



DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

30 CFR Part 250

[Docket ID: BSEE-2025-0134; EEEE500000 – 256E1700D2 – ET1SF0000.EAQ000]

RIN 1014-AA68

Offshore Downhole Commingling Regulatory Updates

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Direct final rule; response to comments.

SUMMARY: The Department of the Interior (DOI or Department), through the Bureau of Safety and Environmental Enforcement (BSEE), is revising the Outer Continental Shelf (OCS) downhole commingling regulations consistent with the One Big Beautiful Bill Act (OBBA). These revisions update the regulations to ensure consistency with the OBBA when BSEE reviews a request for downhole commingling.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Kirk Malstrom, Regulations and Standards Branch, (202) 258-1518, or by email: regs@bsee.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

The Department published a direct final rule (DFR), “Offshore Downhole Commingling Regulatory Updates,” in the *Federal Register* on August 13, 2025 (90 FR 38935). The final rule became effective on October 14, 2025. In relevant part, the DFR stated that, if significant adverse comments were received by September 12, 2025, the Department would publish notice

in the *Federal Register* and either withdraw the rule or issue a new rule that responded to the comments. The Department is hereby providing notice that it received a significant adverse comment regarding the DFR and is responding to that comment in this DFR.

Executive Summary:

This DFR revises the regulatory provisions in 30 CFR 250.1158 in response to the applicable OBBB provisions, Public Law No. 119-21, which the President signed into law on July 4, 2025. The Outer Continental Shelf Lands Act (OCSLA) authorizes the Secretary of the Interior (Secretary) to promulgate regulations that carry out the provisions in OCSLA. Those regulations include provisions that require lessees to safely produce any oil, gas, or both at rates consistent with applicable law and orders to assure the maximum rate of production that may be sustained without loss of ultimate recovery of oil, gas, or both under sound engineering and economic principles. BSEE performs technical analyses for downhole commingling to ensure that production methods meet OCSLA's requirement for ultimate recovery and safety. This rule revises BSEE regulations to reflect the offshore commingling language in the OBBB regarding safety and ultimate recovery and to clarify how BSEE will apply the OBBB's standards when reviewing commingling requests.

Table of Contents:

I. Background

A. Statutory and Regulatory Authority and Responsibilities

B. Purpose and Summary of the Rulemaking

C. Response to Comments on Direct Final rule

II. Procedural Matters

I. Background

A. Statutory and Regulatory Authority and Responsibilities

The Department's authority for this DFR is derived from OCSLA, codified at 43 U.S.C. 1331-1356a. OCSLA, enacted in 1953 and substantially revised in 1978, authorizes the

Secretary to regulate and administer mineral and oil and gas exploration, development, and production operations on the OCS. The Secretary has delegated authority to perform certain of these functions to BSEE under Secretary's Order 3299.¹

To carry out its responsibilities, BSEE regulates offshore oil and gas and mineral operations to enhance the safety of oil and gas and mineral exploration, development, and production on the OCS, and to implement advancements in technology. BSEE also conducts onsite inspections to ensure compliance with regulations, lease terms, and approved plans and permits. Detailed information concerning the BSEE-administered regulations and guidance to the offshore oil and gas and mineral industries may be found on BSEE's website at:

<https://www.bsee.gov/protection>.

BSEE administers a regulatory program that covers a wide range of OCS facilities and activities that offshore operators² perform throughout the OCS. *See* 30 CFR part 250. This DFR is applicable to requests for BSEE approval of downhole commingling operations.

B. Purpose and Summary of the Rulemaking

OCSLA authorizes the Secretary to promulgate regulations that carry out the provisions in OCSLA. In part, OCSLA requires lessees to safely produce any oil, gas, or both at rates consistent with applicable law and orders to assure the maximum rate of production that may be sustained without loss of ultimate recovery of oil, gas, or both under sound engineering and economic principles. 43 U.S.C. 1344(a) and (g).

Under OBBB section 50102, the "Secretary of the Interior shall approve a request of an operator to commingle oil or gas production from multiple reservoirs within a single wellbore completed on the outer Continental Shelf in the Gulf of America Region unless the Secretary of

¹ https://www.doi.gov/sites/doi.gov/files/elips/documents/3299a2-establishment_of_the_bureau_of_ocean_energy_management_the_bureau_of_safety_and_environmental_enforcement_and_the_office_of_natural_resources_revenue.pdf

² The regulations at 30 CFR part 250 generally apply to "a lessee, the owner or holder of operating rights, a designated operator or agent of the lessee(s)" (30 CFR 250.105 (definition of "you") and "the person actually performing the activity to which the requirement applies" (30 CFR 250.146(c)). For convenience, this preamble will refer to these regulated entities as "operators" unless otherwise indicated.

the Interior determines that conclusive evidence establishes that the commingling—(1) could not be conducted by the operator in a safe manner; or (2) would result in an ultimate recovery from the applicable reservoirs to be reduced in comparison to the expected recovery of those reservoirs if they had not been commingled.”

BSEE performs technical analyses for downhole commingling to ensure that production methods meet OCSLA’s requirement for ultimate recovery. This rule revises the BSEE regulations to align with the offshore commingling language in the OBBB to ensure that commingling will be conducted in a safe manner and the operation will not reduce ultimate recovery.

C. Response to Comments on Direct Final Rule

Comment Summary

BSEE received a comment expressing concern with its decision to issue a DFR rather than a notice of proposed rulemaking, which provides for the traditional opportunity for public notice and comment. The commenter expressed concern with the OBBB. The comment specifically stated that OBBB section 50102 shifts or eliminates the operator’s responsibility to ensure proposed commingling operations demonstrate that safety, environmental, and resource conservation risks have been fully considered and effectively mitigated by requiring BSEE approval unless BSEE proves conclusively that the operation could not be conducted safely or that resource recovery would be reduced.

The commenter asserted that an opportunity for notice and comment is necessary to ensure that section 50102 is implemented in a manner that minimizes safety, environmental, and resource conservation risks. The commenter cited BSEE’s commingling fact sheet that acknowledges that crossflow risks may exist when there are large pressure differences between commingled reservoirs or fluid compatibility risks that may be present if fluids from different reservoirs are unsafely mixed, causing well integrity and efficiency issues. The commenter questioned whether an independent assessment of Gulf of America downhole commingling

safety and resource recovery risks should be conducted before finalizing a rule that mandates approval of all applications. The commenter also questioned what criteria BSEE will use in determining that there is “conclusive evidence” that a commingling request would be unsafe or would reduce ultimate resource recovery.

Aside from these risk concerns, the commenter also referenced an April 2025 commingling policy whose development was informed by a University of Texas (UT) study of the unique Paleogene fields in the Gulf of America. The policy implemented new parameters for downhole commingling in the Paleogene (Wilcox) reservoirs, expanding the allowable pressure differential between commingled intervals from 200 psi to 1500 psi. The commenter posed certain questions in relation to that study. For example, does BSEE have evidence that supports the applicability of the study results to other fields? What are BSEE’s plans for such a study and other related research? What operational boundaries does the rule impose, like the 1500 psi pressure differential threshold in the April 2025 policy, for safe downhole commingling and optimal reservoir management?

Finally, the commenter also posed general questions about BSEE’s commingling program. For example, how will BSEE ensure that production from each interval is accurately measured and accounted for? How will BSEE ensure that long term production benefits are not sacrificed in the interest of accelerated downhole commingling payouts?

The commenter believed that the public should provide input on both the technical issues and regulatory policy implications of the OBBB mandate, including recommending implementation policies that would most effectively mitigate operational risks.

Therefore, the commenter recommended that the downhole commingling rule should be published in draft form with a comment period of at least 90 days. The commenter also recommended that BSEE consider hosting a public forum during the comment period to present research on downhole commingling and to accept input on mitigations and implementation policies.

BSEE Response

BSEE disagrees with the commenter's assertion about the overall effect and impact this final rule will have on safety or resource conservation. The rule does not eliminate operator responsibility. Instead, it aligns existing regulations with the statutory mandate of OBBB section 50102, which requires approval of commingling requests unless conclusive evidence shows the operation would be unsafe or reduce ultimate recovery.

Operators must still ensure proposed commingling operations demonstrate that safety, environmental, and resource conservation risks have been fully considered and effectively mitigated. More specifically, this final rule does not change requirements in § 250.1167 related to the technical data operators must submit to obtain BSEE's approval for downhole commingling. The operator must submit various types of information about its commingling proposal, including maps (e.g., geologic and geographic), seismic data, well logs, engineering data, and other types of information about the proposal (e.g., economic analysis and explanation for how maximum recovery will be achieved). Operators must also comply with all other applicable regulations in 30 CFR part 250, including, but not limited to, regulations that address drilling operations (subpart D), well-completion operations (subpart E), and production safety systems (subpart H), all of which address operational safety and environmental protection.

In addition, this DFR does not relieve the operator from complying with § 250.107, "What must I do to protect health, safety, property, and the environment?," which addresses the need to protect health, safety, property, and the environment by performing all operations in a safe and workmanlike manner, maintaining all equipment and work areas in a safe condition, and utilizing recognized engineering practices that reduce risks to the lowest level practicable. Operators also must still comply with § 250.106. "What standards will the Director use to regulate lease operations?," which addresses the need to promote orderly exploration, development, and production, prevent injury or loss of life, and prevent damage to or waste of any natural resource, property, or the environment. Collectively, compliance with these regulations help ensure

operators demonstrate, and BSEE confirms, that a commingling proposal is safe, protects the environment, and ensures resource conservation.

BSEE disagrees with the commenter's suggestion that an independent assessment of Gulf of America downhole commingling safety and resource recovery risks be performed before issuing a final rule. This DFR only revises the regulations to conform to the statutory requirement in the OBBB. The OBBB's mandate remains in effect regardless of whether this DFR is issued. Therefore, conducting an independent assessment will not change the statutory mandate. As outlined in the OBBB and BSEE regulations, BSEE will continue its mission to ensure safe operations and welcomes the suggestion to conduct an independent assessment, which it will consider in the future. BSEE will also continue to evaluate commingling risks and ensure the commingling request comply with applicable regulations.

With respect to the UT study that helped inform the development of the April 2025 commingling policy, BSEE is not applying the results of that study outside of the Paleogene (Wilcox) reservoirs, which was the limit of the study's scope. However, BSEE is interested in evaluating the study's applicability or methodology to other geologic provinces. As referenced in BSEE's downhole commingling fact sheet,³ \$500,000 has been allocated for further study to ensure commingling policies remain effective and aligned with the latest science and industry practices. And while the UT study was helpful in establishing implementation policies that address specific developments, it would not be beneficial to incorporate such a prescription in the regulations as circumstances may be different in other development areas. It is more appropriate for BSEE to evaluate each commingling request on a case-by-case basis to address site-specific conditions for safe downhole commingling and optimal reservoir management.

With respect to accurate production measurements, BSEE will still apply its oil and gas measurement requirements in 30 CFR subpart L, which address ongoing well-monitoring, surveillance, and reporting to ensure accurate production accounting. Operators must obtain

³ <https://www.bsee.gov/sites/bsee.gov/files/2025-05/Commingling%20Fact%20Sheet%202025.pdf>

measurement approval from BSEE before commencing production. BSEE will continue to ensure appropriate measurement for royalty purposes and reporting.

With respect to concerns about the lack of opportunity to provide public input, BSEE did not use notice and comment rulemaking consistent with the Administrative Procedure Act, which allows agencies to skip notice-and-comment procedures if the rule is deemed noncontroversial and technical in nature. This DFR's scope was to ensure consistency with the OBBB when BSEE reviews a request for downhole commingling.

As discussed above, this rule does not relieve BSEE of its obligation to carry out the provisions in OCSLA, including provisions that require lessees to safely produce any oil, gas, or both at rates consistent with applicable law and orders to assure the maximum rate of production that may be sustained without loss of ultimate recovery of oil, gas, or both under sound engineering and economic principles. Nor does it relieve the operator's obligation to comply with other requirements in BSEE's regulations for lease operations. BSEE has evaluated the commenter's concerns about public comment and, due to the nature of the updates in this rule to be consistent with the OBBB, BSEE will not withdraw the rule. However, BSEE agrees that a public forum or workshop may improve stakeholder overall understanding of commingling operations and may consider hosting downhole commingling outreach at a later time.

Comment Summary

Another commenter generally supported the alignment with the OBBB and recommended that BSEE ensure that safety standards and environmental protections remain the highest priority in all commingling approvals. The commenter also suggested that clear guidance for industry compliance and transparent public reporting would also strengthen confidence in this rule.

BSEE Response

BSEE agrees with the commenter's concerns. BSEE is committed to maintaining the highest standards of safety and environmental stewardship. As previously discussed, BSEE will continue to review each commingling request on a case-by-case basis to ensure that each

operator's proposal maximizes resource recovery while minimizing risks to human safety and the environment. As part of that review process, BSEE will consider how advanced monitoring technologies, such as intelligent completions, which allow for real-time control of each reservoir zone, could enable operators to independently monitor each reservoir's performance, ensuring that higher-pressure zones do not suppress lower-pressure ones, which could cause inefficiency or well damage. And looking ahead, BSEE is working to update its overall downhole commingling guidance to ensure that all stakeholders are involved in the ongoing dialogue regarding best practices. BSEE will consider how this collaborative approach may achieve greater transparency to the public.

II. Procedural Matters

Regulatory Planning and Review (E.O. 12866) and Improving Regulation and Regulatory Review (E.O. 13563).

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this DFR is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866, while calling for improvements in the Nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that agencies must base regulations on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. BSEE developed this DFR in a manner consistent with these requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA, 5 U.S.C. 601-612) requires an agency to prepare a regulatory flexibility analysis for all rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish notice of a proposed rule. See 5 U.S.C. 603(a) and 604(a). The RFA does not apply because the Department is not required to publish a notice of proposed rulemaking for this DFR.

Congressional Review Act

This DFR is not a major rule under the Congressional Review Act, 5 U.S.C. 804(2). Specifically, the DFR: (1) will not have an annual effect on the economy of \$100 million or more; (2) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act of 1995

This DFR would not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. The rule would not have a significant or unique effect on State, local, or Tribal governments or the private sector. The rule merely revises the offshore commingling regulations to implement requirements in the OBBB. Therefore, a statement containing the information required by Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings Implication Assessment (E.O. 12630)

Under the criteria in E.O. 12630, this DFR does not have significant takings implications. The rule is not a governmental action capable of interference with constitutionally protected property rights. Therefore, a takings implication assessment is not required.

Federalism (E.O. 13132)

Under the criteria in E.O. 13132, this DFR will not have federalism implications. This rule will not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this rule will not affect that role. Therefore, a federalism assessment is not required.

Civil Justice Reform (E.O. 12988)

This DFR complies with the requirements of E.O. 12988. Specifically, this rule:

(1) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(2) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation with Indian Tribes (E.O. 13175)

BSEE strives to strengthen its government-to-government relationships with federally recognized Indian Tribes through a commitment to consultation with the Tribes and recognition of their right to Tribal self-governance and sovereignty. We are also respectful of our responsibilities for consultation with Alaska Native Claims Settlement Act (ANCSA) Corporations and the Native Hawaiian Community. BSEE is committed to compliance with E.O. 13175, “Consultation and Coordination with Indian Tribal Governments” (dated November 6, 2000), and DOI’s policies and procedures on consultation with Indian Tribes, Alaska Native Claims Settlement Act corporations, and the Native Hawaiian Community (512 Departmental Manual 4, dated November 30, 2022, 512 Departmental Manual 6, dated November 30, 2022, 513 Departmental Manual 1, dated January 16, 2025, 512 Departmental Manual 5, dated November 30, 2022, Departmental Manual 7, dated November 30, 2022, and 513 Departmental Manual 2, dated January 16, 2025, respectively).

BSEE evaluated this DFR under E.O. 13175 and the Department’s consultation policies and procedures. BSEE determined that this DFR has no substantial direct effects on federally

recognized Indian Tribes, ANCSA corporations, or the Native Hawaiian Community and that consultation under the Department's consultation policies is not required.

Paperwork Reduction Act (PRA) of 1995

This rule does not contain any new information collection requirements. Thus, a submission to OMB under the PRA, 44 U.S.C. 3501 et seq, is not required. BSEE may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. Please reference OMB Control Number 1014-0019 which covers BSEE's Information Collection under 30 CFR Part 250; Subpart K, "Oil and Gas Production Requirements."

National Environmental Policy Act of 1969 (NEPA)

This DFR does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under NEPA (42 U.S.C. 4321 et seq.) is not required because this rule is covered by a categorical exclusion applicable to regulatory functions "that are of an administrative, financial, legal, technical, or procedural nature." 43 CFR 46.210(i). In addition, BSEE determined that this DFR does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Data Quality Act

In developing this DFR, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. No. 106-554, app. C, sec. 515, 114 Stat. 2763, 2763A-153-154).

Effects on the Nation's Energy Supply (E.O. 13211)

This DFR is not a significant energy action under the definition in E.O. 13211 because the rule is not a significant regulatory action under E.O. 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a statement of energy effects is not required.

Clarity of this Regulation

We are required by E.O. 12866, E.O. 12988, and by the Presidential memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (1) Be logically organized;
- (2) Use the active voice to address readers directly;
- (3) Use clear language rather than jargon;
- (4) Be divided into short sections and sentences; and
- (5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the ADDRESSES section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, or the sections where you feel lists or tables would be useful.

List of Subjects in 30 CFR Part 250

Administrative practice and procedure, Continental shelf, Environmental impact statements. Environmental protection, Government contracts, Investigations, Mineral resources, Oil and gas exploration, Penalties, Pipelines, Outer Continental Shelf--mineral resources, Outer Continental Shelf—rights-of-way, Reporting and recordkeeping requirements, Sulphur operations.

Lanny E. Erdos,

Director, Office of Surface Mining, Reclamation, and Enforcement
Exercising Authority of the Assistant Secretary, Land and Minerals Management

For the reasons stated in the preamble, the Bureau of Safety and Environmental Enforcement amends 30 CFR part 250 as follows:

**PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER
CONTINENTAL SHELF**

1. The authority citation continues to read as follows:

Authority: 30 U.S.C. 1751, 31 U.S.C. 9701, 33 U.S.C. 1321(j)(1)(C), 43 U.S.C. 1334.

2. Amend § 250.1158 by revising paragraph (a) to read as follows:

§ 250.1158 How do I receive approval to downhole commingle hydrocarbons?

(a) Before you perforate a well, you must request and receive approval from the Regional Supervisor to commingle hydrocarbons produced from multiple reservoirs within a common wellbore. The Regional Supervisor will approve a request of an operator to commingle hydrocarbons unless he or she finds, based on conclusive evidence, that the commingling could not be conducted by the operator in a safe manner or that the commingling would reduce ultimate recovery from the applicable reservoirs. You must also include the service fee listed in § 250.125, according to the instructions in § 250.126, and the supporting information, as listed in the table in § 250.1167, with your request.

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