August 24, 2026

U.S. Department of the Interior
Director (630)
Bureau of Land Management
1849 C St. NW, Room 5646
Washington, DC 20240
Attention: 1004-AF05.
Submitted via www.regulations.gov

RE: Oil and Gas Leasing

Dear Director Pearce:

Western Energy Alliance, the Independent Petroleum Association of America, Colorado Oil and Gas Association, Montana Petroleum Association, New Mexico Oil and Gas Association, North Dakota Petroleum Council, Petroleum Association of Wyoming, Utah Petroleum Association, and West Slope Colorado Oil and Gas Association, collectively the Trades, appreciate the opportunity to comment on the Bureau of Land Management's (BLM) draft rule on Oil and Gas Leasing. The Trades support the proposed updates, with minor comments and edits suggested below, and urge BLM to expeditiously finalize the rule.

The draft Oil and Gas Leasing rule would replace BLM's 2024 Onshore Oil and Gas Leasing Rule. The latter regulation was finalized following passage of the Inflation Reduction Act (IRA), which directed BLM to make a number of substantive changes to the onshore oil and gas leasing and permitting program. Since the 2024 rule was finalized, Congress passed the One Big Beautiful

Bill Act (OBBBA), which reinstated substantially all of the pre-IRA leasing and permitting processes, as well as the Royalty Resiliency Act (RRA), which modernized royalty calculations for communitization agreements.

The proposed rule accurately describes why the updates incorporated therein are required by the OBBBA and RRA and in alignment with other statutory requirements imposed by the Mineral Leasing Act (MLA), Federal Land Policy and Management Act (FLPMA) and National Environmental Policy Act (NEPA). The Trades appreciate BLM's intent to align its regulations with these statutory mandates, including in areas such as bonding requirements where the 2024 rule went beyond congressional direction.

If finalized, the draft rule would create a more streamlined onshore oil and gas leasing and permitting program, while maintaining environmental protections on federal lands. The rule would also make oil and natural gas development on federal lands more competitive with production on state and private lands, ensuring the costs to operate and timelines for development of federal acreage more closely resemble those on non-federal lands. The proposed changes appropriately reflect FLPMA's requirement that BLM manage these lands for multiple and sustained yield of resources such as oil and gas.

As BLM's website notes, production of federal minerals "accounted for approximately 15 percent of domestically produced oil and 9 percent of domestically produced natural gas" in the most recent year for which data are available. Thus, BLM's management of the onshore oil and gas program is undoubtedly critical to ensuring our country's energy dominance and national security. Once again, the Trades appreciate that BLM's draft rule would help achieve those goals.

Our comments below highlight support for specific changes in the proposal, provide details on why those changes are necessary, and offer suggestions on ways in which the rule could be strengthened or clarified, including in response to questions posed by BLM within the draft. The comments proceed section-by-section through the proposed rule, although not all of the sections necessitate a response. In lieu of repeating previous discussion of deficiencies with the 2024 Rule, the Trades also provide our prior comment letters as attachments at the end of this submission.

Section 3101.12, Surface Use Rights

The Trades appreciate the proposal to return to the pre-2024 rule values for minimum siting distances and timing limitations for lease activities. We strongly opposed BLM's changes in the 2024 Rule to increase the siting measure for the location of proposed operations from 200 to

800 meters and the timing of surface disturbance operations from 60 days to 90 days. As noted in the draft rule, the 2024 updates to these values would substantially limit the amount of time a leaseholder would be able to develop its lease throughout the year, and would allow BLM to impose significant changes to the siting of a well.

Although these decisions may be appropriate on a case-by-case basis in consultation with the leaseholder, raising the baseline values so that BLM may impose, at a minimum, sizable changes to the timing and siting of a well is unnecessary and unduly burdensome on the operator, while adversely impacting the ultimate generation of royalty and tax revenues for the federal government and American people.

While we support the proposed changes in this section, we would also appreciate a clarification that ties together language in the preamble and the text of the updated regulations. The preamble notes:

> The BLM may not impose mitigation measures that would render lease operations uneconomic or infeasible; however, the BLM may impose some types of mitigation measures if the BLM documents that such requirements are ***reasonable and necessary to prevent unnecessary or undue degradation of public lands or resources*** and provided that those measures are included in the underlying RMP, as required by section 50101(d)(3) of the OBBB. (emphasis added)

BLM's statement above regarding the text of the OBBBA appropriately states the legislation's limitation on mitigation measures, and we would appreciate it being restated in the text from the corresponding section of the updated regulation, which is edited below with our suggested addition in red:

> At a minimum, mitigation measures that are consistent with lease rights include, but are not limited to, requiring relocation of proposed operations by up to 200 meters or prohibiting new surface disturbing operations for a period of up to 60 days in any lease year~~.~~, provided those mitigation measures are both reasonable and necessary to prevent unnecessary or undue degradation of public lands or resources.

<u>Section 3101.52, Action by the Bureau of Land Management</u>

The Trades support BLM's proposal to remove the sentence "The authorized officer may add other appropriate stipulations" from the section regarding BLM's leasing process for lands where another federal agency owns the surface. The preamble correctly notes that OBBBA removed BLM's discretion to impose stipulations at the leasing stage that are otherwise not contemplated in the resource management plan (RMP) for the area. However, if the federal agency that owns the surface seeks to impose stipulations, BLM may apply those conditions if the federal agency would otherwise withdraw its consent to leasing the impacted parcels.

We also note that this section makes clear the importance of coordination between BLM and other federal surface management agencies, such as the U.S. Forest Service (USFS) and Department of War (DoW). BLM should seek to streamline and simplify the consent process for leasing parcels on USFS- and DoW-managed surface so that those parcels are not left stranded by delays and uncertainty. To that end, we recommend BLM consider updating the regulations governing leasing on National Forest System Lands to clarify the distinction between "acquired lands" and "public domain lands."

Under the Mineral Leasing Act, BLM "may not issue any lease on National Forest System Lands **reserved from the public domain** over the objection of the Secretary of Agriculture" [30 USC § 226(h), emphasis added]. Section 3101.51 of the current regulation states that "Public domain **and acquired lands** will be leased only after seeking concurrence from the surface managing agency, which, upon receipt of a description of the lands from the authorized officer, may report to the authorized officer that it consents to leasing with stipulations, if any, or withholds consent or objects to leasing" [emphasis added]. Finally, Section 3101.52(b) notes that "The authorized officer will not issue a lease on lands to which the surface managing agency objects or withholds consent and for which consent or concurrence is required by law."

The Trades note that, per the text of the MLA, only lands "reserved from the public domain" are subject to "the objection" of the Secretary of Agriculture prior to leasing. Therefore, we request that BLM clarify Sections 3101.51 and 3101.52(b) to make clear that acquired lands may be leased pursuant to the applicable land management plan (LMP), with all relevant management prescriptions attached to the leases, without requiring a further concurrence from the Secretary of Agriculture, because consent was provided when the LMP was finalized. This would serve to expedite the leasing process for certain parcels of National Forest System Lands, without adding unnecessary delays that are not required by law.

<u>Section-by-Section Discussion for Changes to 43 CFR Subpart 3104</u>

The preamble of the proposed rule states that "BLM is requesting comments on allowing nationwide and unit operator bonds because these bond types were accepted prior to the 2024 Leasing Rule and may offer operational flexibility for some lessees."

As noted later in that paragraph, reimplementing nationwide bonds would not have economic impacts because BLM could tailor the minimum bonding rates to be consistent with individual lease and statewide bonds. While the Trades understand there may be some administrative burden to BLM in administering nationwide bonds, to the extent companies with operations in multiple states request them, BLM should approve these requests.

Regarding bonding requirements generally, we acknowledge that the U.S. Government Accountability Office (GAO) has in the past found that bonding requirements may be insufficient to cover orphaned wells. However, this finding belies the fact that there are currently very few such wells on BLM lands. As recently as 2021, Biden Administration officials acknowledged that there were estimated to be fewer "84 known orphaned wells on BLM-managed lands." Since that testimony, Congress appropriated substantial funds for BLM in the Infrastructure Investment and Jobs Act that were dedicated to reclaiming orphaned wells. The 2024 rule's elimination of nationwide bonds and increase in minimum bond amounts for individual leases and statewide bonds was a solution in search of a problem.

Section 3104.1, Bond Amounts

Not only were the increased bond requirements in the 2024 rule not a solution to any issue with orphaned wells on federal lands, they were also not required by Congress as part of the IRA – unlike the rest of the 2024 rule's increased fees. The increased bonds were instead simply punitive and excessive cost burdens that fell disproportionately on smaller operators, for whom a 20-fold increase in statewide bond value and 15-fold increase in individual lease bonds (compared to pre-2024 levels) poses great difficulty.

The Trades' comments on the proposed 2024 rule (appended to this letter) describe in detail the impacts of the increased bond levels in the 2024 rule, including how they were unobtainable for many small operators. The 2024 rule downplayed this burden in response to our comments on the draft rule by claiming the Small Business Administration (SBA) bond guarantee program would apply to federal oil and gas bonding.

The 2024 rule claimed small operators could obtain bonds for only 1% of a lease or statewide bond. Yet, the 2024 rule and the record underlying it provided no support for this contention, no evidence that the SBA had ever guaranteed federal oil and gas bonds, and no indication that BLM employees had spoken with the SBA on the applicability of the guarantee program. All the record contained were two generic screenshots of the SBA's website.

In reality, small operators cannot obtain an SBA guarantee for federal oil and gas bonding. This is because the statutes, regulations, and even the generic program description for the SBA's bond guarantee program apply to contract performance bonds, not general financial assurances. Thus, the final 2024 rule inadequately responded to the true impacts on small operators.

The Trades express strong support for reducing the level of statewide and individual lease bonds from the levels established in the 2024 Rule. We note that BLM is not alone in imposing bond requirements; in fact, states often impose bond levels that exceed the amounts in the pre-2024 regulations which BLM now proposes to return to.

For instance, Wyoming sets the bond requirements for an individual well at $10/foot of well bore, while the minimum amount for a blanket bond covering all of a company's wells in the state is $100,000. Similarly, New Mexico imposes bonding requirements based on the amount of active or inactive wells a company owns, up to $250,000 for the former and $1,000,000 for the latter.

Utah also recently adopted a tiered, risk-based bonding system under which individual well bonds range from $5,000 to $110,000 based on well depth, while qualifying operators may use blanket bonds ranging from $200,000 to as much as $5 million based on the number of wells, production levels, and the proportion of low-producing or otherwise "at-risk" wells. Additional supplemental bonding of up to $55,000 per applicable at-risk well may also be required above and beyond the $5 million blanket bond.

We also note that BLM has several mechanisms currently in place that mitigate the need for excessive bond requirements. BLM notes in the proposed rule that Instruction Memorandum 2024-014, *Oil and Gas Bonds Adequacy Reviews* requires BLM to ensure that bond amounts for leaseholders cover potential liabilities. Furthermore, as noted, "BLM's regulations at 43 CFR 3104.50 also provide a basis for increasing the bond amount and provide the BLM with the ability to bar lessees who fail to provide increased bond amounts from obtaining additional oil and gas leases."

Finally, BLM can focus inspection and enforcement activities on determining when wells are at risk of being abandoned before they become so. Taken together, BLM can be proactive in ensuring it has sufficient bonds in place to mitigate any potential future orphaned wells – which as current practice shows, are likely to be rare – without requiring punitive bond levels.

Section 3105.1, Reporting and Payment for Production (Proposed Regulation)

The Trades appreciate that BLM is proposing to implement provisions of the Royalty Resiliency Act that would clarify the process for royalty distribution within communitization agreements (CA). This section will ensure producers do not pay excess royalties to the federal government while they wait for BLM to approve a CA. The Trades strongly supported passage of the RRA, and thank BLM for incorporating this provision into the regulations.

<u>Section 3108.21, Automatic Termination</u>

BLM should consider amending the section on automatic lease terminations to avoid minor payment discrepancies which can trigger reinstatement processes that impose administrative burdens on both BLM and lessees while providing little practical benefit. The current nominal deficiency threshold no longer reflects the value of modern federal oil and gas leases or current rental obligations. Inadvertent calculation errors, acreage discrepancies, or other administrative mistakes can result in small deficiencies that do not warrant automatic lease termination.

A deficiency is currently "nominal" only if it is no more than $100 or 5% of the total payment due, whichever is less, and the lessee only has 15 days from receipt of notice to pay the balance and avoid lease termination. This creates the potential for a company to automatically lose its lease if their rental calculations are off by anything more than $100, and even in instances of minor error the lease reinstatement can lead to an increased royalty rate on the lease. The Trades suggest BLM make the following edits, in red, to § 3108.21(b):

> A deficiency will be considered nominal if it is not more than $100 per acre or more than 5 percent of the total payment due, whichever is ~~less~~ greater. The designated ONRR office will send a Notice of Deficiency to the lessee. The Notice will allow the lessee ~~15~~ 30 calendar days from the date of receipt or until the due date, whichever is later, to submit the full balance due to the designated ONRR office."

The updated definition of "nominal deficiency" would more closely resemble the rental fee structure and would scale with the size of the lease. Extending the cure period from 15 to 30 calendar days would better account for corporate payment processing, internal review requirements, mail delivery delays, and coordination between ONRR and lease operators. Overall, these proposed revisions would maintain lessee accountability for payment obligations while reducing avoidable reinstatement petitions and associated administrative costs.

<u>Section-by-Section Discussion for Addition of 43 CFR Part 3110</u>

The Trades appreciate that BLM is reincorporating provisions for the noncompetitive leasing process, pursuant to the requirements of the OBBBA. Reinstating noncompetitive leasing provides a low-cost entry for small companies exploring in areas not considered highly prospective today, which may in turn become the next big field.

Section 3120.31, Expression of Interest Process

The Trades support the section removing the requirement for the expression of interest to list the name and address of the private surface landowner. This requirement is unnecessary.

Section 3120.32, Expression of Interest Leasing Preference

The Trades strongly support this section, which would remove the leasing preference criteria. The criteria is not required by law, is duplicative of the RMP process, and is now superseded by the OBBBA's requirement that all nominated parcels that are open to leasing under the approved RMP be made available for leasing within 18 months.

Section 3120.42, Posting Timeframes

The Trades understand BLM's desire to streamline and shorten the lease sale process. However, we are concerned that the proposed rule curtails the public comment process more than is necessary, in light of the broader improvements to the leasing process made elsewhere in the OBBBA and in this rule.

The draft rule would remove the requirement that BLM provide a scoping period and a comment period during the NEPA review for the lease sale. As noted, the "scoping and comment periods are not required by the MLA or any other applicable statute," and the public is able to participate in the planning process for future lease sales in comment periods on the development of an RMP for the planning area.

However, removing both periods for input prior to lease sales takes away impacted companies' and trades' ability to identify minor deficiencies in the draft environmental assessment (EA) for lease sales that can be rectified in the final EA, which enhances legal durability for the sales. Given the frequency with which plaintiff groups challenge BLM lease sales, the oil and gas industry appreciates the opportunity to bolster BLM's decisions in the administrative record.

Furthermore, while the draft rule notes that the removal of the scoping and comment period would save 60 days in the development of an EA, we suggest that this time saving is less impactful than the efficiencies gained elsewhere in this rule, especially in the new OBBBA requirement that all nominated parcels be offered for lease at a sale within 18 months of nomination.

As such, we recommend BLM eliminate the scoping period, while maintaining the comment period on the draft EA. This would ensure the public has an opportunity to comment on the lease sale after the RMP stage and before the sale occurs, while eliminating one redundant comment period (i.e. scoping).

Furthermore, the Trades are wary that removing two comment periods and reducing the protest period from 30 days to 10 days would open BLM to legal risk, given a prior court decision that overturned lease sales due to a lack of opportunity for the public to participate (*Mont. Wildlife Fedn. v. Haaland,* 127 F.4th 1). In that decision, the Court held that:

> As to the parcels for which the comment or scoping period was less than 30 days…we do not decide whether the participation offered was inconsistent with NEPA's requirements when considered in isolation…As to whether simplification and streamlining of oil and gas leasing decisions are "good reasons" for reducing the overall opportunity for public participation, we have noted that "[e]lections have policy consequences," and that an agency may reevaluate the weight it gives to different priorities…
>
> At the same time, the justification offered for a change in policy or agency action cannot be inconsistent with the purpose of the requirement being implemented. Here, the agency's decision to prioritize administrative efficiency and expedition of oil and gas production over deliberative decision-making that takes into account informed public comments is in direct tension with NEPA…
>
> BLM failed entirely to acknowledge the potential costs of reducing public participation in leasing decisions, including that shortening the participation opportunity might lead to insufficient consideration of the environmental impacts of its actions. Individuals and groups are unlikely to learn of the decision, research the environmental impacts of each sale—here, numbering in the dozens to hundreds—and compose a formal comment or protest marshalling facts and arguments in little over two weeks. By curtailing the opportunities available for public input in land management decisions for the sole purpose of more expeditious offerings of oil and gas leaseholds, the agency "entirely failed to consider an important aspect of the problem…"

Once again, we suggest that the reduced timeline for accepting comments and protests has only an incremental effect on the timeline for leasing compared to larger efficiencies in the leasing process. While we appreciate BLM's desire to shorten the length of time from expression of interest to lease issuance, we believe the additional legal risk created by shortening the protest period outweighs any improvements created by this change.

Section 3120.43, Protests (Proposed)
The Trades understand the desire to limit or eliminate spurious protests that simply repeat common arguments that certain groups opposed to oil and gas development on federal lands repeat ad nauseam. However, we note that impacted companies and trade associations have also submitted protests to lease sales in instances where previous administrations took actions that are contrary to the purpose and spirit of these leasing regulations.

As such, we urge BLM to tailor any updates to the regulations for protests towards promoting identification of novel and significant issues with the lease sale itself, including provisions implemented in the final EA that are contrary to law and regulation. This could include new requirements that information submitted be specific to the parcels in the individual lease sale rather than global issues such as the impacts to climate change, and limiting the need to respond to "repetitive content that echoes previous filings."

While we appreciate that BLM is seeking to cover its administrative burden with the imposition of a $1/page filing fee, potentially including pages counted from hyperlinks in the protest, we recommend BLM consider if there is an alternative approach that achieves the same desired outcome.

Section 3120.73 Compensatory Royalty Agreements
The Trades strongly support the proposed revision to section 3120.73 and, more generally, an expansion of BLM's use of compensatory royalty agreements. The Mineral Leasing Act gives the Secretary broad authority to enter into compensatory royalty agreements, stating "[w]henever it appears to the Secretary that lands owned by the United States are being drained of oil or gas by wells drilled on adjacent lands, he may negotiate agreements whereby the United States, or the United States and its lessees, shall be compensated for such drainage." 30 U.S.C. § 226(j). In *Kraken Oil & Gas LLC*, 198 IBLA 118 (2022), the Interior Board of Land Appeals confirmed this broad authority.

Compensatory royalty agreements can be a valuable tool for operators because they allow operators to protect their investment in a drilling and spacing unit, communitized area, or unit area when court decisions, resource management plans, or other mechanisms prevent or delay leasing of unleased lands. To date, however, BLM has been reluctant to utilize compensatory royalty agreements when lands, conceivably, could be leased in the future. Presumably, BLM's reticence is due to the fact that compensatory royalty agreements historically endured for as long as production continued in paying quantities, thus preventing the subject lands from being leased in the future. The proposed revision to 3120.73, which would provide for a compensatory royalty agreement's automatic termination once a lease is issued, eliminates this deterrent. With this regulatory change, the Trades hope BLM will promote and encourage the liberal use of these agreements.

Section 3165.1 Relief from Operating and/or Producing Requirements

The Trades appreciate and support the proposed changes to the section on lease suspensions, which would provide flexibility for operators who are "diligently working" with BLM to get the APD submitted before lease expiration, but are unable to due to circumstances beyond the company's control. We also support the proposal to remove the limit on suspensions, which is currently set at one year. In many cases, leases have been subject to litigation that drags on for years in the federal court system, so this change would reflect the necessity for a suspension that in some cases lasts longer than one year.

The Trades strongly support BLM's proposed deletion of the language in 43 CFR § 3165.1(c) that prevents BLM from suspending leases when an APD is filed with fewer than 90 days remaining before a lease's expiration. This limitation has caused unnecessary hardship on operators and resulted in arbitrary regulatory burdens. For example, BLM once advised an operator it would not grant a suspension because the operator submitted an APD with 89, rather than 90, days remaining on a lease's primary term. The rigid limitation in subsection (c) improperly eliminated BLM's discretion to handle unique situations on a case-by-case basis and contributed to regulatory burdens.

Finally, we recommend that BLM make further changes to this section on suspensions in light of the lawsuits mentioned above. Specifically, we request that BLM edit 43 CFR § 3165.1(c) as follows, with edits in red:

> (c) If approved, a suspension will be effective on the first of the month in which the completed application was filed or the date specified by the authorized officer in the approval~~.~~, except that if a court order precludes or litigation deters BLM from approving APDs or authorizing surface-disturbing activities or occupancy and a suspension is requested on that basis, BLM is authorized to grant the suspension retroactively to the first day of the applicable month in which the court order was issued or the litigation was filed.

Conclusion

The Trades strongly support the draft Oil and Gas Leasing Rule. The proposal is properly aligned with statutory intent, and it will serve to streamline the federal onshore oil and gas leasing and permitting process. We request BLM make the minor edits suggested above to further strengthen the rule, and otherwise move forward with expeditiously finalizing the updated regulations.

Thank you for your time and consideration of these comments. Please do not hesitate to contact us if you have any questions or would like additional information.

Sincerely,

Melissa Simpson
President
Western Energy Alliance

Dan Naatz
Chief Operating Officer and Executive Vice President
Independent Petroleum Association of America

Lynn Granger
President & CEO
Colorado Oil & Gas Association

Sonny Capece
Executive Director
Montana Petroleum Association

Ron Ness
President
North Dakota Petroleum Council

Missi Currier
President & CEO
New Mexico Oil & Gas Association

Lily Simon
Director of Regulatory Affairs
Petroleum Association of Wyoming

Rikki Hrenko-Browning
President
Utah Petroleum Association

Chelsie Miera
Executive Director
West Slope Colorado Oil & Gas Association