BEFORE THE U.S. DEPARTMENT OF THE INTERIOR

PETITION FOR RULEMAKING

TO PROMULGATE REGULATIONS UNDER
THE OUTER CONTINENTAL SHELF LANDS ACT

TO DISQUALIFY OPERATORS WITH DELINQUENT DECOMMISSIONING OBLIGATIONS FROM BIDDING ON, TRANSFERRING, OR ACQUIRING INTERESTS IN THE OUTER CONTINENTAL SHELF

Figure 1. Deteriorating platform in Grand Isle Block 41.
Credit: Healthy Gulf, March 2024.

Center for Biological Diversity, Bayou City Waterkeeper, Healthy Gulf, Louisiana Bucket Brigade, and Turtle Island Restoration Network,
Petitioners

June 23, 2025

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PETITION FOR RULEMAKING

I. Summary of Requested Action

The federal government has allowed the oil and gas industry to use the ocean as its junkyard. Recent reports reveal that thousands of wells and hundreds of platforms were overdue for decommissioning as of 2023, and many thousands of miles of defunct pipelines litter the seafloor. This corroded infrastructure creates substantial risks to marine ecosystems and wildlife from oil spills, methane leaks, and the leaching of toxic chemicals and heavy metals.

Oil companies are legally obligated to plug inactive wells and clean up end-of-life infrastructure. When these companies abandon their decommissioning obligations, they unfairly dump the responsibility of cleaning up on the federal government (and ultimately taxpayers). A growing number of oil and gas companies are going bankrupt, leaving "orphaned" infrastructure with no solvent operator to decommission it. The U.S. Department of the Interior currently holds over $183 million in orphan liability from just nine operator bankruptcies, roughly three quarters of which is not covered by surety bonds to defray the costs. The government's failure to ensure that companies are upholding their commitments leads to intolerable waste of government resources.

Federal regulators have identified one cause of the decommissioning backlog to be a lack of effective administrative tools to compel operator compliance with decommissioning deadlines. This petition seeks to fill that gap by proposing that the Secretary of the Interior adopt regulations to disqualify companies from acquiring, assigning, or transferring leases, pipeline rights-of-way, or operating rights on the outer continental shelf if they have failed to plug wells and decommission platforms, facilities, and pipelines on any existing project in a timely manner. It also proposes regulations that mandate disapproval of new Development and Production Plans and Development Operations Coordination Documents submitted by operators with overdue decommissioning obligations.

The regulations proposed in this petition (on page 31) seek to protect the environment and to prevent unfair and wasteful government spending by clarifying that timely decommissioning is a due diligence requirement essential to acceptable performance under the Outer Continental Shelf Lands Act (OCSLA). This would provide operators with clear notice of the consequences of their failure to comply with OCSLA's decommissioning requirements and would protect taxpayers by preventing operators from compounding their overdue obligations by acquiring new properties or expanding their operations without first decommissioning existing ones.

The **Center for Biological Diversity**, **Bayou City Waterkeeper**, **Healthy Gulf**, **Louisiana Bucket Brigade**, and **Turtle Island Restoration Network** submit this petition pursuant 5 U.S.C. § 553(e), 43 U.S.C. § 1334, and 43 C.F.R. §§ 14.1–14.4. This petition is also endorsed by the ALERT Project, Cook Inletkeeper, Healthy Ocean Coalition, Public Citizen, Ocean Conservation Research, and True Transition.

II. Legal Framework

OCSLA recognizes that "the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and

orderly development, subject to environmental safeguards."[1] Such development must "balance orderly energy resource development with protection of the human, marine, and coastal environments."[2] Management of the outer continental shelf "shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf," and "the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments."[3]

OCSLA establishes four separate stages of offshore oil development: (1) formulation of a five-year leasing program by the Department of the Interior; (2) lease sales; (3) exploration by the lessees; and (4) development and production.[4] "Each stage involves separate regulatory review that may, but need not, conclude in the transfer to lease purchasers of rights to conduct additional activities on the OCS."[5] At the end of production activities, operators are generally required to decommission and remove infrastructure and restore the seafloor.

OCSLA requires the Secretary of the Interior to "prescribe such rules and regulations as may be necessary to carry out" OCSLA's provisions.[6] These regulations must include provisions "for the assignment or relinquishment of a lease."[7]

The Secretary has delegated authority to administer oil and gas leasing to the Bureau of Ocean Energy Management (BOEM) and authority over lease compliance and environmental enforcement to the Bureau of Safety and Environmental Enforcement (BSEE).[8]

A. Offshore oil and gas leases are only available to "responsible qualified" bidders.

Only "responsible qualified" bidders are eligible to hold oil and gas leases,[9] but Congress did not define this term. BOEM's implementing regulations are minimal. Applicants need only meet basic citizenship and business structure requirements to qualify to bid on leases.[10] BOEM

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[1] 43 U.S.C. § 1332(3).

[2] *Id.* § 1802(2)(B).

[3] *Id*. § 1344(a)(1).

[4] *Sec'y of the Interior v. California*, 464 U.S. 312, 337 (1984), *superseded by statute on other grounds*, Coastal Zone Act Reauthorization Amendments of 1990, Pub. L. No. 101-508, 104 Stat. 1388-307.

[5] *Id.*

[6] 43 U.S.C. § 1334(a).

[7] *Id.* § 1334(a)(3).

[8] DOI Secretarial Order No. 3299 (Aug. 29, 2011); *see also* Memorandum of Understanding Between the Bureau of Energy Management and Bureau of Safety and Environmental Enforcement, *Assignments, Bonding, and Pipelines* (Oct. 3, 2011) (delineating the bureaus' responsibilities related to lease liability and financial assurances for decommissioning).

[9] 43 U.S.C. § 1337(a)(1).

[10] 30 C.F.R. § 556.401.

regulations do not require any demonstration that the bidder is otherwise qualified to operate or capable of meeting baseline environmental, safety, or financial requirements.[11]

OCSLA also authorizes the Secretary to grant pipeline rights-of-way "under such regulations and upon such conditions as may be prescribed by the Secretary," including "assuring maximum environmental protection by utilization of the best available and safest technologies, including the safest practices for pipeline burial."[12] Failure to comply with OCSLA, its implementing regulations, or the conditions of a right-of-way grant are grounds for forfeiture of the grant.[13]

Finally, OCSLA mandates that that the "issuance and continuance in effect of any lease, or of any assignment or other transfer of any lease, under the provisions of this Act shall be conditioned upon compliance with regulations issued under this Act."[14]

B. BOEM must disapprove Development and Production Plans if the lessee cannot demonstrate compliance with OCSLA's implementing regulations.

Prior to development and production of leases, lessees must submit Development and Production Plans to BOEM for approval.[15] These plans must include, *inter alia*, a description of how the lessee "intend[s] to decommission [their] wells, platforms, pipelines, and other facilities, and clear [their] site(s)."[16] OCSLA provides that the Secretary must disapprove a plan "if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law," including OCSLA's implementing regulations.[17]

For leases in the Western Gulf of Mexico, operators must submit a Development Operations Coordination Document, which is a modified form of (and must meet the same basic criteria as) a Development and Production Plan.[18] As with Development and Production Plans, BOEM will disapprove a Development Operations Coordination Documents for operators that "have failed to demonstrate that [they] can comply with the requirements" of OCSLA, its implementing regulations, or related federal law.[19]

C. BOEM may disqualify an operator for "unacceptable" performance.

In addition to mandating that BOEM disapprove Development and Production Plans for failure to demonstrate compliance with the law, OCSLA's implementing regulations allow BSEE to

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[11] *See id.*

[12] 43 U.S.C. § 1334(e).

[13] 30 C.F.R. § 250.1013.

[14] 43 U.S.C. § 1334(b).

[15] *Id.* § 1351(a); *Sec'y of the Interior*, 464 U.S. at 337; 30 C.F.R. § 550.201(a)(2).

[16] 30 C.F.R. § 550.255.

[17] 43 U.S.C. § 1351(h)(1)(a); 30 C.F.R. § 550.271(a).

[18] *Gulf Restoration Network, Inc. v. Salazar*, 683 F.3d 158, 169–70 (5th Cir. 2012); *see*, *e.g.*, 30 C.F.R. §§ 550.266–550.273 (requirements for the review and decision process for both Development and Production Plans and a Development Operations Coordination Documents).

[19] 30 C.F.R. § 550.271(a).

refer an operator to BOEM for disqualification for "unacceptable" performance.[20] However, "BSEE's regulations do not contain specific criteria for the level of performance that would warrant a referral for disqualification, and . . . the bureau has not established specific criteria in policy to guide this determination."[21]

If, after notice and opportunity for a hearing, BOEM finds that an operator's performance is unacceptable, it may "disapprove or revoke" the person's designation as an operator on a single facility or multiple facilities.[22] When determining whether an operator's performance is unacceptable, BOEM will consider, *inter alia*, incidents of noncompliance, civil penalties, failure to adhere to lease obligations, or "any other relevant factors."[23]

A disqualified operator cannot acquire a lease or an interest in a lease on the outer continental shelf.[24]

D. Operators failing to meet due diligence requirements are not eligible to bid on leases.

OCSLA prohibits submission of bids "if the Secretary finds, after notice and hearing, that the bidder is not meeting due diligence requirements on *other* leases."[25] These "due diligence requirements" are not defined in the statute or its implementing regulations.[26]

E. Operators must decommission oil and gas infrastructure in a timely manner.

Under OCSLA, oil and gas leasing is "subject to environmental safeguards," and operations must be "conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health."[27]

Decommissioning idle and end-of-lease infrastructure by permanently plugging wells and removing platforms, pipelines, and other facilities is one such "precaution" prescribed by the Secretary. As discussed in Section III.B below, deteriorating oil and gas facilities have the

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[20] *Id.* § 250.135

[21] Gov't Accountability Off., *Offshore Oil and Gas: Interior Needs to Improve Decommissioning Enforcement and Mitigate Related Risks* (GAO-24-106229) 18 (Jan. 2024) [hereinafter "GAO 2024"]. More broadly, BSEE requires operators to "protect health, safety, property, and the environment" by operating in a "safe and workmanlike manner," "[m]aintaining all equipment and work areas in a safe condition," and "[c]omplying with all lease, plan, and permit terms and conditions." 30 C.F.R. § 250.107(a).

[22] 30 C.F.R. §§ 550.135, 556.403(c).

[23] *Id.* § 550.136(c)–(f).

[24] *Id.* § 556.403.

[25] 43 U.S.C. § 1337(d) (emphasis added).

[26] BOEM's regulations note that it may disqualify a person from acquiring a lease if they "fail to meet due diligence requirements or to exercise due diligence." 30 C.F.R. § 556.403(b).

[27] 43 U.S.C. § 1332(3), (6).

potential to leak oil and other pollutants that damage the environment and endanger life or health. They are also particularly susceptible to hurricane damage, and may obstruct other outer continental shelf uses, such as navigation and fishing. OCSLA's implementing regulations, BSEE guidance, and oil and gas leases therefore mandate timely decommissioning of out-of-use infrastructure.[28]

Specifically, BSEE regulations require oil and gas companies to plug wells and remove platforms and pipelines within one year of lease termination.[29] Unused infrastructure on active leases ("idle iron") must be decommissioned when it is "no longer useful for operations"—generally within 8 to 10 years of the date of last use.[30] As BSEE guidance explains:

- An idle well is "no longer useful for operations" if it has not been used for 5 years and the operator has no future plans to use it.[31] Operators must decommission an idle well within 3 years of determining that it is both no longer useful for operations *and* no longer capable of producing hydrocarbons in paying quantities.[32] Thus, idle wells must be decommissioned within 8 years of the last date of production, but could be idled indefinitely if they are still capable of producing.

- Idle platforms and other facilities are "no longer useful for operations" if they have been toppled, destroyed, or have not been used for 5 years and the operator has no future utility for them.[33] Operators must decommission these facilities within 5 years of determining they are no longer useful for operations.[34] Thus, idle platforms must be decommissioned within 10 years of the last date of use, but could be idled indefinitely if the operator claims they have future utility.

All decommissioning decisions require BSEE's review and approval.[35]

Decommissioning obligations accrue from the moment a company drills a well or installs a platform, pipeline, or other facility.[36] These obligations extend to all past and current operators if

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[28] *See* 30 C.F.R. §§ 250.1701, 250.1703, 250.1710, 250.1711, 250.1725, 250.1010(h); BSEE, *Idle Iron Decommissioning Guidance for Wells and Platforms* NTL (No. 2018-G03) 2–4 (Dec. 11, 2018) [hereinafter "BSEE Idle Iron Policy"]; Form BOEM-2005, Oil and Gas Lease of Submerged Lands Under the Outer Continental Shelf Lands Act Sec. 22 (rev. 2017).

[29] 30 C.F.R. §§ 250.1710, 250.1725(a); 250.1010(h).

[30] *Id.* § 250.1703; BSEE Idle Iron Policy, *supra* note 28, at 2–4.

[31] BSEE Idle Iron Policy, *supra* note 28, at 2.

[32] *Id.*

[33] *Id.* at 2, 4.

[34] *Id.* at 4.

[35] *See*, *e.g.*, 30 C.F.R. § 250.1704 (listing all decommissioning applications and reports required); BSEE Idle Iron Policy, *supra* note 28, at 3, 4 (stating that BSEE must "review and concur" with an operator's determination that a disused well, platform, or other facility should not be decommissioned because it is useful for operations).

[36] 30 C.F.R. § 250.1702.

the lease or operating right is transferred.[37] However, predecessor operators generally do not accrue liability for decommissioning infrastructure installed after they have transferred a lease or operating right to another operator.[38]

The issuance, assignment, and transfer of any lease is expressly conditioned on compliance with these and all other regulations implementing OCSLA.[39] However, a review of BOEM's assignments data reveals that the agency has never returned an assignment application based on the assignor or assignee's noncompliance with OCSLA's decommissioning regulations.[40]

III. The petitioned action is necessary to carry out the purposes of OCSLA.

When it comes to rulemaking, an agency cannot ignore a "clear statutory command" to adopt rules.[41] OCSLA's "clear statutory command" includes a mandate that the Secretary shall prescribe regulations "for the assignment . . . of a lease," and that "[t]he issuance and continuance in effect of any lease, or of any assignment or other transfer of any lease, under the provisions of this Act shall be conditioned upon compliance with regulations issued under this Act."[42] An additional "clear statutory command" is that "the secretary shall disapprove a [development and production] plan" if the lessee "fails to demonstrate that [they] can comply" with OCSLA's implementing regulations."[43]

In light of damning federal findings that operators are shirking compliance with BSEE's decommissioning regulations—as well as abundant evidence that operators use lease assignments to *circumvent* these decommissioning requirements—the action urged in this petition is necessary to fulfill OCSLA's statutory mandates.

The action urged in this petition would also clarify the following:

1. Timely decommissioning of out-of-use infrastructure is an OCLSA "due diligence requirement."
2. Failure to timely decommission such infrastructure is "unacceptable performance."
3. Operators failing to comply with their decommissioning obligations are not "qualified" to bid on, transfer, or acquire leases, operating rights, and rights-of-way.
4. Lessees with overdue decommissioning obligations have failed to demonstrate that they can comply with OCSLA's implementing regulations and are ineligible for approval of

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[37] *Id*. §§ 250.1701, 556.604(d), 556.605(3), 556.710 556.805. For the purposes of these comments "lease or operating right" is used broadly to encompass pipeline rights-of-way, or rights-of-use and easements.

[38] *Id.* §§ 556.710, 556.805.

[39] 43 U.S.C. § 1334(b); *see also* 30 C.F.R. § 250.1018 (grants of pipeline rights-of-way conditioned on a finding of compliance with applicable laws and regulations).

[40] *See* BOEM Data Center, Assignments Online Query, https://www.data.boem.gov/Leasing/Assignments/Default.aspx (last visited April 28, 2025).

[41] *Massachusetts v. EPA*, 549 U.S. 497, 535 (2007).

[42] 43 U.S.C. § 1334(a)(2)(C)(3) (b).

[43] *Id.* § 1351(h)(1)(A).

new Development and Production Plans or Development Operations Coordination Documents.

These clarifications are necessary to carry out the purposes of OCSLA. Timely decommissioning is an "environmental safeguard" necessary to "prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health."[44] These clarifications are also necessary for the "protection of the human, marine, and coastal environments"[45] by requiring operators to address the backlog of idle and delinquent infrastructure that has turned the marine environment into an oil and gas junkyard. Finally, these clarifications would promote important economic and social values by preserving or creating jobs for skilled oil and gas workers.[46]

A. Defunct oil and gas infrastructure litters the ocean, and the problem will worsen without regulatory intervention.

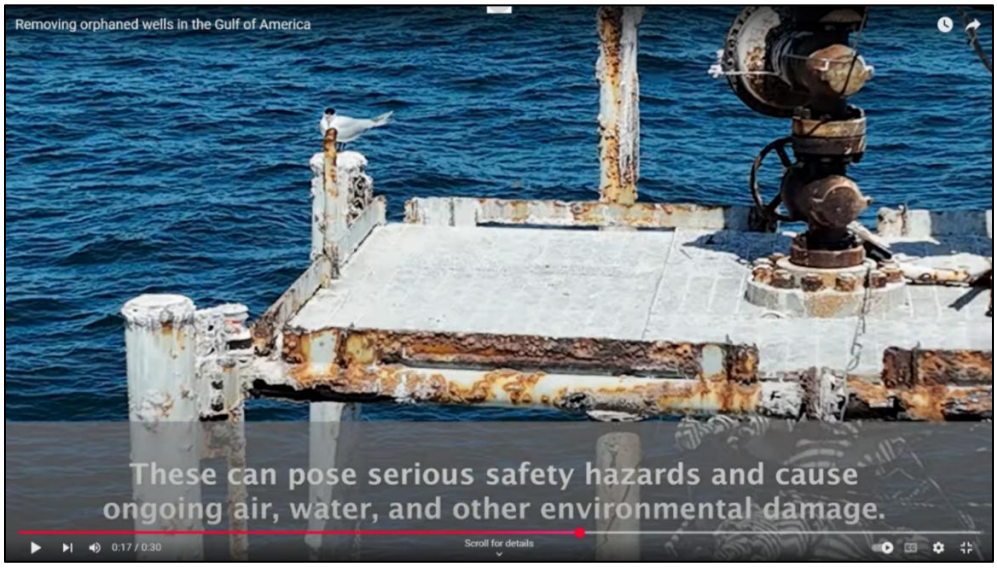

Figure 2. Corrosion on an orphaned wellhead near Matagorda Island, Texas.[47]

The federal government faces a looming offshore decommissioning crisis. According to a 2024 Government Accountability Office (GAO) report, 75% of end-of-lease and idle infrastructure in the Gulf of Mexico[48] was overdue for decommissioning as of 2023, representing over 2,700

[44] *Id.* § 1332(3), (6).

[45] *Id.* § 1802(2)(B).

[46] *See id.* § 1344(a)(1).

[47] BSEE, *Removing Orphaned Wells in the Gulf of America* (Apr. 3, 2025), https://www.youtube.com/watch?v=zxhGeLnk3V8.

[48] On January 20, 2025, President Trump issued an executive order directing the Gulf of Mexico to "officially be renamed the Gulf of America." Exec. Order No. 14,172, 90 Fed. Reg. 8629, 8630 (Jan. 20, 2025). However, because the Outer Continental Shelf Lands Act and other relevant materials refer to the region as the "Gulf of Mexico," this petition continues to use the name. *See* 43 U.S.C. §§ 1301(a)(2), (b), 1337(a)(3); *Healthy Gulf v. Burgum*, No. 23-cv-

wells and 500 platforms.[49] Within that backlog, operators had not even temporarily plugged about 1,300 wells, "meaning, they had not taken interim steps to install long-term barriers to prevent leaks before decommissioning."[50] Moreover, a significant number of overdue idle wells had not been used for extended periods of time—more than 800 of them had not produced in more than 10 years.[51] A 2021 GAO report similarly found that BSEE has authorized 97% of Gulf pipelines—a staggering 18,000 miles—to be left on the seafloor at the end of their useful lives.[52] BSEE acknowledges that "operators apply to decommission pipelines in place as standard practice" because it is cheaper and easier than removing the pipelines.[53]

Table G.4. Idle age for shallow water idle inventory circa 2017

Idle Age (yr)	Caisson/WP	Fixed Platform	Total
1-2	33	49	82
2-3	29	46	75
3-4	22	37	59
4-5	18	24	42
5-6	21	26	47
6-7	16	14	30
7-8	21	12	33
8-9	10	14	24
9-10	9	9	18
>10	121	131	252
Total	300	362	662

Source: BOEM, February 2018

Figure 3. Idle age for shallow water inventory circa 2017.[54]

As oil production declines, the need for decommissioning will grow,[55] as will the backlog of overdue decommissioning obligations. "Nearly half of the approximately 8,000 wells and 1,600 platforms remaining offshore are approaching or past the end of their useful life."[56] Indeed, the average age of platforms in the Gulf exceeded 34 years as of 2019,[57] while Pacific platforms

604, 2025 WL 928684, at *2 n.4 (Mar. 27, 2025); *Daniels v. Exec. Dir. of Fla. Fish & Wildlife Conservation Comm'n*, 127 F.4th 1294, 1299 n.1 (11th Cir. 2025).

[49] GAO 2024, *supra* note 21, at 12.

[50] *Id.* at 14, 19 (noting failure to plug more than 700 end-of-lease wells and nearly 600 delinquent idle wells).

[51] *Id.* at 19.

[52] Gov't Accountability Off., *Offshore Oil and Gas: Updated Regulation Needed to Improve Pipeline Oversight and Decommissioning* (GAO-21-293) 12 (Mar. 2021) [hereinafter "GAO 2021"].

[53] *Id.* at 13.

[54] Kaiser, Mark & Narra, Siddhartha, *Gulf of Mexico Decommissioning Trends and Operating Cost Estimation* (BOEM 2019-023) 346, Table G.4 (2018) [hereinafter "Kaiser & Narra 2018"].

[55] *See* Risk Management and Financial Assurance for OCS Lease and Grant Obligations, 89 Fed. Reg. 31544, 31548 (Apr. 24, 2024) ("As more facilities reach the end of their useful life, . . . decommissioning will be required on a larger scale."); *see also* Kaiser & Narra 2018, *supra* note 54, at 81–82 ("Record levels of shallow water decommissioning in recent years is the result of the maturity of field production, sustained low oil and gas prices, and tougher regulatory conditions and oversight. Higher levels of deepwater decommissioning are expected in the years ahead unless alternative uses for structures are found.").

[56] GAO 2024, *supra* note 21, at 1.

[57] Nelson, Jake, et al., *Evaluating Offshore Infrastructure Integrity* (DOE/NETL-2021/2643) 9 (2021).

range from 36 to 57 years old.[58] According to a 2018 report commissioned by BOEM, over 60% of idle platforms had not produced in more than 5 years, and the largest category of idle platforms included those idle for more than 10 years (see Figure 3).[59]

As discussed in Section III.C below, lease and operating rights transfers are a primary method that oil and gas companies use to evade decommissioning obligations. And while BSEE often authorizes delayed decommissioning, decommissioning-in-place of pipelines, and other deviations from the regulations—all of which contribute to the backlog—the agency has expressed concern that its "administrative tools are not effective at *compelling* operator compliance with decommissioning deadlines."[60] BSEE currently lacks "the coercive power to incentivize uncooperative operators because the citations and orders" it can issue in response to missed decommissioning deadlines "are essentially warnings and unlikely to motivate operators unwilling or unable to meet their regulatory obligations."[61]

The petitioned action would provide the incentives that the agency currently lacks by preventing bad actors from expanding their operations on the outer continental shelf if they have delinquent decommissioning obligations on existing leases. This reform is urgently needed to minimize the environmental and fiscal consequences of delayed decommissioning, discussed below.

B. Defunct oil and gas infrastructure pollutes water and air and endangers marine life.

The widespread accumulation of defunct oil and gas infrastructure on the outer continental shelf represents a failure to "safeguard" the marine environment in accordance with OCSLA's mandate that development of the outer continental shelf "balance orderly energy resource development with protection of the human, marine, and coastal environments."[62]

The Gulf is home to numerous ecosystems including coral reefs, wetlands, oyster beds, mangroves, and deepwater seeps, which support a diversity of marine life. These ecosystems sustain a vast array of species, ranging from dolphins, whales, sea turtles, seahorses, and other fish, to seafloor communities of deep-sea corals, sea anemones, sponges, and sea stars. The Gulf is also an important migratory route for hundreds of millions of migratory birds.[63] Many of the species found the Gulf, such as the sperm whale; Rice's whale (formally known as the Gulf of Mexico Bryde's whale); West Indian manatee; elkhorn, staghorn, and boulder corals; oceanic whitetip shark; Nassau grouper; giant manta ray; and leatherback, green hawksbill, Kemp's ridley, and loggerhead sea turtles are protected as threatened or endangered under the

[58] BSEE, *Decommissioning Cost Update for Pacific Outer Continental Shelf Region (POCSR) Facilities, Vol. 1* 1–2, Tbl. 1.1 (Sept. 2020).

[59] Kaiser & Narra 2018, *supra* note 54, at 81–82.

[60] GAO 2024, *supra* note 21, at 16 (emphasis added).

[61] *Id.*

[62] 43 U.S.C. § 1802(2)(B); *id.* § 1332(3).

[63] Minerals Mgmt. Serv., *Interactions Between Migrating Birds and Offshore Oil and Gas Platforms in the Northern Gulf of Mexico* (OCS Study MMS 2005-009) 1 (2005) [hereinafter "MMS OCS Study 2005-009"].

Endangered Species Act.[64] The whooping crane, eastern black rail, black-capped petrel, piping plover, and other bird species that live in or migrate through the Gulf are also protected under the Endangered Species Act.[65]

The diverse ecosystems of the Pacific also support an abundance of wildlife, including mammals such as dolphins, whales, seals, sea lions, sea otters; birds such as pelicans, osprey, snowy plovers, and other shorebirds; and eels, sharks, rays, fish, crustaceans, and mollusks. Many species found in the Pacific—including blue whale, fin whale, humpback whale, leatherback sea turtle, and black abalone—are listed as threatened or endangered under the Endangered Species Act and are adversely affected by oil and gas activity.[66]

Alaska's waters and coasts provide important habitat for iconic species such as Cook Inlet beluga, North Pacific right, fin, and humpback whales; wild Pacific salmon; halibut; northern sea otter; brown, grizzly, and black bears; moose; caribou; and birds such as the Steller's eider and puffins. Many of these species are protected by the Endangered Species Act.[67] Oil and gas activity in Alaska's federal waters is limited, but leasing and drilling could expand in the future.[68]

Unplugged wells, corroded pipelines, and deteriorating platforms all pose a significant and growing threat to the wildlife that live in, migrate through, and otherwise rely upon the waters of the outer continental shelf and the coastal environment.[69] For example, the loggerhead sea turtle recovery plan identifies oil and gas activity, spills, and spill cleanup as key threats to the species, and states that both government and industry should ensure that "known sources of pollution and toxic waste disposal are eliminated," and take "[a]dditional precautions . . . to prevent oil spills."[70] Similarly, the Rice's whale recovery outline notes the importance of "protect[ing] important habitat from threats associated with energy development . . . , oil spills, and spill response."[71] In the Pacific, the recovery plan for endangered black abalone also includes several mitigation measures to protect the species from the harmful impacts of oil spills.[72]

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[64] 50 C.F.R. § 17.11(h).

[65] *Id.*

[66] *Id.*; Nat'l Marine Fisheries Serv., *Endangered Species Act Section 7(a)(2) Biological and Conference Opinion: Development and Production of Oil and Gas Reserves and Beginning Stages of Decommissioning within the Southern California Planning Area of the Pacific Outer Continental Shelf Region* 1 (Feb. 27, 2024).

[67] *See* 50 C.F.R. § 17.11(h) (listing Cook Inlet beluga, fin whale, humpback whale, northern sea otter, brown bear, and Steller's eider).

[68] *See*, *e.g.*, Request for Information and Comments on the Preparation of the 11th National Outer Continental Shelf Oil and Gas Leasing Program, 90 Fed. Reg. 17972, 17974 (Apr. 30, 3025) (noting that there are 11 active leases in Alaska waters, none of which are producing, but that "the Arctic holds substantial oil and gas potential").

[69] GAO 2024, *supra* note 21, at 9.

[70] Nat'l Oceanic & Atmospheric Admin. (NOAA) & U.S. Fish & Wildlife Serv, *Recovery Plan for the Northwest Atlantic Population of the Loggerhead Sea Turtle (*Caretta caretta*)* I-42, I-52–I-53, II-59 (Dec. 31, 2008).

[71] NOAA, *ESA Recovery Outline, Rice's Whale* 5 (Sept. 29, 2020). A "Recovery Outline" is an interim guidance that directs recovery efforts before a recovery plan is developed.

[72] NOAA, *Final Endangered Species Act (Esa) Recovery Plan for Black Abalone (*Haliotis cracherodii*)* 9, 17, 53–57 (Nov. 2020).

The petitioned action, which will incentivize timely cleanup of oil and gas infrastructure, is an "environmental safeguard[]" necessary to protect the marine and coastal environment from the pollution and hazards of deteriorating infrastructure discussed below.[73]

1. Corroded oil and gas infrastructure is prone to leaking oil, leaching toxic metals, and discharging other pollutants.

Offshore infrastructure readily corrodes due to constant exposure to saltwater and the elements, which can cause equipment failure and pollution.[74] Old wells are particularly susceptible to oil spills or other accidents, and BSEE has warned that "[w]ells that have not been properly maintained create a higher risk of uncontrolled flow or reservoir fluids (potentially leading to pollution, fires, and explosions, among other dangers) based on the increased probability of failure of primary critical barriers such as safety valves, tubing, and plugs, due to a lack of proper maintenance."[75] Research shows that 30% of offshore oil wells in the Gulf experienced well casing damage in the first five years after drilling, and damage increased to 50% after 20 years.[76]

Wells that have been temporarily abandoned for a long period are particularly concerning, as "[e]ntering these wells is difficult due to the uncertainties related to the conditions of the barriers and unanticipated well pressures."[77] Yet the number of temporarily abandoned wells has ballooned, and "[u]nless this back-log is reduced, the probability of blowouts from these wells will increase."[78]

Indeed, on April 26, 2025, Well 59—a shut-in 82-year-old well that has not produced oil since 1997—blew out in the marshes of Plaquemines Parish, Louisiana (in state waters).[79] The well gushed for more than a week, and the sheen appeared to enter established and proposed critical habitat for protected species, including loggerhead sea turtles, piping plovers, and Rice's whale.[80] As of late May, crews had recovered nearly 172,000 gallons of oily water mixture and the Coast Guard had used $24 million from the Oil Spill Liability Trust Fund for the cleanup.[81]

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[73] 43 U.S.C. § 1332(3).

[74] Nelson 2021, *supra* note 57, at 4–6.

[75] Declaration of Anthony Pizza, BSEE Production Operations Section Chief at ¶ 15, *In re: MLCJR LLC*, No. 4:23-BK-90324 (Bankr. S.D. Tex. Aug. 21, 2023).

[76] Vengosh, Avner, et al., *A Critical Review of the Risks to Water Resources from Unconventional Shale Gas Development and Hydraulic Fracturing in the United States*, 48 Env't Sci. & Tech. 8334, 8337 (2014).

[77] Holand, Per, *Loss of Well Control Occurrence and Size Estimators, Phase I and II* (BSEE/TAP-765) 112 (2017).

[78] *Id.*

[79] Mitchell, David, *Spewing Oil Well Off Louisiana's Coast Brought Under Control, but Cleanup Remains,* The Advocate (May 6, 2025); *see* La. Dep't of Energy & Natural Res., Well History Data, https://sonlite.dnr.state.la.us/ords/f?p=108:2620:112791982038214::NO:2620 (data for Well Serial No. 28012).

[80] Figure 3, Map from NOAA, Environmental Response Management Application (ERMA), accessed May 9, 2025, https://erma.noaa.gov/gulfofamerica.

[81] Mitchell, David, *Decades-Old Well that Spewed Oil into Louisiana Marsh will be Permanently Shut*, The Advocate (May 26, 2025).

Figure 4. Blowout of idle Well 59, Plaquemines Parish, Louisiana, April 2025.[82]

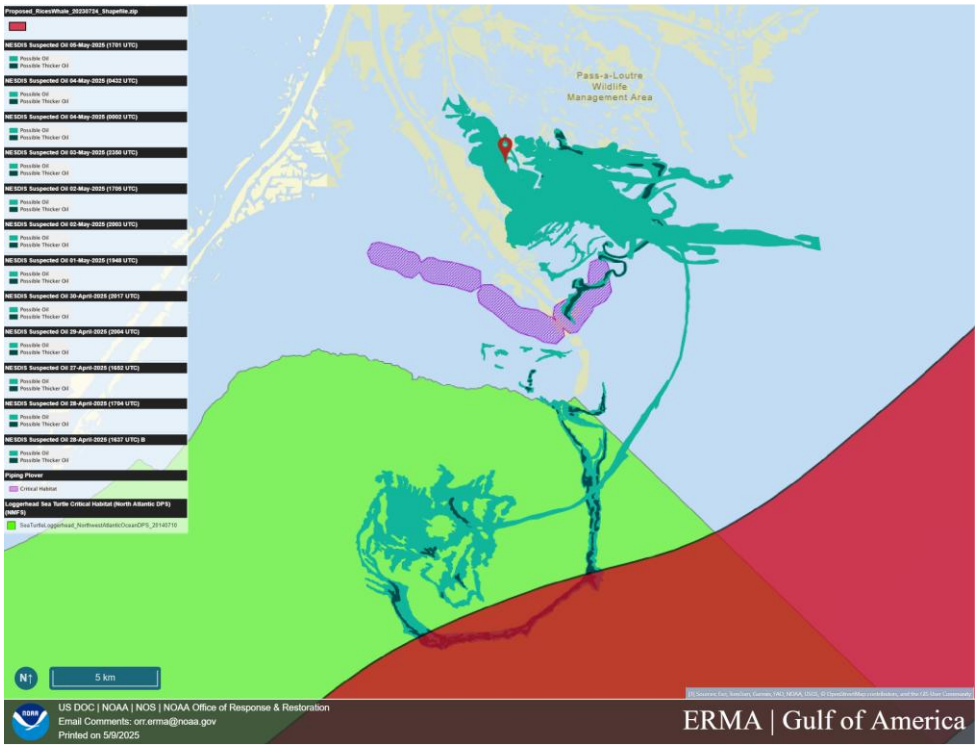

Figure 5. Oil sheen from Well 59 blowout (red location pin) entering critical habitats of piping plover (purple), loggerhead sea turtle (green), and Rice's whale (red), April 26 to May 2, 2025.

[82] U.S. Coast Guard, *Unified Command Continues Response to Release Near Garden Island Bay, LA [Image 2 of 3],* (Apr. 29, 2025), https://www.dvidshub.net/image/9003164/unified-command-continues-response-release-near-garden-island-bay-la.

Federal pollution reports include many additional examples of oil sheens associated with defunct oil and gas infrastructure. Consider the following examples:

- In December 2024, a "mystery sheen" was reported in Main Pass, Louisiana, which "appeared to originate from an abandoned [Texas Petroleum Investment Company] platform."[83]

- In September 2024, a "mystery sheen" was reported "in an area with a known collapsed platform" off the coast of East Cameron, Louisiana.[84]

- In July 2024, a platform left idle for more than a decade was suspected of causing a miles-long sheen of natural gas, saltwater, and diluted hydrocarbons off the Texas coast.[85] The platform caused a similar incident in 2014, leaving a three- to four-mile sheen.[86]

- In June 2023, an abandoned oil platform off Jefferson County, Texas, appeared to be leaking oil into the ocean, which officials believed could have come from the well or an adjacent pipeline.[87]

- In March 2023, an old well that was partially plugged and abandoned was leaking natural gas condensate and creating a sheen at High Island Beach, Texas.[88]

- In February 2022, an abandoned well discharged gas and condensate off the coast of Louisiana, leaving a silvery sheen approximately one mile in length.[89]

- In December 2020, an abandoned wellhead sprung a steady leak of oil, which the state of Louisiana was required to clean up because the operator was in bankruptcy.[90]

- In August 2020, a collapsed platform and produced water tank discharged approximately 750 barrels of produced water and left a rainbow sheen in Main Pass, Louisiana.[91]

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[83] NOAA Incident News, *Mystery Sheen in Main Pass 69; Main Pass, LA* (Dec. 17, 2024).

[84] NOAA Incident News, *Mystery Sheen; offshore East Cameron, LA* (Sept. 13, 2024).

[85] Drane, Amanda, *A Long-Idle Oil Platform Left a Miles-Long Sheen After Hurricane Beryl's Winds*, Houston Chron. (July 24, 2024).

[86] *Id.*; NOAA Incident News, *Platform Sheen; offshore Bolivar Peninsula, TX*, (July 17, 2024).

[87] NOAA Incident News, *Sheen Discharging Near Abandoned Platform in High Island Block 24, Jefferson County, TX* (June 9, 2023).

[88] NOAA Incident News, *Sheen at High Island Beach, Bolivar Peninsula, TX* (Mar. 13, 2023).

[89] NOAA Incident News, *Abandoned Well Discharging Gas and Condensate, East Cameron, Offshore Louisiana* (Feb. 15, 2022).

[90] NOAA Incident News, *Yuma Energy Main Pass Block 4 Wellhead; Breton Sound, LA, USA* (Dec. 21, 2020).

[91] NOAA Incident News, *TPIC MP35 Produced Water Discharge; Main Pass35, LA, USA* (Aug. 20, 2020).

- In February 2014, a pipeline on an abandoned platform off Bolivar Point, Texas, leaked oil, causing a 3- to 4-mile-long sheen.[92]

Leaks such as these are notably difficult to trace to the source because ocean currents can disperse pollutants and carry them long distances (see Figure 6).[93] Likewise, leaks from defunct infrastructure may go undetected for long periods of time.[94]

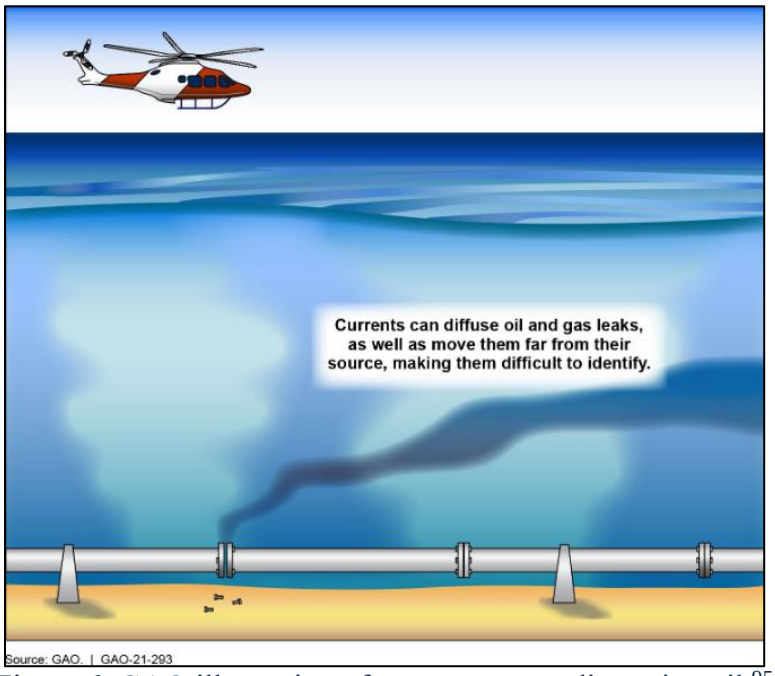

Figure 6. GAO illustration of ocean currents dispersing oil.[95]

Aging pipelines are also subject to corrosion, seafloor erosion, mudslides, and damage from maritime activities, which can cause pipelines to leak.[96] This is particularly concerning in light of the GAO's 2021 findings that BSEE "does not have a robust process to address the safety and environmental risks posed by leaving decommissioned pipelines in place on the seafloor due to the cumulative effects of oversight gaps before, during, and after the decommissioning process."[97]

Moreover, "BSEE has not historically directed operators to provide any assessment of the environmental impacts" of leaving pipelines on the seafloor, and though the "issue has not been well studied," most agency officials interviewed "were skeptical that pipelines decommissioned-

[92] NOAA Incident News, *Leaking 1 inch Pipeline; High Isl Block 98L, TX* (Feb. 21, 2014).

[93] GAO 2021, *supra* note 52, at 6–7.

[94] *Id.* at 6.

[95] *Id.* at 7.

[96] *Id.* 1, 5.

[97] *Id.* at 12.

in-place only have minor environmental effects, especially in the long term."[98] This skepticism is well-founded. Mercury—"one of the most toxic metals in the environment"—can accumulate within pipelines decommissioned-in-place and pollute the seafloor and water if the pipelines are damaged.[99] (As noted above, pipeline damage commonly results from high currents, mudslides, and other subsea phenomena that can move or expose pipelines.[100]) Furthermore, *in situ* decommissioning of pipelines is likely to increase concentrations of mercury in the muscle tissue of animals within the marine food web—including fish, eels, crustaceans, and krill—and long-term exposure to sublethal concentrations of mercury can negatively impact the health of these animals over time.[101]

BSEE has also authorized decommissioning-in-place of almost 250 umbilical lines, which provide electrical and hydraulic power to subsea infrastructure.[102] Many more of these lines are likely associated with idle infrastructure. Failing to decommission umbilical lines poses environmental risks because they "often contain hazardous chemicals, and it is not feasible to properly clean them."[103] Environmental Protection Agency officials advised BSEE in 2018 that release of hazardous materials from these lines as they corrode over time "would be environmentally harmful and would likely constitute an unpermitted pollutant release under the Clean Water Act," yet "BSEE has not recently reviewed the effects of releasing such chemicals into the ocean."[104]

Deteriorating platforms also create a risk of spills and other environmental and safety hazards resulting from structural failure.[105] As one BOEM-commissioned report explains, companies are unlikely to prioritize maintenance of idle structures, which "may fall into a state of neglect and disrepair."[106] This is of particular concern for deepwater structures for which "maintenance painting" alone can range from $500,000 to $1.5 million.[107] Likewise, a 2022 BSEE Safety Alert warns that "[a]fter extended periods of inactivity, with little or no operator inspection and maintenance, lifting equipment [such as cranes] deteriorates due to harsh offshore environmental

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[98] *Id.* at 16; *see generally* Gissi, Francesca, et al., *A Review of the Potential Risks Associated with Mercury in Subsea Oil and Gas Pipelines in Australia*, 19 Envtl. Chem. 210 (2022) (noting a lack of attention to and understanding of the impacts of contaminants associated with *in situ* decommissioning of pipelines).

[99] Kho, Fenny, et al., *Current Understanding of the Ecological Risk of Mercury from Subsea Oil and Gas Infrastructure to Marine Ecosystems*, 438 J. Hazardous Materials 2, 11 (2022).

[100] GAO 2021, *supra* note 52, at 21.

[101] von Hellfeld, Rebecca & Hastings, Astley, *An Approach to Assessing Subsea Pipeline-Associated Mercury Release into the North Sea and Its Potential Environmental and Human Health Impact*, 11 R. Soc. Open Sci. 8–9 (2024).

[102] GAO 2021, *supra* note 52, at 17–18.

[103] *Id.* at 18.

[104] *Id.*; *see also id.* at 17–18 (noting that BSEE was approving these deviations "without . . . having an understanding of their effects").

[105] GAO 2024, *supra* note 21, at 9.

[106] Kaiser & Narra 2018, *supra* note 54, at 172–74.

[107] *Id.* at 173.

conditions."[108] The agency has noted "potential pollution threats" across multiple idle platforms, including "[d]efective fittings, hoses, and leaking diesel/hydraulic reservoirs," and warns of the "environmental risks" of equipment falling into the ocean and "becoming marine debris."[109] Research shows that contamination from oil and gas platforms causes declines in benthic food web complexity, community abundance, and biodiversity.[110]

The oil spills associated with defunct infrastructure can harm wildlife in a variety of lethal and sublethal ways. Oil can coat animals' fur, feathers, or skin, impairing their insulation, water repellency, or breathing.[111] Animals can also ingest or inhale oil, causing poisoning, organ damage, or respiratory problems.[112] Moreover, oil can contaminate the water and the seafloor and damage habitat for corals, fish, and other animals.[113] For example, a growing body of evidence demonstrates that even brief exposures to crude oil and its components can have severe impacts on fish and invertebrate species.[114] One study found that 99% of red snapper sampled throughout the Gulf between 2011 and 2017 showed signs of liver damage (e.g., inflammation, neoplasms and other lesions, and parasites) associated with exposure to hydrocarbons.[115] Another found that deep-sea invertebrate species in the Gulf, including sea anemones, sea cucumbers, sea pens, and sea lilies, bioaccumulate hydrocarbons.[116]

Marine mammals are also vulnerable to oil spills. Exposure to toxic petroleum hydrocarbons during oil spills is linked to mortality in cetaceans, even years later.[117] For example, the Deepwater Horizon spill caused adrenal and lung disease in dolphins that has continued to kill the animals long after the spill.[118] The spill hit the critically endangered Rice's whale population

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[108] BSEE, *Hazards Associated with Cranes on Idle Facilities Pose Safety and Environmental Risks*, Safety Alert No. 448 1 (Aug. 10, 2022); *see also id*. at 2 ("in most cases preventative or corrective maintenance has been disregarded").

[109] *Id.* at 1–2.

[110] Chen, Zelin, et al., *Oil and Gas Platforms Degrade Benthic Invertebrate Diversity and Food Web Structure*, 929 Sci. of the Total Env't 1(2024).

[111] Nat'l Acad. of Sci., Eng'g, & Med., *Oil in the Sea IV: Inputs, Fates, and Effects* 269–70 (2022).

[112] *Id.* at 270.

[113] *Id.* at 270–71, 269.

[114] *See id.* at 302.

[115] Pulster, Erin L., et al., *Hepatobiliary PAHs and Prevalence of Pathological Changes in Red Snapper*, 230 Aquatic Toxicology 1, 10 (2021).

[116] Lawson, M. Chase, et al., *PAH and PCB Body-Burdens in Epibenthic Deep-Sea Invertebrates from the Northern Gulf of Mexico*, 162 Marine Pollution Bulletin 7–8 (2021).

[117] Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico, 86 Fed. Reg. 5322, 5393–94 (Jan. 19, 2021); *see also* Frasier, Kaitlin E., et al., *A Decade of Declines in Toothed Whale Densities Following the Deepwater Horizon Oil Spill*, Commc'ns Earth & Env't 6 (2024) (explaining that gradual long-term declines in cetacean populations "suggest ongoing, long-term chronic impacts on marine mammal populations in the northeastern GoMx, which may not be suitably approximated by the estimation of relatively short-term exposure to an acute event").

[118] 86 Fed. Reg. at 5393–94.

hard: an estimated 48% of their habitat was oiled, and the whales suffered an estimated 22% population decline from their pre-spill population size.[119]

Oil also harms imperiled sea turtles via myriad avenues of exposure, including physical contact, inhalation, and ingestion.[120] Sea turtles are vulnerable to toxic oil exposure at all life stages.[121] For example, oil can contaminate nesting habitat and egg clutches.[122]

Finally, "[o]verwhelming evidence exists that petroleum oils are toxic to birds."[123] Seabirds may be exposed to oil through acute events like spills, and chronically through routine discharges and leaks.[124] Acute exposure to oil can cause death from smothering, drowning, dehydration, starvation, ingestion of toxins, and hypothermia.[125] Sublethal effects can also occur and present severe obstacles to survival.[126] A recent study assessing the relative vulnerability to oil of 24 seabird species found a roughly 89% overlap of oil and gas platforms within seabird habitat, indicating that seabirds are highly vulnerable to oil and gas activities.[127] Moreover, delinquent platforms contribute to injury and death to seabirds, who are disoriented by platform lights.[128] Platforms in the Gulf are estimated to kill at least 200,000 birds each year via collisions, equating to approximately 50 birds per platform.[129]

2. Aging oil and gas infrastructure leaks methane.

Methane leaks from deteriorating infrastructure are also a significant concern, as methane is over 80 times more powerful than carbon dioxide at warming the atmosphere over a 20-year period.[130] A 2022 study found that some shallow water Gulf platforms are methane super-emitters, with

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[119] Designation of Critical Habitat for the Rice's Whale, 88 Fed. Reg. 47453, 47455 (July 24, 2023); *see also id.* at 47460 (noting the population estimate of only 51 individual whales).

[120] 12-Month Finding on a Petition to Identify the Northwest Atlantic Leatherback Turtle as a Distinct Population Segment and List it as Threatened Under the Endangered Species Act, 85 Fed. Reg. 48332, 48357, 48413 (Aug. 10, 2020).

[121] *Id*. at 48413.

[122] Designation of Critical Habitat for the Northwest Atlantic Ocean Distinct Population Segment of the Loggerhead Sea Turtle, 79 Fed. Reg. 39756, 39778 (July 10, 2014).

[123] Proposed Threatened Status for the Rufa Red Knot (*Calidris canutus rufa*), 78 Fed. Reg. 60024, 60083 (Sept. 30, 2013).

[124] *Id.* at 60083–86; Endangered and Threatened Wildlife and Plants; Endangered Species Status for Black-Capped Petrel, 88 Fed. Reg. 89611, 89620 (Dec. 28, 2023).

[125] 78 Fed. Reg. at 60083.

[126] *Id*.; 88 Fed. Reg. at 89620.

[127] Michael, Pamela E., et al., *Seabird Vulnerability to Oil: Exposure Potential, Sensitivity, and Uncertainty in the Northern Gulf of Mexico*, 9 Frontiers Marine Sci. 4, 16 (2022).

[128] MMS OCS Study 2005-009, *supra* note 63, at 5.

[129] *Id.*

[130] Forster, P., et al., *The Earth's Energy Budget, Climate Feedbacks, and Climate Sensitivity*, in *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* 1017, Table 7.15 (2021), https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Chapter07.pdf.

persistence and loss rates that tend to be much higher than rates associated with typical onshore production.[131] Moreover, lower-producing wells (which are likely to be older) had higher methane loss rates.[132]

A 2020 aerial survey measuring methane emissions from Gulf platforms also found that the largest multiplatform shallow water facilities, including some with older platforms, had disproportionately high methane emissions, and noted that in the onshore context, infrastructure age combined with poor maintenance is linked to high emission rates.[133] These facilities accounted for nearly 40% of all Gulf emissions, yet consisted of <1% of total platforms, and were analogous to the highest emitting onshore basins.[134] A study from the North Sea also found that 65% (28 out of 43) of decommissioned offshore wells leaked gas into the water column and represented a major source of methane in the sea.[135]

Methane emissions from idle and delinquent oil and gas wells contribute to climate change, which is already impacting numerous species. For example, scientists have concluded that climate change will likely harm black-capped petrels "through increased storm intensity and frequency, resulting in flooding of burrows and erosion of suitable nesting habitat."[136] And sea level rise from climate change "is likely to reduce the availability and increase the erosion rates of nesting [sea turtle] beaches, particularly on low-lying, narrow coastal and island beaches."[137]

Moreover, methane that remains in the water column can be toxic to marine life. For example, the high concentrations of gas, including methane, discharged in the Deepwater Horizon blowout created localized anoxic dead zones in the Gulf.[138]

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[131] Ayasse, Alana, et al., *Methane remote sensing and emission quantification of offshore shallow water oil and gas platforms in the Gulf of Mexico*, 17 Env't Rsch. Lett. 1, 5, 9 (2022).

[132] *Id.* at 8–9.

[133] Negron, Alan Gorchov, et al., *Airborne Assessment of Methane Emissions from Offshore Platforms in the U.S. Gulf of Mexico*, 54 Env't Sci. & Tech. 5112, 5114–15 (2020).

[134] *Id.* at 5117, 5118; *see also* Yacovitch, Tarra, et al., *Methane Emissions from Offshore Oil and Gas Platforms in the Gulf of Mexico*, 54 Env't Sci. & Tech. 3530, 3533, 3535 (2020) (shipboard methane measurements of 103 producing and non-producing sites found 75 sites emitting methane above background, and the top 2% of sites accounted for 20% of total emissions).

[135] Böttner, Christoph, et al., *Greenhouse Gas Emissions from Marine Decommissioned Hydrocarbon Wells: Leakage Detection, Monitoring and Mitigation Strategies*, 100 Int'l J. Greenhouse Gas Control 103119, 13, 14 (2020).

[136] 88 Fed. Reg. at 89612.

[137] Final Rule To List Eleven Distinct Population Segments of the Green Sea Turtle (Chelonia mydas) as Endangered or Threatened and Revision of Current Listings Under the Endangered Species Act, 81 Fed. Reg. 20058, 20063 (Apr. 6, 2016).

[138] Joye, Samantha, et al., *Magnitude and Oxidation Potential of Hydrocarbon Gases Released from the BP Oil Well Blowout*, 4 Nature Geosci. 160, 160, 163 (2011).

3. Hurricanes, fracking, and vessel collisions heighten the risks associated with defunct infrastructure.

Aging and corroded offshore infrastructure is susceptible to significant damage from natural and anthropogenic forces, such as hurricanes, hydraulic fracturing ("fracking"), and vessel collisions.

The growing frequency and strength of climate-change driven hurricanes in the Gulf[139] compound the environmental and safety hazards associated with aging oil and gas infrastructure. In recent decades, hurricanes have toppled platforms, dragged pipelines, and destroyed oil storage tanks, which may trigger oil spills or create navigational obstructions. Hurricanes Katrina and Rita, for example, destroyed 113 offshore platforms, damaged 457 pipelines, and led to six oil spills of 1,000 barrels or more.[140] Katrina also dragged nine miles of a 22-mile pipeline as far as 4,000 feet out of place, which is particularly alarming in light of the Gulf's 18,000 miles of unmonitored pipeline that has been decommissioned in place.[141]

Deteriorated idle infrastructure is particularly susceptible to hurricane damage and expensive to clean up. As the GAO explained in 2015, "postponing decommissioning can be costly because the longer a structure is present in the Gulf the greater the likelihood it will be damaged by a hurricane."[142] Additionally, "decommissioning a storm-damaged structure may cost 15 times or more the cost of decommissioning an undamaged structure," as the salvage work involved is dangerous, difficult, and time-consuming.[143] Thus, climate change-driven hurricanes have the potential to deepen the decommissioning crisis by damaging infrastructure, driving up removal costs, and pushing weaker operators into bankruptcy (see Section III.C below).

Additionally, the accumulation of idle and defunct infrastructure has coincided with a rise in fracking. The federal government has approved fracking in the Gulf more than 3,000 times since 2010.[144] Fracking increases pressure underground and can push up oil or salty water near idle wells.[145] In one example, the fracking of an onshore well caused a 30-foot geyser of oil field brine to spout for a week from a nearby abandoned well.[146] Similarly, fracking activities can cause previously trapped methane to escape through nearby idle wells.[147]

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[139] *See* Balaguru, Karthik, et al., *Increased U.S. Coastal Hurricane Risk Under Climate Change*, 9 Sci. Advances 1–3 (2023).

[140] U.S. Dep't of the Interior, Press Release, MMS Updates Hurricanes Katrina and Rita Damage (May 1, 2006).

[141] GAO 2021, *supra* note 52, at 7.

[142] Gov't Accountability Off., *Actions Needed to Better Protect Against Billions of Dollars in Federal Exposure to Decommissioning Liabilities* (GAO-16-40) 11 (Dec. 2015) [hereinafter "GAO 2015"].

[143] *Id.*; GAO 2024, *supra* note 21, at 10–11.

[144] Ctr. for Biological Diversity, *Toxic Waters: How Offshore Fracking Pollutes to Gulf of Mexico* 1 (2021).

[145] Allison, Edith & Mandler, Ben, *Petroleum and the Environment* 7-2 (2018).

[146] *Id*.

[147] Gianoutsos, Nicholas J., et al., *Geologic Sources and Well Integrity Impact Methane Emissions from Orphaned and Abandoned Oil and Gas Wells*, 912 Sci. of the Total Env't 3 (2024).

Finally, leaving offshore oil and gas facilities in place creates a risk of dangerous vessel collisions.[148] This threat becomes particularly acute if a neglected facility's lights stop functioning.[149]

C. Operators with overdue decommissioning obligations create intolerable risk of government waste, including the risk of billions of dollars in potential orphan liability.

The nation's decommissioning backlog represents a failure to fulfill OCSLA's mandate that development of the outer continental shelf be "expeditious and orderly."[150] Delayed and overdue decommissioning is the opposite of "expeditious," and the legal quagmire that results when operators evade their cleanup responsibilities is the opposite of "orderly." The petitioned action is necessary to incentivize prompt and systematic decommissioning of the infrastructure littering the ocean and to prevent the use of government resources to bail out bad actors that abandon their cleanup responsibilities.

The enormous cost of offshore decommissioning is the primary reason that operators seek to avoid their obligations. In the Gulf, well-plugging costs range from $660,000 in shallow waters to $24 million in deep waters,[151] and platform removal ranges from about $977,000 to $3.6 million in shallow waters[152] and $10 to 80 million in deep waters.[153] In the Pacific, the cost of decommissioning wells and platforms ranges from about $19 million to $189 million.[154]

The largest oil and gas companies readily evade these costs by divesting properties once production reaches a certain tipping point.[155] The smaller, less-resourced companies that purchase these properties may operate them profitably for years while never having the resources to cover the enormous costs of decommissioning them.[156] This is because oil and gas companies

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[148] GAO 2024, *supra* note 21, at 8.

[149] *Id.*

[150] 43 U.S.C. § 1332(3).

[151] Agerton, Mark, et al., *Financial Liabilities and Environmental Implications of Unplugged Wells for the Gulf of Mexico and Coastal Waters*, 8 Nature Energy 536, 540 (2023).

[152] Kaiser, Mark J., *BSEE Decommissioning Cost Estimates in the Shallow Water US Gulf of Mexico*, 18 Ships & Offshore Structures 1482, 1482 (2023).

[153] Kaiser, Mark J., *BSEE Decommissioning Cost Estimates in the Deepwater US Gulf of Mexico*, 19 Ships & Offshore Structures 186, 186 (2024).

[154] BSEE, *Decommissioning Cost Update for Pacific Outer Continental Shelf Region (POCSR) Facilities*, Vol. 1 iii (2020).

[155] *See* Kaiser & Narra 2018, *supra* note 54, at 53 ("Most majors do not operate properties once they reach a certain minimum level and divest or decommission assets low on their decline curves (referred to as portfolio rebalancing)."); Schuwerk, Robert, et al., *Double Or Nothing: How Regulators are Gambling on the Future Self-Interest of Large Oil and Gas Companies to Decommission the Gulf of Mexico's Aging Infrastructure*, Carbon Tracker Initiative 7 (2022) ("Meanwhile, aging wells and platforms closer to shore—many of which are now owned by smaller operators—are increasingly marginal in value, raising the risk that they will be abandoned by their current operators.").

[156] *See*, *e.g.*, Domonoske, Camila, *Why a Tiny Bit of Oil Can be a Big Deal*, Wyo. Pub. Media (Mar 26, 2025), https://www.wyomingpublicmedia.org/2025-03-26/why-a-tiny-bit-of-oil-can-be-a-big-deal.

consider a project to be "economically producible" when "net revenue from an ongoing producing project exceeds the net expenses" *excluding* decommissioning costs.[157] Similarly, OCSLA triggers well-plugging and end-of-lease decommissioning obligations when the well or lease cannot produce "in paying quantities,[158] but BSEE interprets this phrase to mean yielding a "positive stream of income" after subtracting normal lease operating costs and royalties—*excluding* decommissioning costs.[159]

Failure to factor in decommissioning costs when considering whether a well or project is producing in paying quantities encourages uneconomic and financially risky transactions, including lease assignments to undercapitalized companies. A buyer could purchase a project during its mid-life and "operate it profitably for many years," only to face "decommissioning costs greater than all its historical proceeds."[160]

Operators unable to evade their obligations by divesting low-producing assets may also forestall decommissioning under BSEE's Idle Iron Policy if they claim to have some future use of the infrastructure.[161] BSEE acknowledges that operators elude decommissioning using "intentional delay tactics—such as by proposing an alternative use of platforms to BSEE but never submitting the plans to do so."[162] Indeed, a BOEM-commissioned report acknowledges that "the [b]enefits of maintaining infrastructure beyond its useful life are always speculative," and the longer a structure is idle, the less likely it is to produce oil and gas in the future.[163]

Idle infrastructure and decommissioning delays are a sign that an operator is at risk of defaulting on their decommissioning obligations.[164] Since 2009, 37 offshore oil and gas operators have filed for bankruptcy, and BOEM and BSEE "expect offshore bankruptcies will continue to increase."[165] These bankruptcies create "substantial uncertainty, and potentially enormous financial risks to the federal government from decommissioning liabilities"[166] because BOEM

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[157] Purvis, Dwayne, *Decommissioning Costs Make Producing Projects Uneconomic*, J. of Petroleum Tech. (2024); *see also* Kaiser & Narra 2018 at 50 ("According to basic economic theory, a structure will produce hydrocarbons as long as its net revenue exceeds its direct operating expenses.").

[158] 43 U.S.C. § 1337(b)(2); 30 C.F.R. § 250.1711(b).

[159] Minerals Mgmt. Serv., *Extension of Lease and Unit Terms by Production in Paying Quantities* (NTL No. 2008-N09) 1 (Oct. 29, 2008); BSEE Idle Iron Policy; *supra* note 28, at 1–2.

[160] Purvis 2024, *supra* note 157.

[161] *See generally* BSEE Idle Iron Policy, *supra* note 28.

[162] GAO 2024, *supra* note 21, at 17.

[163] Kaiser & Narra 2018, *supra* note 54, at 178, 40, 81.

[164] GAO 2024, *supra* note 21, at 20; GAO 2015, *supra* note 142, at 27–28; *see also* U.S. Dep't of the Interior, Orphaned Wells Program Office, *Orphaned Wells Program Annual Report to Congress* 41 (Nov. 2024) ("[I]dled wells can be used as a proxy for wells at risk of becoming orphaned.").

[165] GAO 2024, *supra* note 21, at 2, 27.

[166] *Id.*

and BSEE "may have to assume decommissioning responsibilities if a bankrupt entity is unable to fulfill them."[167]

Well 59, discussed in Section III.B.1 above, exemplifies some of these industry dynamics. This well has been "temporarily" shut-in for 28 years, with plugging deferred because it allegedly has potential for future use.[168] Records from the Louisiana Department of Energy and Natural Resources show that the well was drilled in 1942,[169] and last produced oil in 1997 when it was operated by oil major Texaco.[170] Since then, Well 59 and hundreds of other wells located on the same state lease have passed from owner to owner, including through two bankruptcies.[171] Its current owner purchased the lease in a bankruptcy proceeding in 2024, along with 291 other wells—88% of which (257) are shut-in or temporarily abandoned—representing approximately $20 million in decommissioning liability.[172]

Operator bankruptcies are particularly concerning because BOEM does not require operators to save for the retirement of their projects, and asks only the weakest operators provide supplemental financial assurances such as surety bonds to guarantee compliance with decommissioning obligations.[173] As a result, over 91% of decommissioning liability is not backstopped by financial assurances: as of June 2023, BOEM had collected a mere $3.5 billion

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[167] U.S. Dep't of the Interior, Office of Inspector General*, U.S. Department of the Interior Bureaus Must Improve Federal Oil and Gas Internal Controls to Ensure Oversight of Financial Risks to the Government from Bankruptcies*, Report No. 2023-CR-003 6 (Dec. 16, 2024) [hereinafter "DOI OIG 2024"]; *see also id.* at 8 ("Specifically, if an entity cannot sell or transfer its lease because the well is no longer productive or if it has no other entity to which it can shift responsibility, any remaining amounts owed to the bureaus, as well as decommissioning and reclamation requirements, become the responsibility of the Federal Government."); 89 Fed. Reg. at 31545 ("Additionally, challenges arising from bankruptcy proceedings, including the inability to sell less valuable assets that fail to generate new buyers at auction, can result in unplugged wells and orphaned infrastructure, potentially resulting in the American taxpayer paying to plug those wells and decommission that abandoned infrastructure.").

[168] La. Dep't of Energy & Natural Res., Well History (All Records), https://sonlite.dnr.state.la.us/ords/f?p=108:2620:112791982038214::NO:2620 (search by well serial no. 28012).

[169] *See* La. Dep't of Energy & Natural Res., Well Information, https://sonlite.dnr.state.la.us/sundown/cart_prod/cart_con_wellinfo2?p_wsn=28012 (spud date Nov. 14, 1942).

[170] *See* La. Dep't of Energy & Natural Res., Well History, *supra* note 168.

[171] *Id.*; *see Chaffe Advises Trimont Energy on Sale of Oil and Gas Assets*, Biz New Orleans (June 18, 2024), https://bizneworleans.com/chaffe-advises-trimont-energy-on-sale-of-oil-and-gas-assets/ (describing the sale of Louisiana State Lease 214 from Trimont Energy (GIB), LLC, to Spectrum AR, LLC, "a newly formed Louisiana-based energy company" in Trimont's Chapter 11 Bankruptcy); Debtor's First Amended Plan of Reorganization at 2, *In re: Trimont Energy GIB), LLC*, Case No. 23-11869 (Bankr. E.D. La. Aug. 7, 2024) (explaining that Trimont obtained the Garden Island Bay oil and gas field in the Dune Energy bankruptcy in 2015).

[172] Biz New Orleans 2024, *supra* note 171; La. Dep't of Energy & Natural Res., Wells by Organization Name, https://sonlite.dnr.state.la.us/ords/f?p=108:2700:112791982038214::NO:2700 (search by operator name Spectrum OpCo LLC).

[173] *See* 30 C.F.R. §§ 556.900–556.907. Notably, BOEM is often unable to "forecast financial distress" of lessees and has "not had sufficient time to require and receive supplemental financial assurance prior to a declaration of bankruptcy" for companies such as ATP Oil & Gas, which "was a midsized company with a supplemental financial assurance waiver when it filed for bankruptcy in 2012"; Bennu Oil & Gas LLC, which "had a waiver at the time of its bankruptcy filing"; and Energy XXI, Ltd., and Stone Energy Corporation, which "obtained waivers less than a year before filing for bankruptcy." 89 Fed. Reg. at 31548.

in supplemental bonds to cover between $40 billion and $70 billion in total estimated decommissioning costs in federal offshore waters.[174] This also raises concerns about the surety bond industry's ability remain solvent in the event of increased operator defaults.[175]

As a result of these weak federal policies and the industry project transfer dynamics discussed above, the federal government is currently saddled with enormous offshore orphan liability that is likely to grow without intervention such as the petitioned action. BSEE and BOEM hold over $183 million in orphan liability from just nine operator bankruptcies, and approximately 74% of this liability (over $135 million) is not covered by performance bonds or other financial assurances to defray decommissioning costs (see Figure 7).[176] Indeed, BSEE admits it is reluctant to issue decommissioning orders for fear that these orders will drive operators into default.[177]

Company	Orphan Liability	Supplemental Financial Assurance	General Bonds	Other Financial Assurance	Uncovered Orphan Liability - Applying General & Supplemental Financial Assurance	Government Contract Awarded
Bennu Oil & Gas, LLC	$ 15,192,758		$ (2,276,900)		$ 12,915,858	
Matagorda Island Gas Operations (MIGO)	$ 15,271,450	$ (9,500,000)	$ -		$ 5,771,450	Yes
Anglo-Suisse Offshore Partners	$ 11,189,217		$ (3,300,000)		$ 7,889,217	
Transworld Exploration & Production, Inc.	$ 207,499	$ -	$ -		$ 207,499	
Fieldwood Energy Offshore, LLC	$ 721,049	$ -	$ (721,049)		$ -	
MLCJR, LLC	$ 116,213,518	$ (19,016,128)	$ (12,900,000)		$ 84,297,390	
Monforte Exploration, LLC	$ 661,229	$ (349,820)	$ (300,000)		$ 11,409	
Taylor Energy Company - See Tab for Details				$ (432,523,718)		
Signal Hill Service, Inc	$ 24,000,000			$ -	$ 24,000,000	
Total	$ 183,456,720	$ (28,865,948)	$ (19,497,949)		$ 135,092,823	
	Well DL	Structure DL	Site Clear DL	Pipeline DL		
Total Properties	114	18	18	79		

Figure 7. BOEM's Orphan Liability Spreadsheet, May 2025.

Moreover, federal involvement in bankruptcy proceedings comes with a heavy administrative burden that further delays cleanup of defunct oil and gas infrastructure. When companies petition for bankruptcy, BSEE must file proofs of claims in the proceedings to assert the agency's right to receive a distribution from the bankruptcy estate for current and future decommissioning

[174] GAO 2024, *supra* note 21, at 26. Although BOEM strengthened its financial assurance regulations in 2024 to require $6.9 billion in new financial assurances from industry, 89 Fed. Reg. at 31544, the agency has signaled its intent to revise the rule. *See* U.S Dep't of the Interior, Press Release, Interior Department to Update Offshore Financial Assurance Rule to Support Future Energy Development (May 2, 2025).

[175] For example, in ongoing litigation brought by operator W&T Offshore against several of its surety bond providers after they demanded 100% collateral for the operator's decommissioning obligations (totaling roughly $250 million), one provider explained that its collateral demand was motivated by concerns with the financial health of the operator "coupled with numerous other industry-wide issues, including relevant court rulings, losses sustained across the industry, and reinsurance considerations." Lexon's Partial Motion to Dismiss W&T's First Amended Complaint at 1–2, 7, n.5, *W&T Offshore, Inc., v. Endurance Assurance Corporation*, No. 4:24-CV-3047 (S.D. Tex. Jan. 24, 2025).

[176] BOEM Orphaned Liability Spreadsheet (last modified May 1, 2025), https://www.boem.gov/oil-gas-energy/risk-management/property-list-and-orphaned-liability.

[177] GAO 2024, *supra* note 21, at 18; U.S. Dep't of the Interior, *Closeout Memorandum, The Bureau of Safety and Environmental Enforcement's Decommissioning Program*, Assignment No. 2016-EAU-063 (Mar. 26, 2019) (concluding that BSEE's policies on reviewing idle infrastructure in the Gulf "have not been implemented because there are concerns that requiring operators to decommission infrastructure will force many into bankruptcy.").

requirements.[178] This requires coordination between BOEM, BSEE, the Office of Natural Resources Revenue, the Office of the Solicitor, and the bureaus' regional offices.[179] It also requires BOEM and BSEE to maintain complete and accurate information about operator bankruptcies, including case status, every company involved, proof of claim amounts, obligations remaining after the bankruptcy has closed, and mitigation amounts collected through bonds—several of which the bureaus have failed to adequately track.[180]

By preventing operators with outstanding decommissioning obligations from expanding their operations, the rules proposed in this petition would promote OCSLA's goals of expeditious and orderly development of the outer continental shelf and ensure that American taxpayers are not forced to pay to clean up the oil industry's mess.

D. Joint and several liability fails to ensure timely decommissioning by predecessors.

Although joint and several liability among lessees, operators, and their predecessors[181] is an important safeguard in the event of operator default, it does not sufficiently protect the federal government from orphan liability and gives rise to legal disputes that can hinder timely decommissioning.

Predecessors are generally not liable for wells drilled or infrastructure installed after they transfer a lease or operating interest.[182] Thus, even if there is a financially strong operator in the chain of title for a project, the federal government may still become responsible for orphaned infrastructure if the most recent operator goes bankrupt. As discussed above, even a small amount of orphaned infrastructure could cost taxpayers tens of millions of dollars given the high cost of plugging offshore wells and removing other facilities. In one recent example, Interior allocated over $30 million to plug just 20 orphaned wells off the coasts of Louisiana and Texas.[183]

Additionally, BSEE's pursuit of predecessors is administratively onerous and can result in yearslong decommissioning delays. BOEM and BSEE's existing data systems "do not readily track the status and contact information for predecessors, which can inhibit BSEE's ability to disseminate citations and orders in a timely manner."[184] Also, "determining which parties—

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[178] DOI OIG 2024, *supra* note 167, at 4, 7.

[179] *Id.* at 5, fig. 1.

[180] *Id.* at 11-12. The OIG found that BOEM and BSEE did not track post-bankruptcy amounts or mitigation amounts or proof of claim amounts. *Id.* They also did not consistently identify all entities involved with a bankruptcy case. *Id.* For example, in a bankruptcy case involving six entities and six corresponding proofs of claims asserting decommissioning obligations totaling more than $8 billion in liabilities, only one entity was listed in the bureaus' bankruptcy tracking tool, and no proof of claim amounts were listed. *Id.*

[181] *See* 30 C.F.R. § 250.1701.

[182] *Id.* §§ 556.710, 556.805, 250.1702, 1701(b).

[183] U.S. Dep't of the Interior, Press Release, Biden-Harris Administration Announces $109 Million from Investing in America Agenda to Clean Up Legacy Pollution on Federal Lands and Waters (Dec. 16, 2024).

[184] GAO 2024, *supra* note 21, at 16.

assuming they still exist or have active operations in the region—will assume responsibility for which task is time consuming and contributes to additional delays."[185]

Even when BSEE can identify solvent predecessors and issue decommissioning orders to them, these companies may pursue expensive and time-consuming administrative and judicial appeals in an effort to evade decommissioning. For example, in 2020 BSEE ordered legacy owners ConocoPhillips Company, Devon Energy Corporation, and OXY U.S.A., Inc., to decommission Platforms Hogan and Houchin in the Pacific when the platforms' insolvent operator (Signal Hill Service) relinquished its lease.[186] All three predecessors are challenging the orders, with their appeals still pending before the Interior Board of Land Appeals half a decade later.[187] The federal government already holds $24 million in orphan liability resulting from Signal Hill's bankruptcy (see Figure 7, *supra*), and has no money to cover the estimated $85.6 million cost of decommissioning the platforms should the companies prevail in their appeal.[188] Meanwhile, Platforms Hogan and Houchin, which "have posed serious safety, environmental, and financial risks, including poor safety compliance records, [and] severe corrosion," continue to deteriorate in the ocean (see Figure 8 below).[189]

In another example, "Platform A" in the Gulf's East Cameron Block 328 has been due for decommissioning since it toppled during Hurricane Ike in 2008, yet after nearly 18 years it remains in the water as operators litigate over their obligations. The lawsuit—filed in February 2025 by operators Arena Energy, LLC, and Arena Offshore, LP, against Maritech Resources, LLC, and Tetra Technologies, Inc.—details a series of corporate and operating rights transactions among the parties and alleges that despite Arena's current 100% operating interest in East Cameron Block 328, Maritech retained all decommissioning obligations for Platform A.[190] After Maritech failed to comply with decommissioning orders and extensions issued by BSEE in 2021 and 2022, Arena sued, seeking damages and indemnification for the $20 million it estimates will be required to decommission Platform A.[191] Meanwhile, the collapsed platform continues to sit in the water.

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[185] *Id.* at 16, n.33.

[186] Richards, Heather, *Why Interior could get stuck with the tab for cleaning up oil platforms*, E&E News (Apr. 12, 2024), https://www.eenews.net/articles/why-interior-could-get-stuck-with-the-tab-for-cleaning-up-oil-platforms/.

[187] *Id.*; *see* U.S. Dep't of the Interior, Interior Board of Land Appeals Pending Cases as of Dec. 31, 2024, https://web.archive.org/web/20250204195704/https://www.doi.gov/sites/default/files/documents/2025-01/december-2024-pending-appeals-ii.pdf (docket nos. IBLA-2021-0132, IBLA-2021-0137, IBLA-2021-0138.

[188] Richards 2024, *supra* note 186.

[189] GAO 2024, *supra* note 21, at 21, n.46.

[190] Complaint at 4–8, *Arena Energy, LLC v. Maritech Res., LLC*, No. 4:25-cv-00641 (S.D. Tex. Feb. 13, 2025).

[191] *Id.* at 9–16. Notably, in 2023 Louisiana's Artificial Reef Council rejected a proposal by Maritech to leave Platform A in the water and allow it to become a "special artificial reef site." Meeting Minutes, Artificial Reef Council, La. Dep't of Fish & Wildlife 2 (May 1, 2023), https://wwwprd.doa.louisiana.gov/boardsandcommissions/MeetingMinutes/176_ARC%20Mtg%2005.01.23%20Approved%20Minutes.pdf.

Source: Bureau of Safety and Environmental Enforcement. | GAO-24-106229

Figure 8. Corrosion on Platform Hogan, which has been due for decommissioning since 2020.[192]

As these examples show, joint and several liability is not a long-term solution to the decommissioning crisis. As decommissioning obligations increasingly boomerang back to the largest companies, their willingness and ability to fulfill billions of dollars' worth of decommissioning obligations long-gone from their balance sheets will wane, as the Signal Hill bankruptcy already demonstrates.[193] Moreover, the vast majority of offshore decommissioning costs are "secured only by the financial strength of the companies obligated to perform the work."[194] The largest oil and gas companies in the world are tied to more than three quarters of all decommissioning liability in the Gulf, but "have only been required to post surety bonds worth around 1% of their estimated direct liabilities, and nothing for contingent joint and several liability."[195]

New policy is necessary to reduce the length and scope of legal disputes among legacy operators that result in excessive delays to decommissioning and increase the chances that the federal government will ultimately bear the costs and responsibilities. The petitioned action carries out OCSLA's mandate that development of the outer continental shelf be "expeditious and orderly."[196]

[192] GAO 2024, *supra* note 21, at 9.

[193] *See* Schuwerk, et al., 2022, *supra* note 155, at 9; Richards 2024, *supra* note 186.

[194] Schuwerk, et al., 2022, *supra* note 155, at 12.

[195] *Id.* at 9.

[196] 43 U.S.C. § 1332(3).

E. Timely decommissioning promotes important economic and social values, including continued employment for oil and gas workers.

The industry's failure to timely decommission oil and gas infrastructure strips jobs from coastal communities already reeling from a decade-long employment decline (see Figure 9). This undermines OCSLA's mandate that management of the outer continental shelf shall include consideration of "the potential impact of oil and gas exploration on [the] resource values of . . . the marine, coastal, and human environments,"[197] including the "employment . . . of those affected, directly or indirectly, by activities occurring on the outer Continental Shelf."[198]

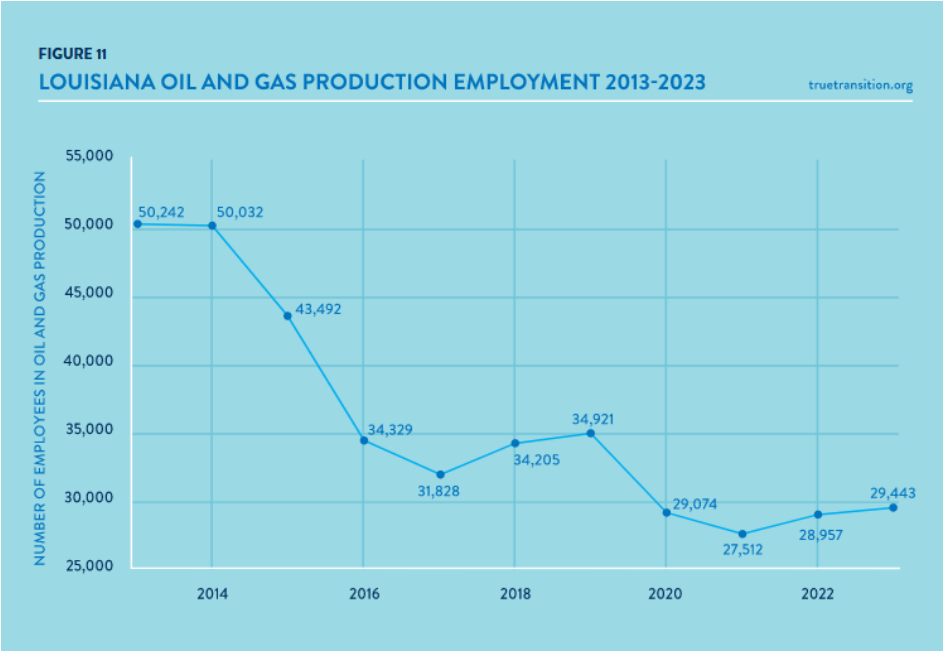

Figure 9. Louisiana Oil and Gas Production Employment, 2013–2023. Credit: True Transition.

The National Ocean Industry Association notes that the decommissioning phase of an oil and gas project is associated with some of the highest levels of employment when compared to other phases of a project's life.[199] The average annual employment at the decommissioning phase is 1,670 jobs for shallow water projects and 4,650 jobs for deepwater projects.[200] This "diverse workforce include[es] petroleum and mechanical engineers, [remotely operated vehicle] pilots, rig and vessel crews, crane and equipment operators, divers, service company personnel, and regulatory personnel."[201]

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[197] *Id.* § 1344(a)(1).

[198] *Id.* § 1331(i) (defining "human environment").

[199] Nat'l Ocean Indus. Ass'n & Energy & Indus. Advisory Partners, *The Gulf of Mexico Oil & Gas Project Lifecycle: Building an American Energy & Economic Anchor* 83, 85 (2021).

[200] *Id.* at 5, Tables 1–2.

[201] *Id.* at 78.

According to energy economists writing for the Columbia Center on Global Energy Policy, offshore decommissioning is a way to "preserv[e] or increas[e] employment alongside goals to reduce greenhouse gas emissions globally."[202] They estimate that plugging all inactive or temporarily abandoned wells in shallow federal and state waters would support approximately 10,500 jobs per year over a 10-year period, including 5,265 direct jobs for workers, contractors, and suppliers.[203]

Oil and gas companies effectively eliminate these jobs by evading their decommissioning obligations through divestment and allowing infrastructure to sit idle. As a 2024 report by True Transition notes, despite record oil and gas production in federal waters, over 20,000 Louisiana oil and gas workers have lost their jobs since 2013.[204] If the industry had invested in timely well-plugging and decommissioning during that time instead of ducking its obligations, this decline would have been less sharp.

Moreover, OCSLA requires oil and gas activities to be "conducted in a safe manner by well-trained personnel."[205] The Gulf South's displaced oil and gas workers—from laborers to mariners—possess the skills, training, and experience necessary to safely plug wells and remove pipelines and platforms.[206] The longer those workers remain under- or unemployed, the higher the risk of a brain drain as they move into other fields.[207] Indeed, the GAO notes that BSEE has "struggled" to contract for removal of orphaned infrastructure.[208]

The proposed action is necessary to carry out OCSLA's mandate to protect the human environment and to preserve the skilled workforce required for safe decommissioning.

IV. Conclusion

The regulations proposed in this petition are necessary to protect the environment and taxpayers by clarifying that timely decommissioning is a due diligence requirement essential to acceptable performance. This would provide operators with clear notice of the consequences of their failure to comply with OCSLA's decommissioning requirements and would incentivize responsible budgeting and decisionmaking by operators that might not otherwise account for decommissioning costs. Finally, the proposed regulations would protect taxpayers and limit federal exposure to future liability by preventing operators from compounding their decommissioning obligations by expanding their operations without first decommissioning existing ones.

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[202] Agerton, Mark, et al., Columbia Ctr. on Glob. Energy Pol'y, *Considering a Federal Program to Permanently Plug and Abandon Offshore Oil and Gas Wells* 6 (2022).

[203] *Id.* at 6, 27.

[204] Cumpton, Greg & Biven, Megan Milliken, True Transition, *Addressing Methane Emissions in Louisiana: How Many Jobs Will It Take?* 5 (2024).

[205] 43 U.S.C. § 1332(6).

[206] Cumpton & Biven, *supra* note 204, at 64.

[207] *Id.* at 60, 64.

[208] GAO 2024, *supra* note 21, at 17 n.35.

PROPOSED REGULATIONS

Proposed additions are underlined. Proposed deletions are ~~struck through.~~

If any provision of the regulations proposed in this petition is found to be invalid or unenforceable, the invalidity or lack of legal obligation shall not affect other provisions of the petition. Thus, the provisions of this petition are severable.

30 C.F.R. Part 550

§ 550.136 How will BOEM determine if my performance is unacceptable?

In determining if your operating performance is unacceptable, BOEM will consider, individually or collectively:

(a) ~~(b)~~ [Reserved]

(b) Failure to meet any decommissioning obligation described in 30 C.F.R. Part 250, Subpart Q, in a timely manner.

(c) Incidents of noncompliance;

(d) Civil penalties;

(e) Failure to adhere to OCS lease obligations; or

(f) Any other relevant factors.

§ 550.271 For what reasons will BOEM disapprove the DPP or DOCD?

The Regional Supervisor will disapprove your proposed DPP or DOCD if one of the four reasons in this section applies:

(a) ***Non-compliance.*** The Regional Supervisor determines that you have failed to demonstrate that you can comply with the requirements of the Outer Continental Shelf Lands Act, as amended (Act), implementing regulations, or other applicable Federal laws. This includes the failure to meet any decommissioning obligation described in 30 C.F.R. Part 250, Subpart Q, in a timely manner on any OCS lease.

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30 C.F.R. Part 556

§ 556.403 Under what circumstances may I be disqualified from acquiring a lease or an interest in a lease on the OCS?

You may be disqualified from acquiring a lease or an interest in a lease on the OCS if:

(a) You or your principals are excluded or disqualified from participating in a transaction covered by Federal non-procurement debarment and suspension (2 CFR parts 180 and 1400), unless the Department explicitly approves an exception for a transaction pursuant to the regulations in those parts;

(b) The Secretary finds, after notice and hearing, that you or your principals (including in the meaning of "you," for purposes of this subparagraph, a bidder or prospective bidder) fail to meet due diligence requirements or to exercise due diligence under section 8(d) of OCSLA (43 U.S.C. 1337(d)) on any OCS lease. "Due diligence" includes complying with all decommissioning obligations described in 30 C.F.R. Part 250, Subpart Q, in a timely manner; or

(c) BOEM disqualifies you from acquiring a lease or an interest in a lease on the OCS based on your unacceptable operating performance. "Unacceptable operating performance" incudes the failure to meet any decommissioning obligation described in 30 C.F.R. Part 250, Subpart Q, in a timely manner. BOEM will give you adequate notice and opportunity for a hearing before imposing a disqualification, unless BSEE has already provided such notice and opportunity for a hearing.

BOEM will disqualify you from acquiring a lease or an interest in a lease if you have failed to meet any decommissioning obligation described in 30 C.F.R. Part 250, Subpart Q, in a timely manner.

§ 556.512 What bids may be disqualified?

The following bids for any oil and gas lease will be disqualified and rejected in their entirety:

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(3) A bid submitted by a person who has failed to meet any decommissioning obligations described in 30 C.F.R. Part 250, Subpart Q, in a timely manner.

§ 556.516 What does BOEM do with my bid?

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(b) BOEM reserves the right to reject any and all bids received, regardless of the amount offered. BOEM accepts or rejects all bids within 90 days of opening. BOEM reserves the right to extend that time if necessary, and in that event, BOEM will notify bidder(s) in writing prior to the expiration of the initial 90-day period, or of any extension. Any bid not accepted within the prescribed 90-day period, or any extension thereof, will be deemed rejected. If your bid is rejected, BOEM will refund any money deposited with your bid, plus any interest accrued.

a. BOEM will reject any bid submitted by a person who has failed to meet any decommissioning obligations described in 30 C.F.R. Part 250, Subpart Q, in a timely manner.

***

§ 556.704 When may BOEM disapprove an assignment or sublease of an interest in my lease?

(a) BOEM may disapprove an assignment or sublease of all or part of your lease interest(s):

(1) When the transferor, transferee, or sublessee is not in compliance with all applicable regulations and orders, including financial assurance requirements or decommissioning obligations described in 30 C.F.R. Part 250, Subparts Q;

(2) When a transferor attempts a transfer that is not acceptable as to form or content (*e.g.,* not on standard form, containing incorrect legal description, not executed by a person authorized to bind the corporation, transferee does not meet the requirements of § 556.401); ~~or~~

(3) When the transfer does not conform to these regulations, or any other applicable laws or regulations (e.g., departmental debarment rules)~~.~~; or

(4) When the transfer instrument limits the decommissioning obligations of the transferor, transferee, or sublessee.

(b) A transfer will be void if it is made pursuant to any prelease agreement that would cause a bid to be disqualified, such as those described in § 556.511(c), (d), or (e).

§ 556.802 When may BOEM disapprove the transfer of all or part of my operating rights interest?

BOEM may disapprove a transfer of all or part of your operating rights interest:

(a) When the transferor or transferee is not in compliance with all applicable regulations and orders, including financial assurance requirements and decommissioning obligations described in 30 C.F.R. Part 250, Subpart Q;

(b) When a transferor attempts a transfer that is not acceptable as to form or content (*e.g.,* not on standard form, containing incorrect legal description, not executed in accordance with corporate governance, transferee does not meet the requirements of § 556.401); or

(c) When the transfer does not conform to these regulations, or any other applicable laws or regulations (e.g., departmental debarment rules).

(d) When the transfer instrument limits the decommissioning obligations of the transferor, transferee, or sublessee.

30 C.F.R. Part 250

§ 250.107 What must I do to protect health, safety, property, and the environment?

(a) You must protect health, safety, property, and the environment by:

(1) Performing all operations in a safe and workmanlike manner;

(2) Maintaining all equipment and work areas in a safe condition;

(3) Utilizing recognized engineering practices that reduce risks to the lowest level practicable when conducting design, fabrication, installation, operation, inspection, repair, and maintenance activities; and

(4) Complying with all lease, plan, and permit terms and conditions; and

(5) Decommissioning all infrastructure in a timely manner in accordance with 30 C.F.R. Part 250, Subpart Q.

***

§ 250.135 What will BSEE do if my operating performance is unacceptable?

BSEE will determine if your operating performance is unacceptable. "Unacceptable operating performance" incudes your failure to meet any decommissioning obligation described in 30 C.F.R. Part 250, Subpart Q, in a timely manner. BSEE will refer a determination of unacceptable performance to BOEM, who may disapprove or revoke your designation as operator on a single facility or multiple facilities. We will give you adequate notice and opportunity for a review by BSEE officials before making a determination that your operating performance is unacceptable.

§ 250.136 How will BSEE determine if my operating performance is unacceptable?

In determining if your operating performance is unacceptable, BSEE will consider, individually or collectively:

(a) Accidents and their nature;

(b) Pollution events, environmental damages and their nature;

(c) Incidents of noncompliance;

(d) Civil penalties;

(e) Failure to adhere to OCS lease obligations; or

(f) Any other relevant factors.

BSEE will consider your operating performance to be unacceptable if you fail to meet any decommissioning obligation described in 30 C.F.R. Part 250, Subpart Q, in a timely manner.

§ 250.1013 Grounds for forfeiture of pipeline right-of-way grants.

Failure to comply with the Act, regulations, or any conditions of the right-of-way grant prescribed by the Regional Supervisor, including failure to meet any decommissioning obligation described in 30 C.F.R. Part 250, Subpart Q, shall be grounds for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any U.S. District Court having jurisdiction in accordance with the provisions of 43 U.S.C. 1349.

§ 250.1016 Granting pipeline rights-of-way.

***

(e)

(1) If the application and other required information are found to be in compliance with applicable laws and regulations, the right-of-way may be granted. The Regional Supervisor may prescribe, as conditions to the right-of-way grant, stipulations necessary to protect human, marine, and coastal environments, life (including aquatic life), property, and mineral resources located on or adjacent to the right-of-way.

(2) If the Regional Supervisor determines that a change in the application should be made, the Regional Supervisor shall notify the applicant that an amended application shall be filed subject to stipulated changes. The Regional Supervisor shall determine whether the applicant shall deliver copies of the amended application to other parties for comment.

(3) A decision to reject an application shall be in writing and shall state the reasons for the rejection. <u>The Regional Supervisor shall not grant the right-of-way he or she finds that you have failed to meet any decommissioning obligation described in 30 C.F.R. Part 250, Subpart Q, in a timely manner, or if your performance is unacceptable.</u>

REFERENCE LIST

Ex. 1, Gov't Accountability Off., *Offshore Oil and Gas: Interior Needs to Improve Decommissioning Enforcement and Mitigate Related Risks* (GAO-24-106229) (Jan. 2024), https://www.gao.gov/assets/gao-24-106229.pdf.

Ex. 2, BSEE, *Idle Iron Decommissioning Guidance for Wells and Platforms* NTL (No. 2018-G03) (Dec. 11, 2018), https://www.bsee.gov/sites/bsee.gov/files/notices-to-lessees-ntl//ntl-2018-g03.pdf.

Ex. 3, Gov't Accountability Off., *Offshore Oil and Gas: Updated Regulation Needed to Improve Pipeline Oversight and Decommissioning* (GAO-21-293) (Mar. 2021), https://www.gao.gov/assets/gao-21-293.pdf.

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