket BLM–2025–0070)

To Whom It May Concern:

The American Petroleum Institute ("API"), American Exploration & Production Council ("AXPC"), Independent Petroleum Association of America ("IPAA"), GPA Midstream Association, Colorado Oil and Gas Association ("COGA"), Montana Petroleum Association ("MPA"), New Mexico Oil and Gas Association ("NMOGA"), North Dakota Petroleum Council ("NDPC"), the Petroleum Alliance of Oklahoma, the Petroleum Association of Wyoming, and the Utah Petroleum Association - collectively "The Associations" - respectfully submit the following coalition comments on the Bureau of Land Management's ("BLM") information collection request ("ICR") for the proposed Requirements for Site Security and Production Handling; Applying for Commingling and Allocation Approval ("Proposed Rule") that was published in the Federal Register on January 30, 2026.[1] In accordance with the Paperwork Reduction Act ("PRA") of 1995,

[1] 91 Fed. Reg. 4045 (January 30, 2026).

BLM submitted an ICR to the Office of Management and Budget ("OMB") for review and approval under 44 U.S.C. § 3507(d).

Generally, we are grateful for the Administration's public commitment to facilitate the clear preference Congress expressed for commingling, as expressed in press releases and the preamble of the Proposed Rule. We agree that commingling is a valuable tool with the potential to reduce duplicative surface infrastructure, prevent stranded assets, reduce production costs, and enhance return to stakeholders.

Unfortunately, the Proposed Rule contains a restrictive framework supported by new requirements that are either overly burdensome for applicants and field offices to apply, or too vague and discretionary to be applied consistently. **Individually, any of these obstacles would contravene Congressional intent by effectively prohibiting commingling in many contexts. Collectively, the extent of the new regulatory obligations exceeding Congressionally-authorized requirements does not align with the President's de-regulatory agenda.**

Although our substantive comments will raise these issues in considerably more detail, we would like to flag the largest challenges with the Proposed Rule well before the conclusion of the public comment period to highlight where critical edits could make a substantial difference to the ICR and regulatory impact considerations.

We look forward to working with BLM to tailor the required provisions to avoid unintended consequences, fulfill the Congressional intent for increased commingling, and solidify another valuable building block in the President's legacy of energy dominance.

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A. OBBB outlined three criteria under which DOI shall approve commingling, which were expressed as three different methodological alternatives linked by an "or". Though the Proposed Rule repeats the OBBB criteria in the definition section, the "conditions of approval" section of the Proposed Rule effectively omits the third and arguably most important option, namely, the use of an approved well testing methodology. This omission results in a far higher standard for commingling than Congress imposed – thus substantially restricting commingling opportunities in ways that could render current ICR assumptions inaccurate (especially with regards to promoting regulatory flexibility, predictability, and freedom of choice for the public)………………………………………………………………….11

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I. About the Associations

API is a national trade association representing approximately 600 member companies involved in all aspects of the oil and natural gas industry. API's members include producers, refiners, suppliers, pipeline operators, and marine transporters, as well as service and supply companies that support all segments of the industry. API and its members are dedicated to meeting environmental requirements while economically developing and supplying energy resources for consumers. Our members lease, explore, and produce oil and gas on federal lands, giving them a substantial interest in this rulemaking.

AXPC is a national trade association representing 34 leading independent oil and natural gas exploration and production companies in the United States. AXPC companies support millions of Americans in high-paying jobs and invest a wealth of resources in our communities. Dedicated to safety, stewardship, and technological advancement, AXPC's members strive to deliver affordable, reliable energy to consumers while positively impacting the economy and the communities in which we live and operate. As part of this mission, AXPC members understand and promote the importance of advancing positive environmental and public-welfare outcomes and responsible stewardship of the nation's natural resources. AXPC's members are committed to being good stewards of federal and Indian resources and operating in compliance with all federal requirements. AXPC member companies produce more than half of U.S. onshore production each year.

IPAA serves as an informed voice for the exploration and production segment of the industry, and advocates its members' views before the United States Congress, The White House, and federal agencies. IPAA represents the thousands of independent oil and natural gas producers and service companies across the United States.

GPA Midstream Association is composed of approximately 50 corporate members that directly employ over 57,000 employees that are engaged in the gathering, transportation, processing, treating, storage and marketing of natural gas, natural gas liquids (NGLs), crude oil, and refined products, commonly referred to in the industry as "midstream activities." In 2024, GPA Midstream members operated more than 500,000 miles of pipelines, gathered nearly 91 Bcf/d of natural gas, and operated more than 340 natural gas processing facilities. Our members are an invisible link between raw natural gas and crude oil produced at the wellhead and the distribution of products to consumers for heating, electricity production, transportation, steelmaking, fertilizer production, plastics, high-tech devices, cosmetics, pharmaceuticals, and much more.

COGA is a non-profit trade organization that represents over 200 companies throughout the state of Colorado. For nearly 40 years, COGA has sought to create a thriving, innovative and respected oil and natural gas industry in Colorado that embodies the values of our communities, prioritizes the protection of our environment, and provides the natural resources that advance our

society. COGA provides a positive, unified, and proactive voice for the oil and natural gas industry in Colorado.

MPA is a Montana-based trade association representing over 150 member-companies involved in all aspects of the oil and natural gas industry. MPA's members include producers, refiners, suppliers, pipeline operators, transporters, and mineral owners as well as service and supply companies that support all segments of the industry and employ a substantial number of hard-working Montanans.

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.

Established in 1952, **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.

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.

The **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.

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.

II. On a practical level, new and unnecessary requirements in the Proposed Rule will make commingling nearly impossible. These requirements contradict Congressional intent and may render the Proposed Rule regulatory rather than de-regulatory.

The 2025 One Big Beautiful Bill Act ("OBBB")[2] was intended to provide greater flexibility to encourage commingling, instructing that the Secretary of the Interior "shall approve" any of three alternatives; however, new requirements in the Proposed Rule would function to limit commingling approvals – potentially resulting in fewer approved commingling applications than under the existing restrictive federal regulatory framework that Congress worked to expand.

To ensure that this Proposed Rule is considered de-regulatory rather than regulatory, it needs to align with Congressional intent and unnecessary restrictions must be removed.

A. Consent from all mineral owners (as newly required in the Proposed Rule) is unworkable.

The Proposed Rule's Section 3173.14(a)(5) introduces a new requirement to provide a certified mail notice to all owners, including private and state interests.[3] In addition to being inconsistent with existing commingling practices, this requirement should be removed because it adds unnecessary federal overreach into an area traditionally governed by state agencies. Entities like the New Mexico Oil Conservation Division, the North Dakota Oil and Gas Division, and the Oklahoma Corporation Commission already regulate notice requirements. Similar frameworks exist or are developing in other states, including Wyoming and Colorado.

Confusingly, the Proposed Rule's Section 3173.15(l) requires "documentation demonstrating that all interest owners, such as private, State, or Indian, consent to both the CAA

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[2] One Big Beautiful Bill Act, Pub. L. No. 119-21 (2025).
[3] 91 Fed. Reg. at 4053.

and the BLM's inspection."[4] This directly conflicts with the Proposed Rule's Section 3173.14(a)(5), which references notice rather than consent.

Unfortunately, universal consent is virtually impossible to obtain because a typical spacing unit can include anywhere from 200 – 400 individual mineral owners, many of whom are unknown, unlocatable, or deceased with disputed estates. Universal consent is therefore an impractical moving target that would directly impede the Congressional desire to facilitate commingling.

Notably, the OBBB required approval "regardless of ownership" and does not require mineral owner consent.[5] In addition to exceeding Congressional intent, this requirement is unnecessary because state pooling law binds private mineral owners even without individual consent.

B. Listing all impacted private leases is a new requirement and is essentially impossible due to the lack of publicly available information.

Section 3173.15(d) of the Proposed Rule requires listing "all Federal, Indian, State, or private leases with lease numbers."[6] This creates a substantial barrier that is not fully recognized in the existing ICR. For example:

- Large facilities may involve hundreds of private leases with different operators.
- Private lease numbers are often not public information and frequently are not held in easily accessible formats (e.g., a centralized database).
- The operator proposing the Commingling and Allocation Approval ("CAA") often does not have access to other operators' private lease details. Additionally, operators may be governed by confidentiality provisions that prohibit sharing those details outside of certain very limited scenarios.

To underscore how impractical this is, no comparable requirement exists for federal communitization agreements.

To avoid unnecessarily obstructing commingling as well as to reduce the burdens on both applicants and agencies, companies should only be required to list federal and Indian leases. For state and private leases, operators should be able to identify the affected tracts by legal description without individual lease enumeration.

[4] *Id*. at 4054.
[5] OBBB, Section 50101(d)(3).
[6] 91 Fed. Reg. at 4053.

C. The surface access provisions are unnecessary new requirements that essentially provide each owner with a veto – which again functionally limits commingling and impacts the information collection burdens associated with this Proposed Rule.

Section 3173.15(m) requires "documentation demonstrating that the operator has secured all necessary access rights from the surface owner(s)" for BLM inspection.[7] Several key points demonstrate why this is impractical:

- Operators already have access rights under state law.
- The existing Code of Federal Regulations already addresses surface access in the context of off-lease measurement in 43 C.F.R. § 3173.23.
- BLM does not need private surface agreements to exercise federal inspection authority.
- In states like North Dakota, surface owners often have no relationship to development in split-estate situations.
- This requirement would have disproportionate impacts in states including Wyoming and Colorado, where facilities are often located on private surface lands with minimal federal private surface and minimal federal Net Revenue Interest ("NRI").
- Anti-development surface owners could refuse access merely to block development and commingling.

This requirement is therefore both redundant and unnecessary, and again, impedes the Congressional preference for additional commingling. The additional requirement would increase the burden on companies and Agencies without providing any additional meaningful benefit.

III. The Proposed Rule contains significant technical obstacles, which will function to discourage operators from applying for commingling and the BLM from approving applications.

Assuming companies could manage to overcome the practical obstacles mentioned above, companies and BLM field offices would still face significant technical uncertainty regarding the correct and consistent interpretation of critical technical standards as well as the documentation necessary to demonstrate satisfying those standards – in both original reviews and audit situations.

[7] *Id.* at 4054.

The combined uncertainty would likely challenge both applicants and approvers - and therefore would certainly function to deter rather than encourage commingling.

A. The measurement uncertainty requirements lack sufficient clarity, again impacting information collection burdens for both companies and the BLM.

Under the Proposed Rule, an "acceptable methodology" requires +/- 2% uncertainty or +/- 5% with justification "between the allocation point and the FMP".[8] However, the Proposed Rule lacks granularity explaining critical items including but not limited to the following:

- how to calculate uncertainty; how to document compliance;
- whether "between the allocation point and the FMP" refers to the cumulative uncertainty of the entire allocation and measurement system including multiple meters; and
- what constitutes adequate "technical and economic justification."[9]

Without clear standards, every application becomes a subjective negotiation. Operators will not know whether their prospective methodology will be approved. BLM will not have criteria for consistency among different applications or field offices; therefore, field offices may decline commingling applications for lack of clear guidance. Furthermore, auditors will have no basis for determining whether decisions were appropriate. Even if a technical guidance document is later issued, safe harbor methodologies must be embedded in the rules.

Several states have adopted rules and procedures for periodic well testing; consequently, some operators rely heavily on the use of these methods for allocation. BLM needs to examine the procedures for periodic well testing used by Western oil and gas producing states and adopt a compatible approach.

The Proposed Rule also fails to provide any guidance on what periodic well testing methodologies meet the definition of an "acceptable methodology."[10] For example, API believes that methodologies set forth in Chapter 20.5 of the API Manual of Petroleum Measurement Standards should qualify as "acceptable methodologies." BLM has incorporated by reference API standards for measurement in other regulations and should follow such precedent here to dispel the ambiguity in the current proposal and align with industry practice.

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[8] *Id*. at 4052, §§ 3173.1(a); 3173.14(a)(4)(ii).
[9] *Id*., § 3173.1(a).
[10] *Id.*

IV. Beyond the practical and technical issues, restrictive new grandfathering provisions would require re-approval for any change – creating a substantial and unnecessary workload for both the BLM and companies that is also not factored into the ICR.

Section 3173.16 of the Proposed Rule allows existing CAAs to remain in effect; however, any "modification to existing leases, unit PAs, or CAs within the approved CAA" requires complete reapplication.[11]

This provision is far from sufficiently robust and would require a number of redundant filings that would increase the information collection burdens on both companies and agencies, as well as introduce unmanageable regulatory uncertainties into the commingling process.

"Modifications" is undefined and potentially very broad. Any number of modifications could force reapplications, including, for example, PA expansions. This would mean that any time an operator reapplied for a commingling permit, approvals already granted could be put in question - creating unmanageable risk barriers and making the process even more restrictive than under current regulation.

For manageability, only modifications involving changes to the allocation method should require a reapplication.

Moreover, clarification on the types of modifications requiring a sundry versus reapplication should be added to the rule.

To avoid a situation where the potentially unlimited requirement for reapplications would substantially increase the uncertainty and burden for companies and Agencies without providing additional benefit, <u>all currently approved commingling applications</u> – particularly those approved under the expansive intent of the OBBB – should be honored, with routine operational changes handled via sundry rather than full reapplication. Any other approach would essentially "trap" existing CAAs and incentivize operators to avoid associated improvements.

V. The framework for commingling in the Proposed Rule contravenes Congressional intent and substantially increases the information collection burdens on companies and Agencies.

As the Proposed Rule correctly notes, Section 50101(d)(3) of the OBBB contains expansive language relating to commingling:

[11] *Id.* at 4054.

"(q) COMMINGLING OF PRODUCTION – The Secretary of the Interior shall approve commingling applications allowing for the commingling of production from 2 or more sources (including the area of an oil and gas lease, the area included in a drilling spacing unit, a unit participating area, a communitized area, or non-Federal property) before production reaches the point of royalty measurement regardless of ownership, the royalty rates, and the number of percentage acres for each source if the applicant agrees to install measurement devices for each source, utilize an allocation method that achieves volume measurement uncertainty levels within plus or minus 2 percent during the production phase reported on a monthly basis, or utilize an approved periodic well testing methodology. Production from multiple oil and gas leases, drilling spacing units, communitized areas, or participating areas from a single wellbore shall be considered a single source. Nothing in this subsection shall prevent the Secretary of the Interior from continuing the current practice of exercising discretion to authorize higher percentage volume measurement uncertainty levels if appropriate technical and economic justifications have been provided."[12]

A. OBBB outlined three criteria under which DOI shall approve commingling, which were expressed as three different methodological alternatives linked by an "or". Though the Proposed Rule repeats the OBBB criteria in the definition section, the "conditions of approval" section of the Proposed Rule effectively omits the third and arguably most important option – namely the use of an approved well testing methodology." This omission alone is a far higher bar than Congress imposed and substantially restricts opportunities for commingling in a way that could render the ICR assumptions inaccurate – especially with regards to promoting regulatory flexibility, predictability, and freedom of choice for the public.

In OBBB, Section 5010(d)(3) clearly directs the Secretary to "approve applications allowing for commingling of production from 2 or more sources" when applicants demonstrate one of three options:

- Installing measurement devices for each source, OR
- Utilizing an allocation method achieving +/- 2% uncertainty; OR
- Utilize an approved periodic well testing methodology.[13]

In guidance issued to field offices in August 2025, BLM demonstrated their understanding of these alternatives by stating that "FOs will review commingling applications to ensure that the applicant agrees to install measurement devices for each source, uses an allocation method that achieves volume measurement uncertainty within ± 2 percent reported on a monthly basis, or

[12] OBBB, Pub. L. No. 119-21 (2025).
[13] *Id.*

proposes a periodic well testing methodology for approval. FOs may approve applications with a higher uncertainty if the applicant provides appropriate technical and economic justifications. FOs will work with the applicant to resolve applications that do not address one of these three requirements."[14]

Similarly, within the preamble of the Proposed Rule, BLM also correctly explains that the current outdated and restrictive commingling requirements have resulted in unnecessary operational costs, administrative delays, and underutilization of CAAs – especially in areas with mixed ownership, complex spacing rules, or marginal production facilities.[15] BLM explains that the proposed revisions are intended to promote operational efficiency, reduce surface disturbance through centralized facilities, prevent premature abandonment of wells, and ensure accurate royalty accounting while increasing overall production and recovery of federal minerals.

Though BLM's Proposed Rule acknowledges the optionality provided by the OBBB in the rule's definition section, the "conditions of approval" section in the Proposed Rule effectively omits the third and arguably most important option, namely, the use of an approved well testing methodology. Specifically, the Proposed Rule does not outline a clear regulatory path for BLM to approve well testing. Section 3173.14(a)(4) only provides pathways for facilities measurement points compliant with subparts 3174/3175, allocation methods achieving +/- 2% volume-measurement uncertainty, or use of allocation methodologies outlined in subparts 3174/3175.[16] However, Subparts 3174/3175 govern facility measurement points, not well testing protocols.

In short, BLM's Proposed Rule ignores the "or" structure in the OBBB and instead uses an "and" conjunction that would require volume measurement uncertainty levels to fall within +/- 2% for all commingling applications, unless authorized by "overriding considerations".[17] These "overriding considerations" are discretionary and vague, and lack the regulatory certainty needed to drive consistent and predictable reviews and approvals. This is further undermined by the fact that approved well testing standards or protocols are missing from the Proposed Rule.

If the "and" structure is maintained, only a marginal increase (if any at all) - in commingling can be expected. Therefore, the ICR assumptions should be adjusted in order for the rule to support deregulation rather than stricter regulation. If BLM returns to the "or" structure intended by Congress, significant increases in commingling more commensurate with the ICR estimates and Regulatory Impact Analysis can be expected – provided, of course, that the other issues described above are also appropriately addressed.

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[14] *Commingling of Oil and Gas Production,* BLM Instructional Memoranda 2025-034, available at https://www.blm.gov/policy/im-2025-034.

[15] *See* 91 Fed. Reg. at 4045.

[16] *Id*. at 4052-53.

[17] *Id*. at 4052, § 3173.14(b)(4).

VI. Conclusion

We appreciate the opportunity to comment on the collection of information contained in this rulemaking and are available for further discussions at your convenience. If you have any questions, please reach out to us.

Sincerely,

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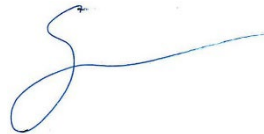

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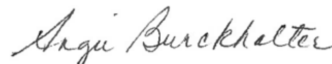

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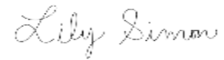

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