August 24, 2026

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

Submitted via www.regulations.gov

Re: "Royalty for Oil and Gas Lost From Onshore Federal and Indian Leases," 91 Fed. Reg. 37,906 (June 24, 2026), RIN 1004-AF33, Docket No. BLM-2025-0235

GPA Midstream Association ("GPA Midstream") appreciates the opportunity to submit comments on the Bureau of Land Management's ("BLM") proposed rule revising regulations governing royalties on oil and gas lost from onshore Federal and Indian leases, unit participating areas, and communitization agreements (the "Proposed Rule"). See Proposed Rule, proposing revisions to 43 C.F.R. § 3179.[1]

GPA Midstream has served the U.S. energy industry since 1921 and represents approximately 45 domestic corporate members that directly employ 57,000 employees engaged in the gathering, transporting, processing, treating, storage, and marketing of natural gas, natural gas liquids, crude oil and refined products, commonly referred to as "midstream activities." The work of our members indirectly creates or impacts an additional 470,000 jobs across the U.S. economy. In 2024, GPA Midstream members had an economic impact of $191 billion through operating 502,900 miles of gas gathering pipelines, gathering more than 91 billion cubic feet per day of natural gas, and operating more than 342 natural gas processing facilities that delivered pipeline quality gas into markets across a majority of the U.S. interstate and intrastate pipeline systems.

GPA Midstream members frequently gather, transport, process, treat, store, and market production from Federal and Indian leases. Many members, however, are independent midstream service providers that neither own Federal or Indian leases nor control upstream production decisions. Because the Proposed Rule reaches operational circumstances that often involve third-party gathering and processing infrastructure, it is important that the final rule clearly distinguish lease operators from independent midstream companies. GPA Midstream has long engaged with BLM

[1] Proposed Rule, Royalty for Oil and Gas Lost From Onshore Federal and Indian Leases, 91 Fed. Reg. 37,906 (June 24, 2026).

on royalties due on lost oil and gas, including the 2024 rulemaking.[2] GPA Midstream submits those prior comments for the record by reference.

Executive Summary

GPA Midstream generally supports the Proposed Rule because it appropriately refocuses Subpart 3179 on royalty administration rather than duplicative operational regulation. In particular, GPA Midstream supports removing the waste-minimization plan and 100-percent capture certification requirements, the BLM-specific leak detection and repair ("LDAR") program, prescriptive operational requirements, and the numerical limits on royalty-free flaring caused by pipeline or processing constraints.

GPA Midstream nevertheless recommends several targeted revisions to improve clarity and implementation. Most importantly, BLM should confirm that independent gathering, compression, processing, transportation, storage, and purchasing companies do not become "operators" merely because they handle production from Federal or Indian leases, and that the lease operator remains responsible for royalty reporting, venting and flaring measurement point ("VFMP") compliance, and other obligations under Subpart 3179.

GPA Midstream also recommends revisions to the provisions governing pipeline and processing constraints, unmerchantable gas, VFMP measurement and allocation, and national implementation guidance to ensure that the final rule is objective, administrable, and consistent with commercial midstream operations.

I. GPA Midstream Supports BLM's Proposed Refocusing of Subpart 3179 on Royalty Administration.

GPA Midstream supports BLM's proposal to return 43 C.F.R. § 3179 (or "Subpart 3179") to its proper role as a royalty-administration rule rather than a parallel environmental regulatory program. As BLM explains, the proposal would refocus the regulations on determining when lost production is royalty bearing while reducing duplicative operational requirements already addressed under EPA, State, and Tribal programs. That approach better aligns with BLM's statutory authority under the Mineral Leasing Act and Federal Oil and Gas Royalty Management Act.

GPA Midstream also supports BLM's decision to revise the 2024 rule rather than rescind it in its entirety. As BLM explains, wholesale rescission would revive the 2016 rule—not NTL-4A.[3] Targeted revisions allow BLM to retain the streamlined, objective royalty framework reflected in the Proposed Rule—including the removal of the waste-minimization plan, capture certification, LDAR, and numerical flaring requirements—while avoiding the legal uncertainty and implementation challenges associated with reverting to the 2016 framework. A targeted revision also provides operators and independent midstream service providers with a more stable and

[2] *See, e.g.*, GPA Midstream Comments, Proposed Rule on Onshore Oil and Gas Operation; Federal and Indian Oil and Gas Leases; Waste Prevention, Production Subject to Royalties, and Resource Conservation, 87 Fed. Reg. 73,588 (Nov. 30, 2022).

[3] 91 Fed. Reg. at 37,907–08.

predictable regulatory framework, consistent with BLM's stated interest in regulatory certainty and the objectives of Executive Order 14154.[4]

A. BLM should finalize the removal of the waste-minimization plan and 100-percent capture certification requirements.

The 2024 rule requires an operator submitting an application for permit to drill ("APD") before conducting drilling operations on a Federal or Indian oil or gas lease. For an APD for an oil well, the rule further requires the operator to provide either a waste-minimization plan or a certification that it will capture 100 percent of the gas produced, subject to limited exceptions. The Proposed Rule would remove those requirements from Section 3162.3-1.[5]

GPA Midstream supports the proposed removal. An upstream operator cannot guarantee uninterrupted capture based solely on its own conduct. Capture may depend on gathering pressure, compressor availability, processing capacity, residue-gas takeaway, natural-gas-liquids takeaway, gas quality, downstream nominations, weather, maintenance, curtailments, force majeure, and other conditions beyond the operator's control. A mandatory 100-percent certification can therefore be inaccurate at the time it is made or can discourage otherwise economic development. Operators already have a substantial financial incentive to capture and market gas whenever reasonably practicable.

B. BLM should finalize the removal of the BLM-specific LDAR program and other duplicative operational mandates.

GPA Midstream's 2023 comments opposed BLM's proposed pneumatic-controller and LDAR requirements because they duplicated EPA and State programs. The Proposed Rule would eliminate the 2024 rule's LDAR program, leak-repair deadlines, and associated recordkeeping. BLM estimates that those requirements impose approximately $16.8 million in annual costs while producing approximately $210,000 in additional annual royalties and addressing only a small fraction of estimated gas losses.[6]

BLM also proposes to remove requirements concerning flare ignition and siting, tank-vapor controls, production-equipment sizing, and open-ended "reasonable measures" to prevent waste.[7] GPA Midstream supports those revisions. The deleted provisions either duplicate other regulatory programs, lack objective and enforceable standards, or extend beyond what is necessary to determine the royalty status of lost gas.

C. BLM should finalize the removal of the numerical limits on royalty-free flaring caused by pipeline and processing constraints.

The 2024 rule limits the volume of gas that may be treated as unavoidably lost due to pipeline capacity constraints, midstream processing failures, and similar events by applying a declining

[4] 91 Fed. Reg. at 37,911; proposed 43 C.F.R. § 3179.1.

[5] 91 Fed. Reg. at 37,911.

[6] 91 Fed. Reg. at 37,919.

[7] 91 Fed. Reg. at 37,911.

Mcf-per-barrel formula. The Proposed Rule would remove those numerical limits and the associated curtailment and shut-in provisions.[8]

GPA Midstream supports that revision. A single nationwide Mcf-per-barrel limit cannot account for differences in geology, gas-oil ratios, gas composition, gathering-system configuration, processing requirements, available takeaway, maintenance schedules, weather, or the duration and cause of an interruption. The current formula may impose royalties even when the operator and its midstream service providers have acted reasonably and the gas cannot be transported or processed. Removing the formula will avoid arbitrary results while preserving the rule that losses caused by operator negligence are royalty bearing.

II. BLM Should Clarify the Existing Definition of "Operator" and Confirm That Unaffiliated Midstream Companies Are Not Regulated Operators.

Part 3170 already defines "operator" by cross-reference to 43 C.F.R. § 3160.0-5.[9] Section 3160.0-5, in turn, defines an operator as a person or entity—including a lessee or operating-rights owner—that has stated in writing to the authorized officer that it is responsible under the lease for operations conducted on the leased lands. The Proposed Rule does not repeat or refine that definition in proposed Section 3179.10, even though it separately refers to a "midstream company or gas processor" in proposed Section 3179.41(b)(12). The regulatory structure therefore recognizes that a midstream company or processor may be distinct from the operator, but the final rule should make that distinction explicit for purposes of Subpart 3179.

GPA Midstream raised the operator-responsibility issue in its 2023 comments. The new VFMP, measurement, allocation, and reporting provisions make clarification especially important. Equipment associated with Federal or Indian production may be owned by the lessee, a contract operator, an affiliate, an unaffiliated gathering company, a processor, or another service provider. A midstream company may operate a compressor, gathering line, processing plant, flare, or measurement device without having stated to BLM that it is responsible under the lease, owning the lease, controlling well operations, or possessing the information and authority necessary to make royalty determinations.

Without an express clarification, different BLM offices could misdirect Sundry Notice, measurement, reporting, or record-production obligations to an equipment owner or service provider rather than to the operator identified under Sections 3170.3 and 3160.0-5. That would create inconsistent implementation and could impose practical burdens on entities that have no leasehold relationship with BLM and have not assumed responsibility for lease operations.

A. BLM should clarify that ownership or operation of midstream facilities does not make a company an "operator."

The existing cross-referenced definition provides a useful starting point because it ties operator status to a written statement of responsibility to BLM. But the final rule should confirm that ownership or operation of downstream equipment, standing alone, does not satisfy that test. This

[8] 91 Fed. Reg. at 37,910, 37,917–18.

[9] 43 C.F.R. § 3170.3.

clarification is warranted because Subpart 3179 expressly addresses equipment, measurement, and information that may be located at or maintained by third-party gathering and processing facilities.

Accordingly, GPA Midstream recommends adding the following clarification to proposed Section 3179.10:

> For purposes of this subpart, Operator has the meaning provided in § 3170.3 and § 3160.0-5. A person does not become an operator solely because that person gathers, measures, compresses, treats, processes, transports, stores, purchases, or otherwise handles production after delivery by the operator identified to BLM under § 3160.0-5.

This language would preserve the existing Part 3170 definition while making clear that an independent service provider does not become a Federal lease operator merely by handling production or owning or operating downstream equipment. If BLM elects not to add regulatory text, the preamble should provide an equally clear interpretation and the agency should incorporate it into national implementation guidance. This clarification should be read together with the narrowing of the "Type 1 equipment" definition recommended in Part V.A below, which addresses the related risk that flares and combustors at downstream midstream facilities could be drawn into Subpart 3179 merely because some of the gas originated on a Federal or Indian lease.

B. The final rule should confirm that all Subpart 3179 compliance obligations remain with the lease operator.

Clarifying who is—and is not—the operator should be accompanied by an equally clear statement that the lease operator remains responsible for compliance with Subpart 3179. Under the Proposed Rule, an operator must obtain a separate VFMP number for each piece of Type 1 equipment, measure qualifying volumes, estimate lower volumes, submit Sundry Notices, report volumes and gas quality on the Oil and Gas Operations Report, and allocate volumes among contributing leases or agreements.[10]

The final rule should state that these obligations remain with the lease operator even when relevant equipment is owned or operated by an unaffiliated midstream company. A midstream company may provide data under a commercial agreement, but providing data, owning a meter, or operating a flare should not make the company the operator under Subpart 3179 or independently liable for royalty reporting.

BLM also should confirm that it will direct requests for records or explanations to the lease operator. Any information maintained by a third-party service provider should be obtained through the operator to the extent the operator is entitled to receive it under the parties' agreement.

[10] Proposed Sections 3179.50, 3179.51, 3179.60, and 3179.61.

III. BLM Should Retain and Clarify the Treatment of Pipeline and Midstream Constraints as Unavoidable Losses.

A. Proposed Section 3179.41(b)(10) reflects operational realities and should be retained.

Proposed Section 3179.41(b)(10) would treat as unavoidable losses gas lost because of "pipeline capacity constraints or failures, midstream processing constraints or failures, or other similar events that prevent oil-well gas from being transported through the connected pipeline." GPA Midstream strongly supports the inclusion of this category and the removal of the 2024 rule's numerical cap.

The provision recognizes that the ability to capture oil-well gas often depends on a chain of facilities and services beyond the well site. Gas may require gathering, compression, dehydration, treating, processing, residue-gas transportation, and natural-gas-liquids takeaway before it can reach market. A constraint or failure at any point can prevent continued delivery even where the lease operator and midstream service provider have acted prudently.

B. The regulatory text should expressly cover gathering, compression, processing, and downstream takeaway events.

The phrase "transported through the connected pipeline" may be read too narrowly. It could be construed to exclude constraints at a gathering compressor, processing plant, residue-gas pipeline, natural-gas-liquids pipeline, or other downstream facility. GPA Midstream recommends revising proposed Section 3179.41(b)(10) as follows:

> Pipeline or gathering-system capacity constraints or failures, compressor or compression-facility constraints or failures, gas-processing constraints or failures, residue-gas or natural-gas-liquids takeaway constraints or failures, downstream transportation constraints or curtailments, or other similar events that prevent oil-well gas from being gathered, compressed, processed, transported, or delivered to market.

At a minimum, the preamble should confirm that the provision includes planned or unplanned maintenance, equipment outages, pressure restrictions, nominations or curtailments, utility interruptions, severe weather, force majeure, gas-quality excursions, downstream purchaser restrictions, and comparable events affecting facilities downstream of the lease.

The final rule also should clarify that an event need not be unforeseeable to qualify. Planned maintenance and recurring capacity constraints may be unavoidable from the lease operator's perspective even though the midstream company anticipated the event and scheduled work in accordance with prudent operating practices. The relevant question is whether the loss falls within the listed category and the operator took reasonable steps within its control—not whether all downstream restrictions were unexpected.

C. BLM should not use royalty determinations to second-guess independent midstream business and engineering decisions.

BLM should not condition unavoidable-loss treatment on a showing that a midstream company could not have expanded capacity, accelerated repairs, changed operating pressure, deferred maintenance, accepted off-specification gas, or modified commercial arrangements. Those matters may involve safety, integrity, permitting, tariffs, contractual rights, capacity commitments, engineering constraints, and obligations to other customers.

The final rule should state that Subpart 3179 does not require a midstream company to: (1) construct or expand facilities; (2) accept gas outside applicable contractual, tariff, safety, or quality requirements; (3) prioritize Federal or Indian production over other committed volumes; (4) alter maintenance, integrity, or operating decisions; or (5) disclose proprietary commercial information to BLM or a producer except as independently required by law or contract.

Likewise, the rule should not require a lease operator to prove that no hypothetical alternative was available, such as temporary compression, trucking, reinjection, portable processing, or rerouting to a different system. A requirement to pursue technically possible but uneconomic or commercially unavailable alternatives would reintroduce the subjective, case-by-case determinations that BLM seeks to avoid.

IV. BLM Should Revise the Documentation Standard for Unmerchantable Gas.

GPA Midstream supports proposed Section 3179.41(b)(12), which would treat gas as unavoidably lost when its quality makes it unmerchantable. Gas may be unacceptable for gathering, processing, transportation, or sale because of hydrogen sulfide, carbon dioxide, nitrogen, oxygen, water, heating value, hydrocarbon dew point, temperature, pressure, solids, or other constituents or conditions.

The proposed evidentiary requirement, however, is too rigid. It would require the operator to provide both a gas analysis demonstrating poor quality and "documentation of the rejection of gas for sales by a midstream company or gas processor."[11] A midstream company may not issue a formal rejection. Gas may simply fail a contractual specification, tariff, operating standard, or facility limitation. In other cases, the relevant communication may contain confidential commercial terms or may not be in a form suitable for submission to BLM.

The rule also should not create an expectation that a midstream company must generate a letter or certification to support another party's royalty position. BLM lacks a leasehold relationship with many such companies, and the midstream company may not have sufficient information to opine whether the gas is legally "unavoidably lost."

GPA Midstream recommends revising proposed Section 3179.41(b)(12) as follows:

> Gas that is of such quality that it is unmerchantable, and the operator is able to provide to the AO upon request reasonable supporting documentation, which may include, but is not limited to, a gas analysis, applicable tariff or contractual

[11] 91 Fed. Reg. at 37,914–15.

specifications, correspondence from a purchaser, transporter, gathering company, or processor, or other information demonstrating that the gas could not be accepted for transportation, processing, or sale.

BLM should permit operators to redact prices and other irrelevant commercial terms, submit summaries or certifications where appropriate, and identify published specifications rather than producing complete contracts. The final rule preamble should expressly clarify that it does not require a midstream company, processor, purchaser, or transporter to create or provide a rejection letter or regulatory certification.

BLM also should avoid using the term "poor gas quality" as the sole test. Gas may meet ordinary compositional specifications yet be unmerchantable because of pressure, temperature, contaminants, transient conditions, or incompatibility with available facilities. The standard should encompass gas that cannot reasonably be accepted under the conditions applicable to the connected system.

V. BLM Should Clarify and Streamline the VFMP, Measurement, Reporting, and Allocation Provisions.

A. BLM should clarify the definition of Type 1 equipment.

Proposed Section 3179.10 defines Type 1 equipment broadly as a vent line, flare, or combustor designed to handle gas that "would normally go to sales." That phrase could be read to include downstream flares and combustors at gathering or processing facilities that handle commingled gas from many Federal, Indian, State, and private properties.

BLM should clarify that Type 1 equipment subject to Subpart 3179 is equipment used by or on behalf of the lease operator to manage lost gas attributable to covered production. The definition should not convert every flare or combustor at a downstream midstream facility into BLM-regulated equipment merely because some portion of the gas originated from a Federal or Indian lease.

B. BLM should allow use of existing measurement systems and technically supportable estimates.

GPA Midstream supports accurate reporting, but BLM should avoid requiring duplicative, stand-alone meters where reliable data already exist. Operators should be permitted to rely on existing orifice or ultrasonic meters, supervisory-control data, allocation meters, processor inlet measurements, gathering measurements, engineering calculations, or other technically supportable methods, provided the method is appropriate for the volume and operating conditions.

The proposed incorporation of American Petroleum Institute Manual of Petroleum Measurement Standards Chapter 22.3 should not be interpreted to require replacement of an otherwise reliable meter solely because the precise make and model lacks a test report in the format contemplated by the new edition. BLM should provide a pathway for equivalent performance demonstrations and should coordinate implementation with Office of Natural Resources Revenue reporting systems before compliance deadlines begin.

C. BLM should provide flexible allocation methods for commingled Type 1 equipment.

Proposed Section 3179.50(f) would allocate gas measured at common Type 1 equipment among contributing leases, unit participating areas, or communitization agreements solely according to each property's share of oil production. That method may be simple, but it can be inaccurate where wells have materially different gas-oil ratios, gas compositions, flow regimes, downtime, or operating pressures.

BLM should allow the operator to use another reasonable allocation method that better reflects actual contributions. Acceptable methods could include measured inlet volumes, gas production, well tests, contractual allocation statements, engineering estimates, or a combination of factors. The operator should document the method and make it available to BLM upon request. BLM approval should not be required for every change unless the method materially affects royalty calculations.

D. BLM should streamline VFMP applications, particularly for low-volume and commingled equipment.

The Proposed Rule would require VFMP applications even for Type 1 equipment below the 1,050 Mcf-per-month measurement threshold and would require separate Sundry Notices for each contributing lease or agreement at commingled equipment. BLM estimates thousands of applications, including approximately 6,832 applications in the third implementation year.[12]

BLM should consider a batch application, electronic registration, or automatic assignment process. For commingled equipment, one application identifying all contributing properties should be sufficient. Requiring separate, duplicative Sundry Notices for each property will increase burdens for both operators and BLM without improving measurement accuracy.

BLM also should establish a de minimis category for very low-volume points or permit them to be grouped under a common VFMP where the operator uses a reasonable estimation and allocation method. At a minimum, BLM should explain why an individual VFMP is necessary for equipment that is not required to be measured.

VI. BLM Should Correct Ambiguities and Provide Uniform National Implementation.

A. Correct the emergency-extension inconsistency.

Proposed Section 3179.100(a) and (b) would allow BLM to extend the 48-hour royalty-free emergency period by up to 15 additional days. The notification table in proposed Section 3179.43(b), however, describes an extension of up to five additional days.[13] BLM should correct the table to match Section 3179.100 or otherwise explain the intended period.

BLM also should clarify whether the 48-hour allowance applies per emergency event or cumulatively per lease, unit participating area, or communitization agreement per calendar month.

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[12] Proposed Sections 3179.50, 3179.51, 3179.60, and 3179.61.

[13] 91 Fed. Reg. at 37,916.

The proposed text uses a monthly formulation that could make unrelated emergencies share one allowance. A per-event standard, subject to a good-faith anti-evasion provision, would more closely track actual operational circumstances.

B. Clarify the relationship between the reasonable-steps standard and the enumerated unavoidable-loss categories.

Proposed Section 3179.41(b) states that lost gas is unavoidable if the operator took reasonable steps to avoid the loss and sell or beneficially use the gas, complied with applicable requirements, and the gas was lost from one of the enumerated sources. BLM should explain that the "reasonable steps" language does not authorize field offices to recreate the open-ended "reasonable measures" provision that BLM proposes to remove.[14]

For pipeline and processing constraints, for example, reasonable steps should concern actions within the lease operator's control, such as communicating with the connected system and following applicable operating procedures. The standard should not permit BLM to require construction of new facilities, procurement of uncontracted capacity, or pursuit of uneconomic alternatives.

C. Issue national guidance and standard electronic procedures before implementation.

The final rule will require coordination among BLM field offices, Office of Natural Resources Revenue (ONRR), operators, and midstream service providers. BLM should issue national guidance, standard data fields, and electronic submission procedures before the first compliance deadline. Guidance should address operator responsibility, Type 1 equipment, common equipment, allocation methods, VFMP numbering, changes of operator, unmerchantable gas, and documentation of pipeline or processing constraints.

BLM also should provide a centralized process for resolving inconsistent field-office interpretations. National consistency is particularly important because one of BLM's stated reasons for replacing NTL-4A is to avoid subjective and inconsistent case-by-case decisions.[15]

Conclusion

GPA Midstream supports BLM's effort to replace the 2024 rule with a more objective and administrable framework for determining royalties on lost oil and gas. The Proposed Rule appropriately removes duplicative operational requirements and refocuses Subpart 3179 on royalty administration. With the targeted clarifications recommended above—particularly regarding operator responsibility, treatment of midstream constraints, documentation of unmerchantable gas, and implementation of the new VFMP requirements—the final rule can protect the Federal and Indian royalty interest while providing regulatory certainty for lease operators and independent midstream service providers.

[14] 91 Fed. Reg. at 37,916–17.

[15] *See, e.g.*, 91 Fed. Reg. at 37,917 ("One of the reasons for eliminating NTL-4A's subjective standards for royalty determinations is to promote regulatory consistency nationwide.").

GPA Midstream appreciates BLM's consideration of these comments and welcomes the opportunity to work with the agency as it develops the final rule and implementation guidance.

Sincerely,

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