TRUE TRANSITION

May 8, 2026
Department of the Interior
Marine Minerals Administration
Bureau of Ocean Energy Management
Office of Regulatory Affairs
Attention: Karen Thundiyil,
Office Director Office of Regulatory Affairs, BOEM
1849 C Street NW, Washington, DC 20240 Submitted via: https://www.regulations.gov

Submitted via Regulations.gov

RE: Risk Management and Financial Assurance for OCS Lease and Grant Obligations, RIN 1010-AE26.

Dear Ms. Thundiyil,

Please accept the comments on behalf of True Transition on the proposed rulemaking on Risk Management and Financial Assurance for OCS Lease and Grant Obligations. True Transition is a public policy organization that supports American energy security, energy workers, and their communities.

I previously worked for the Bureau of Ocean Energy Management, where I worked specifically on financial assurance policy within the Office of Leasing and Plans from 2015-2018. Indeed, I wrote a memo for BOEM leadership on available in-house options to deal with the, at the time, 22 corporate bankruptcies affecting 490 OCS properties. The looming unmet decommissioning liability on the American Outer Continental Shelf predated my tenure with the agency, and I was merely a conscript in a long line of individuals tasked to identify solutions. The fix was and remains relatively simple: raise the bar on who can hold a Federal lease with safety performance as the key benchmark and require cash on hand for decommissioning liabilities. As the proposed regulatory reforms do neither, we are left explaining once again why these reforms are necessary to protect the American public and the credibility of OCS energy program.

Thank you for considering our comments and for the work the Marine Minerals Agency does to protect American workers, American communities, and steward American resources.

I. A Bit of Background and a Look Forward

Part of these comments serve as a rehashing of the record. It is a useful exercise to ensure that we are all on the same page.

In early 1941, consulting geologist O.L. Brace wrote: "It may be tentatively assumed that the Gulf of Mexico is a potential source of salt-dome oil . . . Whether or not it will ever be economically feasible to explore these waters for the domes that must exist is a question for the future to answer."[1] History has proven that venturing into American waters was indeed economically feasible. Evidence of those earliest bets remain rotting in place and demonstrate that the original calculus only considered one side of the ledger.[2]

The United States Congress passed the Outer Continental Shelf Lands Act in 1953 to clarify sovereign ownership of the mineral resources beneath the "submerged" aquatic territories of the United States. The law followed the bitter Tidelands Controversy, a dispute between the federal government and coastal state governments on the dividing line between state and federal waters, and which governments could benefit from the spoils of those submerged resources. Today, coastal states lay claim to lands 3 nautical miles from their terrestrial coastlines (with the exception of Texas and Florida who claim submerged lands 7 nautical miles).

The threshold to bid and hold a lease and profit from public resources includes being a corporate entity or individual with American citizenship or legal residency.[3] Instead of controlling entry into the American OCS to reduce risk, the Department of the Interior must let everyone in and identify troublemakers *ex post facto*. It's like requiring no height limits before a roller coaster and parking an ambulance at the end of the ride.

There is one common sense obligation that each and every lessee agrees to on the OCS in their lease agreement with the federal government that they must "permanently plug wells, remove platforms and other facilities, decommission pipelines, and clear the seafloor of all associated obstructions created by the lease operations."[4] Oil and gas wells deplete and offshore structures and pipelines will one day serve no use. Clean up when you are done playing. The chance of rain is 100%. When the Secretary of the Interior determines that infrastructure is no longer useful for operation at any point, then the operator has one year to remove its equipment, plug its wells, and return the seafloor to original conditions.[5] If the Interior finds a worthy reason to not enforce these obligations at a given time, the Secretary still retains the authority to order its immediate removal in perpetuity.

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[1] Brace, 1941, page 1,007. https://gulfoil.bara.arizona.edu/sites/all/files/pdf/reports/history2/vol1.pdf
[2] Biven, Megan. Scott Eustis and Christian Thomas. It's Time to Finish the Job: Louisiana's Forgotten Fleet. https://www.truetransition.org/_files/ugd/0ad80c_dc45a7c0d92e45cebe82e9eb14260134.pdf
[3] 30 CFR § 556.402
https://www.law.cornell.edu/cfr/text/30/556.402
[4] BOEM, "Oil and Gas Lease of Submerged Lands Under the Outer Continental Shelf Lands Act," Sec. 22 (a). OIL AND GAS LEASE OF SUBMERGED LANDS UNDER THE OUTER CONTINENTAL SHELF LANDS ACT," Sec. 22(a), https://www.boem.gov/sites/default/files/about-boem/Procurement-Business-Opportunities/BOEM-OCS-Operation-Forms/BOEM-2005.pdf.
[5] *Id*. at Sec. 22(c).

II. Regulatory U-Turns and Whiplash

When base bond amounts were first set, decommissioning was a future concern and not the primary purpose of those instruments. Indeed, initial bond rates were established to discipline operators into producing leases expediently instead of sitting on them indefinitely. These tools were not created nor designed to shield the government from a lessee's asset retirement obligations.

For two decades, Interior's financial assurance program operated entirely through Notice to Lessees (NTL) guidance rather than formal rulemaking.[6] The base general bond amounts — $50,000 to $3,000,000 depending on lease activity type — were set in the early 1990s. The supplemental bonding program operated through a waiver framework that allowed companies meeting financial strength thresholds (net worth, production volume, credit rating) to avoid posting supplemental bonds against their full decommissioning liability. The practical result was that by 2016, BOEM held supplemental financial assurance covering only 7.45% of an estimated $41.74 billion in contingent decommissioning liabilities. When weaker companies entered into joint agreements with Majors, they too were waived. But then those waivers followed those weak companies into so-called sole liability ventures. Then a wave of 22 unprecedented corporate bankruptcies affecting 490 OCS properties forced the issue. These failures exposed the American taxpayer to a total of $4.3 billion in uncovered decommissioning liabilities. In response, Interior established the Risk Management Operations Group (RMOG), held stakeholder meetings directly with the oil and gas industry, and eventually began formal rulemaking to correct the regulatory failure.

In May of 2013, BOEM hosted an industry-facing forum, with the GOM Regional Director present, focused on decommissioning practices and growing concerns about the adequacy of financial assurance in an environment of aging infrastructure and bankruptcies. In the attached table, we identified at least 80 instances where Interior met directly with industry. I want to emphasize that the Agency met directly with industry to solicit feedback and solutions, a generous gesture given the industry's own culpability. From the very beginning of this crisis, the American Government has made every effort to defer to and accommodate the offshore oil and gas industry. In 2014, BOEM issued an Advanced Notice of Proposed Rulemaking soliciting public and industry input on modernizing its risk management program and bonding regulations. Shortly thereafter, BOEM published interim financial assurance guidance in NTL No. 2015-N04.[7] Then in 2024 Financial Assurance rulemaking was not a partisan decree, but the result of continual industry outreach, bipartisan negotiations, and a commitment to unleash the financial burden imposed upon the American taxpayer.

A clear baseline requirement for a stable business environment is regulatory certainty. For over two decades, the Department of Interior has demonstrated candor and transparency to create that certainty for OCS lessees, but also protect the American public from these compounding decommissioning risks. This new round of rulemaking, however, is a retreat from prior efforts. It is stalling and delay disguised as process, instead of decisiveness and action. It creates uncertainty and regulatory whiplash. There is no doubt that if a new Administration enters, these proposed reforms will be undone, and so like companies themselves, responsibility for dealing with this mess will be passed back and forth between

[6] NTL No. 1993

[7] NTL No. 2015-N04. https://www.boem.gov/sites/default/files/regulations/Notices-To-Lessees/2015/NTL-No-2015-N04.pdf

Administrations. What we propose instead is to use this rulemaking to stay the course towards a common sense set of reforms that we can all live with.

III. Comments on Proposed Rule Changes

A. New Credit Rating Threshold Invites More Risk

The now Marine Minerals Administration is a natural resources regulatory agency. It employs petroleum engineers, petrophysicists, geologists, and scientists of various disciplines to regulate oil and gas exploration and production. It is not a Wall Street credit rating agency, insurance actuary, or surety risk agency, yet the proposed financial assurance rules suggest that the MMA should possess competencies from all three of these institutions. This is called mission creep, and it dilutes the agency's capability to efficiently carry out its primary mandate. The added responsibility to continually monitor and evaluate the financial health of private companies is by its nature beyond the scope of its day-to-day obligations. Unless Interior wishes to create a new office, FTEs, and expanded competencies to carry out this financial strength test,[8] outsourcing to institutions with these capabilities is reasonable.

This is why BOEM adopted a credit rating threshold from Moody's Investor Service Inc. or other equivalent credit ratings from a National Recognized Statistical Rating Organization (NRSRO) for evaluating the financial health of lessees and grantees. However, the proposed rule changes expands the pool of companies exempt from the supplemental financial assurance two notches below investment grade without any programmatic justification. A BB- and a Ba3 rating is considered "non-investment grade" or "junk," meaning a company is more vulnerable to adverse economic conditions, such as a recession or a downturn in oil and gas prices. Given that we are amidst a historic commodity price environment and recessions appear to be a routine feature of our modern economy, we recommend that the proposed change not be adopted and the existing credit ratings thresholds are retained.

B. 50% chance of covering debts is inadequate

The Department of the Interior's Bureau of Safety and Environmental Enforcement's (BSEE)'s "Decommissioning Cost Rule," requires that lease holders in federal waters report expenditures for plugging wells, removing platforms and other facilities, and clearing obstructions from sites in Federal waters. These estimates are not generated by government speculation, but are provided directly by industry on an ongoing basis.. Changing the probabilistic estimates for bonding does not change the actual decommissioning costs. The P90 liability — what a contractor would actually charge if the government had to do the work — is $47.89 billion. By using P50, BOEM is setting financial assurance at a level that has only a 50% probability of covering the actual cost. That means there is a 50% chance that for any given property, the bond collected would be insufficient to cover the actual cleanup cost if the operator defaults.

BOEM's March 2026 property database shows $39.17 billion in decommissioning liability at the P70 confidence level, against $2.23 billion in supplemental financial assurance — a coverage ratio of 5.7%.[9] The proposed rule's shift from P70 to P50 and restoration of predecessor credit would increase the risk to the American public The total P70 liability across all 2,296 properties is $39.17 billion. The total P50

[8] We would endorse this addition especially if MMA used this office to evaluate fitness to operate.
[9] Bureau of Ocean Energy Management Property List and Orphaned Liability.
https://www.boem.gov/oil-gas-energy/risk-management/property-list-and-orphaned-liability

liability is $33.28 billion. The shift from P70 to P50 reduces the decommissioning cost basis used to set supplemental financial assurance demands by $5.89 billion — a 15.03% reduction in the target amount.

Given that the Bureau of Safety and Environmental Enforcement is already using taxpayer funds to plug and abandon 9 wells and remove associated platforms and pipelines in the Matagorda Lease Area 12 miles off of the Texas coast at a cost of $20,529,987 ($2.28 million per well), we recommend that the probabilistic criteria for determining the level of financial assurance should be changed to P90 to protect the American government and taxpayer.[10]

IV. Recommendations beyond the scope of the Proposed Rule Change

A. Fitness to Operate

The Outer Continental Shelf Lands Act states that, "(d) No bid for a lease may be submitted if the Secretary finds, after notice and hearing, that the bidder is not meeting due diligence requirements on other leases", and 30 CFR § 585.106 reinforces this requirement stating that operators are barred from acquiring new leases of they "remained in violation of the terms and conditions of any lease or grant issued under the OCS Lands Act for a period extending longer than 30 days (or such other period BOEM allowed for compliance) after BOEM directed you to comply." The Outer Continental Shelf Lands Act grants the Secretary discretion to determine "qualification for participation." It remains within the authority and discretion of the government to tighten qualification thresholds and require potential bidders to submit any additional information as the government deems appropriate in executing its regulatory and fiduciary duties. There must be a more stringent minimum threshold to hold an oil and gas lease on the OCS.

We recommend that instead of waiting until a company has acquired a lease or is seeking a permit to drill, Interior should vet companies prior and perform financial strength review and establish "pre-qualification" thresholds and procedures. In order to participate in a lease, firms would necessarily need to be of a certain size and possess sufficient capital. Yes, this would preclude smaller firms from participation. As leases extend into deeper waters with greater physical risks and the financialization of commodity markets bring greater unpredictability to the global oil and gas industry, it behooves Interior to tighten eligibility to only the most responsible and capable operators. The American government's concern should not be "will this screen reduce the number of OCS operators?" but "should the federal government grant access to public resources to operators who cannot demonstrate the financial capacity to decommission what they drill?"

The fitness-to-operate eligibility criteria should be evaluated based on financial capacity, technical capability, HSE/environmental policies, corporate governance, and record of safety performance.

B. Record of Safety Performance as Fitness Metric

As other commenters have emphasized, safety performance should be a key metric when determining supplemental financial assurance requirements.[11] The top performing companies had 50-90% fewer INCs/facility-inspection than the Gulf of America average. Meanwhile bankruptcies could have been

[10] USAspending.gov. Accessed on May 5, 2025. https://www.usaspending. gov/search/?hash=1197b95deed1b33172a3007ea8a2ba92
[11] https://budsoffshoreenergy.com/wp-content/uploads/2023/08/boem-financial-assurance.pdf

predicted years earlier, with violations as a clear predictor of company distress.[12] Record of safety or a demonstrated capacity to create a safe working culture for new entrants should be a key determinant for OCS bid or lease transfer eligibility. As leases and aging infrastructure pass through to less capitalized firms, with even less experience running an offshore oil and gas installation, issues like deferred maintenance, and the accidents they lead to are likely to increase.

An independent analysis of incidents between 1996 and 2010 found that accident incident rates, including spills, increased significantly with the age of infrastructure.[13] In BOEM's latest Environmental Impact Statement,[14] it highlighted the safety risks of deteriorated facilities to both offshore workers and even federal inspectors. BSEE has issued several safety alerts where the lack of basic maintenance was a routine contributor to accidents and injuries:

- A walkway connecting "temporary" living quarters remained in service for 23 years before it detached from the platform as workers were standing on it (three floors above deck).[15]
- Missing floor grates has proven a persistent[16] and deadly[17] issue on offshore facilities.
- "The lack of proper maintenance and safety precautions could potentially have led to severe injuries or fatalities had personnel been present at the time the debris fell."[18]
- "High chlorine concentrations are known to dramatically accelerate the corrosion rates of carbon steels. Although the flange had been painted for corrosion protection, the coating was not properly maintained, allowing corrosion to develop over time."[19]
- "The failure of the nitrogen cylinder, which is attributed to corrosive wall loss exacerbated by environmental factors and structural conditions, highlights critical vulnerabilities in the storage and maintenance of nitrogen cylinders, particularly in marine environments. The presence of crevices at the base of the cylinders, combined with moisture accumulation, significantly accelerated the corrosion process, leading to the hazardous failure. Heavy deterioration of the

[12] https://budsoffshoreenergy.com/wp-content/uploads/2023/08/boem-financial-assurance.pdf
[13] Muehlenbachs, Lucija et al. (2013). "The impact of water depth on safety and environmental performance in offshore oil and gas production" Energy Policy. Volume 55. Pages 699-705. (April 2013). https://www.sciencedirect.com/science/article/abs/pii/S030142151201141X?via%3Dihub
[14] Bureau of Ocean Energy Management. (BOEM). (2024). "Gulf of Mexico Regional OCS Oil and Gas Lease Sales. Draft Programmatic Environmental Impact Statement." OCS EIS/EA, BOEM 2024-032. Gulf of Mexico Regional Office. December 2024. https://www.boem.gov/sites/default/files/ documents/renewable-energy/state-activities/Draft%20Gulf%20of%20 Mexico%20Oil%20and%20Gas%20Programmatic%20EIS.pdf
[15] Bureau of Safety and Environmental Enforcement. (BSEE.) (2026). "Exterior Walkway Separates from Temporary Living Quarters, Putting Workers at Risk." Safety Alert No. 513. February 5, 2026
[16] Bureau of Safety and Environmental Enforcement. (BSEE.) (2025). "BSEE Investigation: Failure to Properly Identify and Restrict Access to Faulty Grating Poses Serious Risk of Worker Injury or Fatality." Safety Alert No. 496. March 6, 2025. https://www.bsee.gov/sites/bsee.gov/files/2025-03/ BSEE%20Safety%20Alert%20-%20496%20-%20Misidentification%20 of%20Corrosion%20Hazard%20Results%20in%20High%20Potential%20 Event.pdf
[17] Bureau of Safety and Environmental Enforcement. (BSEE.) (2019). "Offshore Employees Fall Through Grating and Open Hole." Safety Alert No. 353. June 4, 2019. https://www.bsee.gov/sites/bsee.gov/files/safetyalerts//safety-alert-353-offshore-employees-fall-through-grating-andopen-hole353a.pdf
[18] Bureau of Safety and Environmental Enforcement. (BSEE.) (2025). "BSEE Alerts Offshore Workers to Potential Risks of Turbine Generator Exhaust Silencer Failure." Safety Alert No. 495. January 27, 2025. https://www. bsee.gov/sites/bsee.gov/files/2025-01/BSEE%20Safety%20Alert%20 495%20-%20Turbine%20Generator%20Exhaust%20Silencer%20 Failure_1_27_25.pdf
[19] Bureau of Safety and Environmental Enforcement. (BSEE.) (2025). "BSEE Investigation Determines Corrosion Caused Pipeline Explosion." Safety Alert No. 493. January 23, 2025. https://www.bsee.gov/sites/bsee.gov/ files/2025-01/BSEE%20Safety%20Alert%20493%20-%20Pipeline%20 Explosion%20Due%20to%20Corrosion.pdf

galvanic coating on the storage rack further compounded the failure, indicating systemic neglect of maintenance protocols that could prevent such incidents."[20]

- In 2023, an operator notified BSEE of a loss of well control event.[21] BSEE Inspectors and Investigators singled out the condition of the platform and inadequate preventative maintenance as the probable cause of the loss of well control: "The investigation revealed that SP 28 #13 (V) jacket, as well as other structures in the field, are located in an extremely harsh, shallow saltwater environment, and are being adversely affected by sea and weather conditions. Heavy weather, extreme corrosion, aging infrastructure, etc. have battered this field in recent years. There is no heliport on location and platform visits are only allowed by boat as sea and weather conditions permit."

The author of these comments has heard more than once from professionals who have also worked in Australian waters or the North Sea, that the Gulf of America is the "Wild West" of offshore production. While a cowboy cavalier come-what-may attitude may make us feel a tiny bit of homegrown pride, the above list should quell those stirrings. The above incidents are indicative of a standard with room for improvement. Every single offshore well on this planet finds its technological origins in American waters. But we should not be content with merely having begun this global industry, we should lead, and the Marine Minerals Administration should set an ambitious standard befitting of our national character and pride. We should tolerate nothing less.

As an aside, I have a personal metric called "Would our enemies celebrate this?" to determine whether an activity is tolerable. As I re-read the above list, it would be difficult to distinguish foreign sabotage from corporate neglect. But it is the American Government's job to prevent both.

C. Financial Capability as Fitness Metric

The Outer Continental Shelf Lands Act grants the Secretary discretion to determine "qualification for participation." This is a key phrase with a very specific meaning. Olympians are not determined eligible mid-race, nor are mortgage applicants evaluated after the bank approved their loan, and so on. The current system of evaluating suitability via supplemental financial assurance requirements after a lease has been awarded is so far beyond the scope of common practice and sense. Yet, it remains within the authority and discretion of the government to tighten qualification thresholds and require potential bidders to submit any additional information as the government deems appropriate in executing its regulatory and fiduciary duties ***before*** the lease sale or lease transfer. We recommend that the Secretary exercise his statutory authority and establish clear participation benchmarks which include financial solvency and capacity to weather market shocks.

Eligibility should be routinely evaluated and should also include an evaluation of whether companies are living up to their regulatory duties which should include: delinquent rentals, royalties, or other fees on any public leases which should be administered by the Department of the Interior or a State.

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[20] Bureau of Safety and Environmental Enforcement. (BSEE.) (2025). "BSEE Investigates Nitrogen Cylinder Rupture Causing Worker Injuries and Equipment Damage; Issues Recommendations to Enhance Safety and Prevent Future Incidents." Safety Alert No. 494. January 24, 2025. https://www.bsee.gov/sites/bsee.gov/files/2025-01/BSEE%20Safety%20 Alert%20494%20-%20Ruptured%20Nitrogen%20Cylinders.pdf

[21] Bureau of Safety and Environmental Enforcement. (BSEE.) (2024). "Region Accident Investigation Report." United States Department of the Interior, Bureau of Safety and Environmental Enforcement, Gulf of Mexico. January 6, 2024. https://www.bsee.gov/sites/bsee.gov/files/2024-01/SP%2028%20Whitney%20%2021-Sep-2023.pdf

1. The Precedent: Norway, United Kingdom, and Australia

We compared the pre-qualifications standards of three national offshore oil and gas leasing programs and found that a company's financial capacity was a key determinant of whether it could be eligible for participation. These examples help illustrate that there are other ways to administer healthy oil and gas exploration and production programs and that companies are capable of producing under those regulatory regimes:

1. Norway[22]: The Norwegian Offshore Directorate evaluates financial capacity and the Ministry of Finance provides a separate assessment. Financial capacity criteria include documented equity base, debt-to-equity ratio, ability to serve financial obligations, and a multi-year financial plan. Companies are evaluated based on their proportionality to exposure risk and evaluation of companies is escalated during transfer and award stages. Operators are subject to heightened scrutiny.
2. United Kingdom[23]: The North Sea Transition Authority (NSTA) uses financial viability and capacity of a company as a recurring test applied at each major operational decision point throughout the licence life. Financial viability criteria include positive total net assets, defined ratio of assets to liabilities, a ratio of debt divided by shareholders funds and appropriate interest cover. Financial capacity criteria include commitment cover, net worth, corporate parent's consolidated accounts, and cash flow projections.
3. Australia[24]: The National Offshore Petroleum Titles Administrator (NOPTA) uses financial viability and capacity much like the UK review, but it also adds a "restoration cover ratio" (decommissioning provisions ÷ tangible net worth, capped at 0.70) as an explicit fourth financial capacity metric.

2. The Precedent: McDonalds

Corporate franchises exercise strong financial assurance tests upon would-be franchisees. The franchise holds a valuable brand asset analogous to the federal government's sovereign resource, and it refuses to allow the corporate form to insulate a franchisee from end-of-term obligations. The franchisor treats the restoration cost as the minimum financial condition for being granted the franchise in the first place, not as an obligation to be collected after the fact if the franchisee happens to remain solvent.

While the American government does not hold the secret recipe to the world's most delicious fries, the oil and gas deposits beneath the American seabed are a finite depleting natural resource that developed over millions of years. It has value. Companies do not "produce oil and gas," but rather, extract it from

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[22] Norwegian Petroleum Act (Chapter 5 — Cessation/Decommissioning; licensing criteria):https://www.sodir.no/en/regulations/acts/act-29-november-1996-no2.-72-relating-to-petroleum-activities
Petroleum Regulations (including Section 6 — licensing financial/technical criteria):https://www.sodir.no/en/regulations/regulations/petroleum-activities/
Norwegian Offshore Directorate — Cessation and Decommissioning overview:https://www.norskpetroleum.no/en/developments-and-operations/cessation-and-decommissioning/
Norwegian Offshore Directorate — Responsible Removal of Facilities:https://www.sodir.no/en/facts/production/shutdown-and-removal/responsible-removal-of-old-facilities/

[23] https://www.nstauthority.co.uk/media/4yqn334l/revfinancialguidancev5.pdf

[24] Australian Government. National Offshore Petroleum Titles Administrator. Financial Resources Factsheet. https://www.nopta.gov.au/_documents/fact-sheets/financial-resources-fact-sheet.pdf

land that is owned by the American citizenry. It is only right that this should be done in a way that benefits our country and doesn't saddle taxpayers with the costs to clean up.

The following comparison between the requirements to acquire a typical franchise versus the American Government's own conditions should provide some fast food for thought.

Franchise	OCS BOEM
Capital adequacy verified *before* franchise granted	Financial assurance assessed *after* lease awarded, based on credit rating
Personal guarantee pierces corporate veil from day one	No personal guarantee; corporate entity can go bankrupt leaving obligations behind
Spousal assets reachable	No reach into beneficial owners' personal estates
Restoration obligation attaches from day one of franchise agreement	Supplemental bonding triggered only when operator falls below investment-grade
Transfer requires express assumption by incoming party and release of outgoing party	OCSLA predecessor liability is limited; transfers often occur with inadequate financial assurance passing to thinly capitalized successors
Upfront capital screen — demonstrated liquidity, not credit rating	Credit rating used as proxy; no demonstrated-asset screen
Compliance failure accelerates financial obligations — does not extinguish them	Bankruptcy discharges decommissioning obligations; orphan wells result
Franchisor knows identity of every beneficial owner via personal guarantee	BOEM does not track beneficial ownership to ultimate natural person

D. Lease Specific Trust Funds

True Transition has previously submitted this recommendation to the Department of the Interior on several occasions. We recommend that the Interior complete and issue its financial assurance rulemaking which should include a new lease condition and requirement for all new leases on the OCS:

○ Require individual, sinking trust funds (bankruptcy remote) with the Department of Interior as beneficiary for each permitted well, pipeline and supporting infrastructure. A requirement like this would force companies to actually set aside enough money to safely retire their wells once they're done producing. Trust funds should be pegged to P90 forecasts.

○ Lessees would be able to choose either a lump-sum payment upon establishment of the trust that reflects the estimated full costs of decommissioning, or pay an annual payment into a sinking trust fund until it reaches the estimated full cost. Everyone should set aside a little bit each month for retirement. It's time the oil and gas industry prepares for the end of these projects.

○ Lessees opting for an annual trust fund payment must also purchase a full cost surety bond for each individual well. The surety bond required amount is gradually reduced as the amount in the trust

fund with annual payment increases. The surety bond amount should be pegged to P90 forecasts. The two accounts will be inversely proportional to minimize the federal government's exposure to the leases's risks. The less funds in the trust fund, the more surety that is required. As the holdings in the trust fund increase, the required annual bonding amount also decreases.

    - A way to think about this arrangement is a home mortgage and mortgage insurance: the trust fund payment is the mortgage payment a homeowner makes each month, and the bonding is the insurance on that mortgage that protects the lender (e.g., the federal government) from borrower (lessee) default. This metaphor has two caveats: first, unlike your personal home, OCS lessees make money every month from which they can draw upon to set aside inevitable retirement costs. Second, residential real estate has the potential to appreciate in value, meaning the risk to the lender can actually decrease over time. But oil and gas wells are always depreciating in value, so the risk to the lender (federal government) also increases over time. These combined requirements will push the risks back to the operator where they belong and protect the American people.

- The creation of sinking trusts will ensure that real money is being put aside for future asset retirement obligations and that those funds will be beyond the reach of bankruptcy processes. Once established, the trust fund cannot be terminated without the consent of both the trustee and the beneficiary, in this case the Department of the Interior.
- When a lessee has ceased operations, the money will be there. If a lessee becomes insolvent, the money will be there.
- No operator should be exempt from these requirements. There should be no waivers. Multinational companies operate in provinces all over the globe. When those bills come due, which they will, the United States won't need to "queue up" if it has the cash on hand.

The Precedent: the Nuclear Regulatory Commission

Before a nuclear power plant begins operations, the licensee must establish or obtain a financial mechanism — such as a trust fund or a guarantee from its parent company — to ensure there will be sufficient money to pay for the eventual decommissioning of the facility.[25] However, an external sinking fund is used to provide financial assurance for about 90 percent of reactors.

For 90% of reactors, the NRC requires nuclear plant operators to maintain a decommissioning trust fund that grows over the plant's operating life, sized to the estimated decommissioning cost. NRC regulations require licensees to submit data every two years on the status of funds to be put aside to cover decommissioning costs.[26] NRC staff independently analyzes each of these reports to determine whether the agency has reasonable assurance the licensees are providing sufficient funding for radiological decommissioning of the reactor when it is permanently shut down. At this moment, the American nuclear fleet has sufficient decommissioning funding in the bank.

[25] United States Nuclear Regulatory Commission. Backgrounded on Decommissioning Nuclear Power Plants. https://www.nrc.gov/reading-rm/doc-collections/fact-sheets/decommissioning

[26] United States Nuclear Regulatory Commission. Summary of Staff Biennial Review and Findings of the 2023 Decommissioning Funding Status Reports from Operating and Decommissioning Power Reactor Licensees. https://www.nrc.gov/docs/ML2330/ML23304A230.pdf

	US Nuclear (NRC)	US OCS (BOEM)
Licensees/ Leases with funded decommissioning assurance	93/93 operating (100%)	~5–9 cents per dollar of liability covered
Total funds accumulated	~$78.7B across 119 licensees	~$3.5B against $40–70B liability

Why does the federal government require this of nuclear plant operators and not of OCS operators extracting public resources from the same public domain? We have a successful model that can be replicated in the OCS. Let's adopt the best practices of the Nuclear Regulatory Commission for a more successful Outer Continental Shelf.

OCS Decommissioning Trust Fund

There is a funding gap and a documented orphan well inventory on the OCS. Joint and several liability, the ability to move up the ownership chain, has proven vital to addressing some of this liability; but as previously mentioned, there are several undercapitalized sole liability companies that have declared bankruptcy with no one else on the hook. BOEM's own accounting of properties where no liable party remains — covers 10 companies, $200.7 million in total decommissioning liability, with $106.8 million currently uncovered after applying whatever bonds were posted. Cox Operating is by far the largest at $114 million in total decommissioning liability with only $26.7 million in supplemental bonds — leaving $87.3 million uncovered just from Cox's confirmed orphan properties.

To deal with the millions of already abandoned and inactive wells, we recommend that Congress pass legislation to establish and implement an industry-wide levy with proceeds deposited into a dedicated trust fund, similar to the federal Abandoned Mine Land Fund. Either the oil and gas industry pays for the sins of its own industry, or it forces the tab upon the general public.

Had Congress enacted a modest per-unit levy on Federal OCS oil and gas production in 1986 — the United States would today have a fully funded decommissioning trust. For instance, if we had implemented a 36 cents per barrel of oil and 6 cents per Mcf of natural gas, adjusted annually for inflation, such a levy would have collected $20.1 billion in raw fees between 1986 and 2026, growing to a fund value of approximately $34 billion with a modest 3 percent annual reinvestment return — sufficient to cover the entirety of the documented OCS decommissioning liability gap identified by GAO-24-106229. At a simple modern rate of $1.00 per barrel and $0.167 per Mcf, the fund would have accumulated $25.2 billion in fees and a fund value of $47 billion.

Implemented today at a CPI-adjusted of approximately $1.17 per barrel of oil and $0.195 per Mcf of natural gas — using EIA's May 2025 Short-Term Energy Outlook production forecast[27] of 1.80 million barrels per day for the Federal Offshore Gulf of America — a dedicated OCS Decommissioning Trust

[27] United States Energy Information Administration. Short-Term Energy Outlook. May 2025. https://www.eia.gov/outlooks/steo/archives/may25.pdf

Fund levy would generate $9.9 billion in fees over ten years (2025–2034), growing to a fund value of $11.7 billion with a 3 percent reinvestment return. At a simpler flat rate of $1.00 per barrel and $0.167 per Mcf, the levy would generate $7.4 billion in fees and a fund value of $8.7 billion over the same period. Since the regulated industry was not forced to save and pay for the decommissioning, the American government has a clean mechanism to ensure funds are available to pick up the tab.

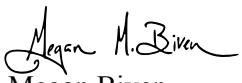
Conclusion

When I arrived at the then Marine Mineral Service, it was just a few months following the Deepwater Horizon tragedy. As we transitioned to BOEMRE and then to BOEM, BSEE and ONRR, a repeat question I heard in meetings from my colleagues was "what is our mission?" There is no doubt that there are similar questions being asked within the Marine Minerals Administration. I believe that the confusion lay in a false dichotomy that has been erected across multiple industries spanning the whole political spectrum. Get the job done at any cost. The Outer Continental Shelf Lands Act and the Unleashing American Energy Executive Order share a common policy goal: secure energy resources for the American people. But does securing this energy require declining safety standards for the American workers who risk their lives everyday? Does securing energy require that Americans are left with rotting infrastructure on their coasts, no longer in use pipelines rotting and leaking on the seafloor, and a multi-billion bill that only rises with increased delay?

When NASA sent three Americans and one Canadian back to the moon, it worked with private contractors and industry to achieve this American victory. NASA set a high standard, and industry was expected to meet those goals without exception. Artemis II is the blueprint. We can do a job, or we can do the job well.

Whether you call it the Gulf of Mexico or the Gulf of America, the American Outer Continental Shelf is sovereign American territory. No law forces private companies to conduct business in American federal waters. You have freedom to not enter this market. Meanwhile, the American federal government has the authority and obligation to set the terms and conditions of that market to maximize the benefit to the American public.

Thank you for your time and consideration,



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