BEFORE THE UNITED STATES DEPARTMENT OF THE INTERIOR

PETITION FOR OVERSIGHT REFORM ON OFFSHORE OIL & GAS DECOMMISSIONING

Petitioners

Center for Biological Diversity, Louisiana Bucket Brigade, Healthy Gulf, Sierra Club, Earthjustice, Friends of the Earth, Surfrider Foundation, Waterkeeper Alliance, Rachel Carson Council

Filed With:

Deb Haaland, in her official capacity as Secretary,

United States Department of the Interior

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INTRODUCTION AND PETITIONED ACTION

1. Urgent Call for Reform: Improving Offshore Oil and Gas Decommissioning Oversight

A recent United States Government Accountability Office (GAO) report revealed alarming deficiencies in the federal oversight of decommissioning activities for offshore wells and platforms that pose grave risks to our marine ecosystems and public finances.[1] The Department of Interior's failure to hold the oil industry accountable to clean up hazardous oil and gas infrastructure is deeply troubling and warrants prompt and meaningful action.

The GAO report uncovers the failures of the federal offshore oil and gas regulators, the Bureau of Ocean Energy Management (BOEM) and Bureau of Safety and Environmental Enforcement (BSEE), to effectively ensure industry operators meet decommissioning deadlines for offshore infrastructure at the end of its useful life. The Gulf of Mexico —home to a vast number of wells, platforms, and pipelines— is particularly at risk due to delayed decommissioning, which heightens environmental, safety, and financial risks. The prolonged presence of aging infrastructure increases vulnerability to damage from storms and corrosion, potentially leading to catastrophic oil spills and escalating cleanup costs.

The report highlights the urgent need for reform in overseeing offshore oil and gas decommissioning in the Gulf of Mexico. By addressing the deficiencies in enforcement, clarifying decommissioning criteria and deadlines, and implementing changes to reduce financial risks, we can protect our oceans and coastal communities from the devastating consequences of neglecting decommissioning obligations.

We urge the Secretary of the Interior to take decisive action in response to the GAO's recommendations and ensure robust oversight and enforcement of decommissioning activities in the Gulf of Mexico. While this petition focuses on decommissioning, the climate emergency means that Interior must also exercise its existing authority to phase out fossil fuels. As part of its phase-out, Interior should not expand new offshore oil and gas development; consider cancelling existing leases that pose risks to national security and to the human, coastal, and marine environments; and prohibit the use of offshore fracking and acidizing. As described in this petition, rapidly retiring and decommissioning offshore oil and gas infrastructure is an essential part of ending fossil fuel production.

Specifically, under the right to petition the government provided in the First Amendment to the U.S. Constitution,[2] the Administrative Procedure Act,[3] and Outer Continental Shelf Lands Act

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[1] Government Accountability Office (GAO), GAO-24-106229, Offshore Oil and Gas: Interior Needs to Improve Decommissioning Enforcement and Mitigate Related Risks (Jan. 2024).

[2] U.S. Const. amend. I; see also *United Mine Workers v. Ill. State Bar Ass'n*, 389 U.S. 217, 222 (1967) (explaining that the right "to petition for a redress of grievances [is] among the most precious of the liberties safeguarded by the Bill of Rights").

[3] 5 U.S.C. § 553(e).

(OCSLA),[4] the undersigned organizations petition the Secretary of Interior to promulgate regulations that ensure the:

1. **Effectiveness of Enforcement Tools:** Establish clear regulatory criteria and timelines for the application of enforcement tools and compel the agency to timely issue enforcement orders, incidents of noncompliance, civil penalties, suspensions of operations, and disqualification proceedings.

2. **Enforceability of Decommissioning Deadlines:** Adopt regulations that establish clear, realistic, and enforceable deadlines for decommissioning activities; establish reporting of compliance with deadlines; define consequences for operators who fail to meet decommissioning deadlines, such as fines or disqualification.

3. **Require Pipeline Removal:** End the practices of allowing pipelines to be decommissioned-in-place, ensure adequate financial assurances for decommissioning pipelines; monitor and inspect pipelines post-decommissioning.

4. **Adequate Financial Assurances for Decommissioning**: Promptly finalize strong financial assurance regulations that ensure offshore oil and gas operators fully cover decommissioning liabilities and ensure a mechanism for periodic adjustment of bonding requirements. We further request that BOEM revise its 2023 proposed rule to ensure bonding in the full amount of decommissioning costs and strengthen criteria for operators.

5. **Operator Standards:** Establish robust qualification procedures and clear fitness standards for operators that ensure new and existing operators' financial and technical capacity for decommissioning; require reporting and periodic review of operators' fitness; and mandate disqualification proceedings based on an operator's failure to meet obligations.

Granting the action requested in this petition will help protect our climate, wildlife, and frontline communities while the administration develops a plan to phase out fossil fuel extraction from federal waters. By prioritizing environmental safety, accountability, and compliance in offshore decommissioning, we can protect our marine ecosystems, reduce financial risks, and uphold the OCSLA's requirement to balance offshore oil and gas with environmental safeguards.

2. Federal Offshore Oil and Gas Decommissioning Requirements

OCSLA governs offshore oil and gas activities.[5] The Act charges the U.S. Department of the Interior with overseeing the "expeditious and orderly development [of offshore oil and gas resources], subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs."[6]

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[4] *See* 43 U.S.C. § 1344(a).
[5] 43 U.S.C. § 1331 et seq.
[6] 43 U.S.C. § 1332(3).

OCSLA establishes a multi-stage process for leasing, exploration, and development of OCS lands.[7] As explained by the Supreme Court, the statute creates four separate stages to developing an offshore oil well: (1) formulation of a five-year leasing plan by the Department of the Interior; (2) lease sales; (3) exploration by the lessees; and (4) development and production.[8] At the end of production activities, operators are generally required to decommission and remove infrastructure and restore the seafloor.

OCSLA mandates that the Secretary shall require lessees to "provide for the restoration of the lease, easement, or right-of-way."[9] In furtherance of this requirement, BSEE regulations mandate the decommissioning of offshore oil and gas infrastructure upon the cessation of operations or expiration of leases. In addition, oil companies must decommission all platforms, facilities, pipelines, and plug all wells when they are no longer useful.[10] Operators must conduct decommissioning activities in accordance with approved plans, which often include the plugging of wells, removal of platforms, and site remediation to restore the marine environment.[11]

OCSLA's implementing regulations establish procedures for decommissioning activities.[12] Absent special approvals, operators "must remove all platforms and other facilities within 1 year after the lease, pipeline right-of-way, or right-of-use and easement terminates…"[13] For infrastructure that has become idle, or no longer in use, guidance requires decommissioning infrastructure generally within 8 years for wells and 10 years for platforms from the last date they produced oil or gas.[14]

Decommissioning means removal and "[c]lear[ing] the seafloor of all obstructions created by [the] lease, pipeline right-of-way, or right-of-use and easement."[15] There is a narrow exception allowing an operator to partially remove a structure or topple it in place,[16] or decommission a pipeline in place "when the Regional Supervisor determines that the pipeline does not constitute a hazard (obstruction) to navigation and commercial fishing operations, unduly interfere with other uses of the outer continental shelf (OCS), or have adverse environmental effects."[17]

Key decommissioning requirements:

1. Well plugging: Operators are required to properly plug and abandon offshore wells to prevent the migration of hydrocarbons into the surrounding environment.[18]

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[7] *See* 43 U.S.C. §§ 1344, 1337, 1340, 1351.
[8] *See Sec'y of the Interior v. California*, 464 U.S. 312, 337 (1984). Prior to drilling a well, an oil company must also obtain approval of an application for permit to drill. 30 C.F.R. § 550.281(a)(1).
[9] 43 U.S.C. § 1337(p)(6)(c).
[10] 30 C.F.R. § 250.1703.
[11] 30 C.F.R. Subpart Q
[12] 30 C.F.R. §§ 250.1700–250.1754.
[13] Id. §250.1725.
[14] BSEE, Idle Iron Decommissioning Guidance for Wells and Platforms, NTL No. 2108-G03 (Dec. 11, 2018).
[15] Id. § 250.1703 (e).
[16] Id. § 250.1730
[17] Id. § 250.1750.
[18] 30 C.F.R. § 250.1703(b); *Id.* §§ 250.1710 - 250.1717

2. Platform removal: Operators must dismantle and remove offshore platforms and related infrastructure once production ceases, this includes the safe disposal of equipment, structures, and materials to minimize the impact on marine ecosystems and navigation in the area.[19]
3. Pipeline removal: All pipelines must be decommissioned when no longer useful, and this means they should be pigged, flushed, and removed or decommissioned in place. [20]
4. Site clearance and remediation: After platform removal, operators are responsible for site clearance and remediation to restore the seabed to its natural state.[21]

OCSLA regulations impose joint and several liability to operators, predecessors, and right-of-way grantees for decommissioning obligations.[22] In April 2023, BSEE finalized a rule requiring predecessor operators of ended leases to begin maintenance and monitoring within 30 days, designate a decommissioning operator within 90 days, and submit a decommissioning plan within 150 days of receiving a decommissioning order from BSEE.[23]

The Secretary has delegated its authority under OCSLA to BOEM and BSEE. BOEM is responsible for managing offshore energy activities subject to environmental safeguards. BSEE is responsible for enforcing safety and environmental regulation and oversight of the activities.

3. The Dangers of Delayed Decommissioning of Offshore Oil and Gas Infrastructure

The Gulf of Mexico, a region with extensive offshore oil and gas activities, has thousands of wells and platforms that have reached the end of their useful lives. This includes overdue decommissioning of end-of-lease infrastructure, idle infrastructure, and abandoned pipelines. The Pacific region also faces numerous platforms and wells beyond their decommissioning deadlines. The delayed decommissioning of offshore oil and gas infrastructure poses significant dangers to the environment, safety, and increases financial risks.

The GAO report analysis of BSEE data revealed that in June 2023, more than 1,700 wells and nearly 400 platforms in the Gulf of Mexico were overdue for decommissioning at the end of their leases, amounting to 75% of the total infrastructure.[24] Many were overdue for long periods. While BSEE issued citations or orders on 90% of the overdue wells and platforms, its enforcement only resulted in 2% of cases with civil penalties and few if any suspensions of operations or disqualification referrals for operators.[25] This backlog of overdue infrastructure decommissioning is unacceptable.

Like end-of-lease decommissioning delays, idle platforms and wells are also a significant concern. As of June 2023, over 1,000 idle wells and 100 idle platforms in the Gulf of Mexico

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[19] Id. § 250.1703(c); Id. §§ 250.1725 - 250.1731
[20] Id. §§ 250.1750 - 250.1754
[21] Id. §§ 250.1740 - 250.1743
[22] Id. § 250.1701.
[23] BSEE, Risk Management, Financial Assurance, and Loss Prevention-Decommissioning Activities and Obligations, 88 Fed. Reg. 23569 (April 18, 2023).
[24] GAO 2024 at 18.
[25] GAO 2024 at 23.

were overdue for decommissioning, representing a significant portion of the infrastructure slated for decommissioning.[26] Some of these idle wells had been inactive for more than a decade, with nearly 600 wells lacking temporary plugging measures, raising concerns about the accumulating safety, environmental, and financial risks.[27]

A 2021 GAO report described the adverse effects from abandoned pipelines. Despite the general requirement for full decommissioning and removal, BSEE has permitted oil companies to leave approximately 97 percent, about 18,000 miles, of decommissioned pipelines on the Gulf of Mexico seafloor since the 1960s.[28]

a. Environmental Risks

One of the most pressing concerns associated with leaving offshore oil and gas infrastructure in the ocean for an extended period is the heightened environmental risks it poses. As these structures age and deteriorate, they become increasingly vulnerable to damage from storms and corrosion. This damage can lead to pollution and potentially catastrophic events such as severe oil spills, which not only harm marine wildlife but can also significantly impact coastal communities. Additionally, unplugged wells are a particular concern as they are prone to leaking oil and other pollution into the marine environment.

The presence of aging infrastructure increases the likelihood of oil leaks and spills, which can contaminate the surrounding waters and shorelines.[29] Infrastructure age increases the risk of spills. Studies have shown that 30 percent of offshore oil wells in the Gulf of Mexico experienced well casing damage in the first five years after drilling, and damage increased over time to 50 percent after 20 years.[30] Another study covering 1996 to 2010 found that accident incident rates, including spills, increased significantly with the age of infrastructure.[31] According to scientists, aging poses risks of corrosion, erosion and fatigue stress to subsea pipelines.[32] Subsea pipeline corrosion appears to accelerate over time,[33] and can act synergistically with fatigue stress to increase the rate of crack propagation.[34] Marine environments are especially known to produce significant corrosion on steel surfaces, and when

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[26] GAO 2024 at 19.
[27] GAO 2024 at 19.
[28] Gov't Accountability Off., GAO-21-293, Offshore Oil and Gas: Updated Regulation Needed to Improve Pipeline Oversight and Decommissioning (2021).
[29] GAO 2024 at 9.
[30] Vengosh, A. et al., A critical review of the risks to water resources from unconventional shale gas development and hydraulic fracturing in the United States, 48 Environmental Science & Technology 8334-8348 (2014); Davies, R.J. et al., Oil and gas wells and their integrity: Implications for shale and unconventional resource exploitation, 56 Marine and Petroleum Geology 239-254 (2014).
[31] Muehlenbachs, et al. The impact of water depth on safety and environmental performance in offshore oil and gas production, 55 Energy Policy 699-705 (2013).
[32] Petroleum Safety Authority Norway. 2006. Material Risk – Ageing offshore installations. Prepared by Det Norske Veritas on request from Petroleum Safety Authority Norway.
[33] Mohd, M.H. and J.K. Paik, Investigation of the corrosion progress characteristics offshore oil well tubes, 67 Corrosion Science 130-141 (2013).
[34] PSA Norway 2006.

a steel structure is at or beyond its elastic limit, the rate of corrosion increases 10 to 15 percent.[35] One offshore pipeline study found that after 20 years the annual probability of pipeline failure increases rapidly, with values in the range of 0.1 to 1.0, which equates to a probability of failure of 10 to 100 percent per year.[36]And massive wave action can alter pipeline stability, causing gradual displacement, especially in small diameter pipelines.[37] Offshore pipelines can also face more corrosion than onshore pipelines due to higher temperature and pressure conditions that occur during the laying of these pipelines.[38] This significantly increases the risk of an oil spill.

Oil spills have far-reaching impacts on marine organisms, including fish, birds, and mammals, causing harm to their health, reproduction, and overall well-being.[39] Oil pollution has a wide array of lethal and sublethal impacts on marine species, both immediate and long-term.[40] For example, a growing body of evidence demonstrate that even brief exposures to crude oil and its components can have severe impacts on fish and invertebrate species. Schlenker et al. (2022) investigated the response of wild mahi-mahi to crude oil exposure and found profound effects on survival and reproduction in the wild.[41] Pulster et al. (2021) found that 99 percent of red snapper sampled throughout the Gulf of Mexico between 2011 and 2017 showed signs of liver damage (*e.g.*, inflammation, neoplasms and other lesions, parasites) associated with exposure to

[35] Mohd and J.K. Paik 2013; A. Igor, R.E. Melchers, Pitting corrosion in pipeline steel weld zones, 53:12 Corros. Sci. 4026–4032 (2011); R.E. Melchers, M. Ahammed, R. Jeffrey, G. Simundic, Statistical characterization of surfaces of corroded steel plates, 23 Mar. Struct. 274–287 (2010).

[36] Bea, R., C. Smith, B. Smith, J. Rosenmoeller, T. Beuker, and B. Brown. 2002. Real-time Reliability Assessment & Management of Marine Pipelines. 21st International Conference on Offshore Mechanics & Arctic Engineering. ASME.

[37] U.S. Department of Transportation: Federal Highway Administration. Impacts of Climate Change and Variability on Transportation Systems and Infrastructure: The Gulf Coast Study, Phase 2 (2015).

[38] Keuter, J. In-line Inspection of Pipes Using Corrosion Resistant Alloys (CRA). Rosen Technology and Research Center GmbH, Rosen Group, Germany; Standard Oil Company (1981) Drilling fluid bypass for marine riser. U.S. Grant. US4291772 A (2014).

[39] *See e.g.*, Venn-Watson, S. *et al.* Adrenal Gland and Lung Lesions in Gulf of Mexico Common Bottlenose Dolphins (Tursiops truncatus) Found Dead following the Deepwater Horizon Oil Spill. 10 *PLoS ONE* e0126538 (2015) (finding that the Deepwater Horizon oil spill continues to kill dolphins years after the spill); Peterson, C. H., S. D. Rice, J. W. Short, D. Esler, J. L. Bodkin, B. E. Ballachey, and D. B. Irons, Long-term ecosystem response to the Exxon Valdez oil spill, 302 Science 2082-2086 (2003); Incardona, et al., Very low embryonic crude oil exposures cause lasting cardiac defects in salmon and herring, 5 Scientific Reports 13499 (2015).

[40] National Academies of Sciences, Engineering, and Medicine, Oil in the Sea IV: Inputs, Fates, and Effects (2022).

[41] Schlenker, Lela S. et al., Brief oil exposure reduces fitness in wild Gulf of Mexico mahi-mahi (*Coryphaena hippurus*), 56 Envt'l Sci. & Tech. 13019, 13019 (2022). See also Ek-Huchim, Juan Pablo et al., Red blood cell cytotoxicity associated to heavy metals and hydrocarbons exposure in flouder fish from two regions of the Gulf of Mexico, 108 Bull. Envt'l Contamination & Toxicology 78 (2022); McDonald, Ashley M. et al., Prior exposure to weathered oil influences foraging of an ecologically important saltmarsh resident fish, 10 PeerJ e12593 (2022).

hydrocarbons.[42] And Lawson et al. (2021) found that deep-sea invertebrate species including sea anemones, sea cucumbers, and sea pens bioaccumulate hydrocarbons.[43]

Oil pollution poses a well-known and significant threat to seabirds.[44] Seabirds are particularly vulnerable to offshore oil and gas development because of their frequent contact with the water's surface, their myriad foraging strategies, and the propensity of oil—even the thinnest sheen—to adhere to the birds' plumage.[45] Birds may be exposed to oil through acute events like spills, and chronically through routine discharges and leaks.[46] Chronic oil exposure is more challenging to measure, but can have pervasive lethal, sublethal, and cascading effects that hinder species and ecosystem recovery.[47] Sublethal effects can occur even when oil is not visible.[48]

Marine mammals can be exposed to oil internally by inhaling volatile compounds at the surface, swallowing oil, consuming oil-contaminated prey, and externally by swimming in oil.[49] Exposure to toxic fumes from petroleum hydrocarbons during oil spills have been recently linked

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[42] Pulster, Erin L. et al., Hepatobiliary PAHs and prevalence of pathological changes in Red Snapper, 230 Aquatic Toxicology 105714 (2021). Previous research has demonstrated that fish exposed to PAHs may experience reduced growth, endocrine disruption, reproductive harms, embryonic malformations, behavioral impairment, suppressed immune system function, skeletal and skin disorders, abnormal liver growths, cancer, and death. Peter Albers, Petroleum and Individual Polycyclic Aromatic Hydrocarbons, Ch. 14 *in* David J. Hoffman *et al.* (eds), Handbook of Ecotoxicology 352, 353 (2d ed. 2002); Tracy K. Collier *et al.*, Effects on fish of polycyclic aromatic hydrocarbons (PAHs) and naphthenic acid exposures. 33 Organic Chemical Toxicology of Fishes 195, 197-98, 200-06, 211-22, 224-30 (2014); Ronald Eisler, Polycyclic aromatic hydrocarbon hazards to fish, wildlife, and invertebrates: a synoptic review. U.S. Fish & Wildlife Serv. Biological Report 85(1.11) 32 (May 1987); Xavier Cousin & Jerome Cachot, PAHs, and fish—exposure monitoring and adverse effects—from molecular to individual level. 21 Envtl. Sci. and Pollution Research 13685, 13688 (2014); Canadian Water Quality Guidelines for the Protection of Aquatic Life: Polycyclic Aromatic Hydrocarbons (PAHs) 5, 6, 8 (1999); Britton C. Goodale, Ph.D. Dissertation: Developmental toxicity of Polycyclic Aromatic Hydrocarbons: Defining Mechanisms with Systems-Based Transcriptional Profiling 8 (2013); Jerry F. Payne *et al.*, Ecotoxicological Studies Focusing on Marine and Freshwater Fish, Ch. 11 *in* Peter E.T. Douben (ed.), PAHs: An Ecotoxicological Perspective 192, 201-06, 208-09 (2003). The harms of exposure may be passed down through the generations. Collier *et al.* at 222-24; Cousin & Cachot 16389; Payne *et al.* at 205-06.

[43] Lawson, M. Chase, et al. PAH and PCB body-burdens in epibenthic deep-sea invertebrates from the northern Gulf of Mexico. Marine Pollution Bulletin 162 (2021): 111825.

[44] Dias, M.P. et al., Threats to seabirds: a global assessment, 237 Biological Conservation 525 (2019).

[45] O'Hara, Patrick D. & Lora A. Morandin, Effects of sheens associated with offshore oil and gas development on the feather microstructure of pelagic seabirds, 60 Marine Pollution Bull. 672 (2010); Haney, J.C. et al., Challenges to oil spill assessment for seabirds in the deep ocean, 73 Arch. Environ. Contam. Toxicol. 33, 33 (2017).

[46] Jodice, P. G. R., E. M. Adams, J. Lamb, Y. Satgé, J. S. Gleason. 2019. GoMAMN Strategic Bird Monitoring Guidelines: Seabirds. Pages 129-170 in R. R. Wilson, A. M. V. Fournier, J. S. Gleason, J. E. Lyons, and M. S. Woodrey (Eds.), Strategic Bird Monitoring Guidelines for the Northern Gulf of Mexico. Mississippi Agricultural and Forestry Experiment Station Research Bulletin 1228, Mississippi State University. 324 pp.; Lamb, Juliet S., Yvan G. Satgé & Patrick G.R. Jodice, Seasonal variation in environmental and behavioural drivers of annual-cycle habitat selection in a nearshore seabird, 26 Diversity & Distributions 254 (2020).

[47] Peterson, Charles H. et al., Long-term ecosystem response to the Exxon Valdez oil spill, 302 Sci. 2082 (2003).

[48] Fallon, J.A. et al., Ultraviolet-assisted oiling assessment improves detection of oiled birds experiencing clinical signs of hemolytic anemia after exposure to the deepwater horizon oil spill, 29 Ecotoxicology 1399 (2020).

[49] NOAA. 2010. Analysis of Hydrocarbons in Samples Provided from the Cruise of the R/V WEATHERBIRD II, May 23-26, 2010, National Oceanic and Atmospheric Administration, Silver Spring, Maryland, 20910.

to mortality in cetaceans, even years after such accidents.[50] Studies have determined, for example, that the Deepwater Horizon oil spill caused adrenal and lung lesions in bottlenose dolphins which led to a concerning die-off.[51] Rice's whale is critically endangered, [52] and threatened by inadequate regulatory oversight of offshore oil and gas. The *Deepwater Horizon* spill hit the population hard: an estimated 48 percent of their habitat was oiled and the whales suffered an estimated 22 percent population decline from their pre-spill population size.[53] Many other threatened marine mammals are at risk where old and idled offshore oil infrastructure persists, including sperm whales, sea otters, blue whales.[54]

Sea turtles that overlap with areas with offshore oil infrastructure—Kemp's ridley, loggerhead, green, leatherback, and hawksbill—are listed and protected under the Endangered Species Act.[55] Oil harms imperiled sea turtles via myriad avenues of exposure. For example, eggs exposed to oil on nesting beaches or via egg-laying by an oiled female suffer increased mortality from smothering or exposure to toxicants.[56] Hatchlings appear particularly vulnerable to the effects of oil because of their small size, tendency to swim at the surface, and inability to escape convergence zones that collect small turtles, seaweed, and oil.[57]

The oceans and coasts provide support for economic activities and coastal communities. Having a healthy, clean marine ecosystem is a source of livelihood for robust fishing and tourism industries. Coastal tourism draws visitors to recreate, enjoy beaches, coral reefs, and other wildlife. These values are at risk from delayed decommissioning of offshore oil and gas infrastructure and wells.

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[50] Venn-Watson et al. 2015. Adrenal Gland and Lung Lesions in Gulf of Mexico Common Bottlenose Dolphins (*Tursiops truncatus*) Found Dead following the Deepwater Horizon Oil Spill. PLoS ONE 10(5): e0126538. doi:10.1371/journal.pone.0126538.

[51] Id.

[52] Rosel, P.E., Wilcox, L.A., Yamada, T.K. and Mullin, K.D., A new species of baleen whale (Balaenoptera) from the Gulf of Mexico, with a review of its geographic distribution. *Marine Mammal Science*. (Published online: Jan. 10, 2021); NMFS, U.S. Atlantic and Gulf of Mexico Draft Marine Mammal Stock Assessment Bryde's whale (2023).

[53] Rosel, Patricia E. & Lynsey A. Wilcox, Genetic evidence reveals a unique lineage of Bryde's whales in the northern Gulf of Mexico, 25 Endangered Species Research 25:19-34 (2014); Deepwater Horizon Marine Mammal Injury Quantification Team (DWH MMIQT), Models and analyses for the quantification of injury to Gulf of Mexico cetaceans from the Deepwater Horizon oil spill. DWH NRDA Marine Mammal Technical Working Group Report (2015); Lent, Rebecca J., Letter from Rebecca Lent, Executive Director, Marine Mammal Commission, to Dr. Stephania Bolden, Branch Chief, Species Conservation Branch, National Marine Fisheries Service Southeast Regional Office, Re: Bryde's whale 12-month finding (NOAA-NMFS-2014-0101) (2017); Soldevilla *et al.* 2017.

[54] Carretta, J.V. et al., U.S. Pacific Marine Mammals Stock Assessment Reports 2022 (2023); Hayes, Sean A., et al. U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessments 2022 (June 2023).

[55] Reneker, Jaymie L., Melissa Cook, Brian A. Stacy, Redwood W. Nero & Darrin G. Stewart. 2018. Summary of sea turtle strandings, incidental captures and related survey effort in Mississippi during 2017. NOAA Technical Memorandum NMFS-SEFSC-732.

[56] National Marine Fisheries Service (NMFS), Oil and Sea Turtles: Biology, Planning and Response (2003)

[57] NMFS 2003; McDonald, Trent L., Barbara A. Shroeder, Brian A. Stacy, Bryan P. Wallace, Leigh Ann Starcevich, Jonathan Gorham, Mandy C. Tumlin, Dave Cacela, Matthew Rissing, Danya B. McLamb, Eric Ruder & Blair E. Witherington. 2017a. Density and exposure of surface-pelagic juvenile sea turtles to *Deepwater Horizon* oil. Endangered Species Research 33:69-82.

b. Safety Hazards

Safety hazards are amplified in aging and neglected infrastructure. Allowing offshore oil and gas infrastructure to languish in the Gulf of Mexico and Pacific for prolonged periods raises significant safety concerns as platforms and wells deteriorate over time, they become structurally unstable and prone to failure.

Aging, deteriorating platforms can pose safety risks to workers. The delay between shutting down a platform and beginning decommissioning can lead to corrosion and structural integrity issues.[58] This can make the decommissioning work more dangerous for workers, causing injuries, falling and loose equipment, and other risks.[59]

Abandoned offshore oil and gas infrastructure can also create significant navigational hazards, especially when lighting fails.[60] In addition, as aging and corroded platforms are damaged by storms, they can topple and create dangerous obstacles for ships. Similarly, pipelines can move extensive distances over time creating navigational and trawling hazards.[61] Furthermore, the presence of subsurface pipelines risks anchors dragging them or vessel collisions.[62]

Severe storms amplify the dangers of these structures. [63] Hurricanes Katrina and Rita in 2005 destroyed 116 structures and damaged another 163.[64] In 2021, Hurricane Ida caused extensive harms throughout Louisiana and the Gulf, including numerous spills and other accidents including extensive damage to Port Fourchon—the largest base supporting the offshore oil and gas industry—along with damage to various offshore rigs and pipelines.[65] One report found that there were 2,230 pollution events that occurred directly or indirectly because of the hurricane.[66] Hurricane Ivan over the Gulf of Mexico triggered a catastrophic event, impacting the Taylor Energy abandoned oil platform located 12 miles off the Louisiana coast.[67] A mudslide caused by the hurricane severed the platform's legs, leading to its complete collapse onto the seabed and

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[58] Davis, Louise, Dangers in decommissioning in the oil and gas industry, Engineer Live (Aug. 2020).
[59] GAO 2024.
[60] GAO 2024.
[61] U.S. Gov't Accountability Office, GAO-21-293, Offshore Oil and Gas: Updated Regulations Needed to Improve Pipeline Oversight and Decommissioning (2021).
[62] *See e.g.,* Associated Press, Coast Guard says a ship's anchor dragged California oil pipeline that later leaked, NPR (Oct. 17, 2021), https://www.npr.org/2021/10/17/1046900318/coast-guard-says-a-ships-anchor-dragged-california-oil-pipeline-that-later-leake
[63] Dong J, Asif Z, Shi Y, Zhu Y, Chen Z. Climate Change Impacts on Coastal and Offshore Petroleum Infrastructure and the Associated Oil Spill Risk: A Review, 10(7) Journal of Marine Science and Engineering 849 (2022).
[64] GAO 2024 at 10.
[65] *See, e.g.*, Mark Schleifstein, Reports of environmental problems caused by Hurricane Ida begin to trickle in, The Times-Picayune, Aug. 31, 2021, https://www.nola.com/news/environment/ article_ecac5322-0a9e-11ec-aa1a-b3a6500298cd.html; David Wethe, Port Fourchon, other Gulf oil facilities likely offline for weeks after Ida, Bloomberg, Aug. 31, 201, https://www.worldoil.com/news/2021/8/31/port-fourchon-other-gulf-oil-facilities-likely-offline-for-weeks-after-ida; GAO Watchblog, Oil Spills in The Wake of Hurricane Ida Highlight Need for Better Federal Oversight of Offshore Oil and Gas Pipelines, Sept. 14, 2021, https://www.gao.gov/blog/oil-spills-wake-hurricane-ida-highlight-need-better-federal-oversight-offshore-oil-and-gas-pipelines.
[66] Naomi Yoder and Sheehan Moore, Murky Waters: An Analysis of Hurricane Ida Pollution Reports (June 2022).
[67] Wertheim, Jon, Taylor Energy Oil Spill: Stanching the longest-running oil spill you've likely never heard of, CBS News (June 5, 2022).

subsequent damage to 28 underlying wells. This incident initiated the longest-running oil spill in US history, with continuous leakage from the sunken platform highlighting the long-term environmental and economic consequences of inadequately managed decommissioned wells.

c. Financial Risks

In addition to the environmental and safety risks, delayed decommissioning of offshore oil and gas infrastructure in the Gulf of Mexico carries significant financial implications. BOEM held only $3.5 billion in supplemental bonds that fail to cover true decommissioning costs, which range between $40 billion and $70 billion.[68] As oil and gas companies report record profits, they should accordingly provide the substantial financial obligations associated with offshore decommissioning activities.[69]

The costs of decommissioning increase as infrastructure ages and deteriorates, making the process more expensive and complex. Industry operators may face escalating expenses and liabilities if they fail to decommission infrastructure in a timely manner.[70] More than 260 oil and gas companies filed for bankruptcy between 2015 and 2021.[71]

A case in point is the bankruptcy of Fieldwood Energy LLC, one of the largest oil and gas exploration and production companies operating in the Gulf of Mexico.[72] Fieldwood filed for bankruptcy in 2020 with more than $7 billion in environmental clean-up responsibilities.[73] The company's financial burdens were partly due to its extensive decommissioning obligations of 1,170 wells, 280 pipelines, and 270 drilling platforms.[74] A primary concern during the bankruptcy for the Department of Interior and other parties was how to hold Fieldwood accountable for decommissioning.[75] As part of the reorganization plan, some of Fieldwood's oil and gas assets were sold for approximately $1.03 billion.[76] After a difficult process, an agreement was reached that Fieldwood would abandon certain assets after fulfilling specific decommissioning requirements.

Now, another offshore oil company, Cox Operating has an unresolved bankruptcy and the future of its Gulf of Mexico oil well decommissioning unclear. Cox has 477 platforms in the Gulf of Mexico and hundreds of aging wells amounting to more than $4.5 billion in decommissioning

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[68] GAO 2024 at 26.
[69] NYTimes, Oil Giants Pump Their Way to Bumper Profits, Feb. 2, 2024, https://www.nytimes.com/2024/02/02/business/oil-gas-companies-profits.html.
[70] Offshore Staff, Decommissioning costs to increase more than five-fold by 2040 report finds, Offshore Mag. (Dec. 5, 2016), https://www.offshore-mag.com/field-development/article/16769738/decommissioning-costs-to-increase-more-than-five-fold-by-2040-report-finds
[71] Sadasivam 2021; Haynes Boone, Oil Patch Bankruptcy Monitor (2022), https://www.haynesboone.com/-/media/project/haynesboone/haynesboone/pdfs/energy_bankruptcy_reports/oil_patch_bankruptcy_monitor.pdf?rev=e57d3129b7504ea190df5d33dbacae44%E2%80%A6hash=F461E4FE13446BE821B8AE9080C349E6.
[72] In re Fieldwood Energy LLC, No. 23-20104 (5th Cir. 2024).
[73] Sadasivam, Naveena, How bankruptcy lets oil and gas companies evade cleanup rules, Grist (Jun. 7, 2021).
[74] Id.
[75] Id.; Chutchian, Maria, Fieldwood Energy faces pushback to reorganization plan from oil producers, Reuters (Jun. 3, 2021).
[76] In re Fieldwood.

costs.[77] Yet, Cox's bankruptcy plan does not address decommissioning responsibilities. Concerns exist about who will shoulder the substantial costs if the assets are sold to companies lacking the resources. As of February 2024, the bankruptcy process continues with the sale of assets, prioritizing production over immediate decommissioning. This situation exemplifies the financial risks associated with the decommissioning of offshore oil and gas infrastructure.

A looming crisis of oil and gas infrastructure and wells that need to be decommissioned is building, offshore and onshore, with cleanup costs that far exceed the financial assurances maintained by the oil industry. [78] When companies default on their decommissioning obligations, the federal government must not be left to shoulder the financial burden. Oil and gas companies have been earning record profits and have sufficient capital to cover their legal obligations to decommission their offshore infrastructure. For example, in 2023 Exxon recorded $36 billion in earnings, and in 2022, $55.7 billion.[79] These record earnings underscore the urgent need for regulatory reforms to ensure that industry operators are held accountable for their decommissioning obligations. The inadequate bonding levels held by regulatory agencies may not be sufficient to cover the estimated decommissioning liabilities, leaving risks of the financial burden of abandoned offshore infrastructure.

d. Public Interest & National Energy Needs

The United States is working towards a policy goal to "achieve net-zero emissions, economy-wide, by no later than 2050."[80] This urgent shift away from fossil fuels to address the climate emergency requires the nation reduce its dependence on offshore oil and gas production and phase it out. Scientific reports have made clear that "every tonne of [carbon dioxide] CO_2 emissions adds to global warming."[81] As the national policy requires that we wind down fossil fuel extraction, there is an increasing need to focus on the accountability for decommissioning offshore infrastructure. BOEM and BSEE must be well equipped to hold the oil industry accountable for decommissioning obligations. Ensuring that operators, and their predecessors, bear their own decommissioning costs is crucial, as the failure to secure adequate financial assurances serves as an enormous subsidy to industry, and could leave taxpayers responsible for an enormous bill. With billions of dollars in potential liabilities and safety, environmental, and

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[77] Offshore Energy, Cox bankruptcy: Will decommissioning and safety issues be satisfactorily addressed? Bud's Offshore Energy (Jan. 8, 2024).

[78] Olalde, M., et al., The Rising Cost of the Oil Industry's Slow Death, ProPublica (Feb. 22, 2024), available at https://www.propublica.org/article/the-rising-cost-of-the-oil-industrys-slow-death; Purvis, D., There Will Be Blood: Decommissioning California's Oilfields, CarbonTracker (May 2023), available at https://carbontracker.org/reports/there-will-be-blood/; Sierra Club, $23 Billion Question: What Created California's Orphan and Idle Well Crisis? (Dec. 2023), available at https://www.sierraclub.org/sites/default/files/2023-12/Idle%20Wells%20Report.pdf; Kretzmann, H., Undercover Risks, Center for Biological Diversity (2020), available at https://www.biologicaldiversity.org/programs/climate_law_institute/pdfs/Undercover-Risks-20-10-21-Blanket-Bond-Report.pdf.

[79] See NYTimes, *supra* note 67.

[80] 251 Biden Executive Order, Sec. 201.

[81] IPCC, 2021: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change at SPM-37, available at https://www.ipcc.ch/report/ar6/wg1/downloads/ report/IPCC_AR6_WGI_Full_Report.pdf.

financial risks escalating over time, immediate steps to ensure accountability are vital to avoid public funds being the only option to address the neglected offshore infrastructure.

Given the nation's climate goals, there is a need to end new fossil fuel production and infrastructure and phase-out much existing production and infrastructure. Fossil fuels are driving a global climate emergency that presents a "code red for humanity."[82] The climate emergency is here, and it is killing people, causing ecosystem collapse, costing the U.S. economy billions in damages every year, and creating escalating suffering across the nation and around the world.[83] The climate crisis also breeds glaring injustice, with Black, Latino, Indigenous, Asian American and Pacific Islanders, and other communities of color and low-wealth communities experiencing the gravest harms.[84] Without deep and rapid reductions in fossil fuel production and emissions, global temperature rise will exceed 1.5°C and result in catastrophic damages in the U.S. and around the world.[85]

The science is clear that limiting global temperature rise to 1.5°C under the Paris Agreement requires governments to immediately halt approval of all new fossil fuel production and infrastructure and rapidly phase out existing fossil fuel production and infrastructure in many developed fields and mines.[86] The committed carbon emissions from *existing* fossil fuel infrastructure in the energy and industrial sectors exceed the carbon budget for limiting warming

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[82] United Nations Secretary-General, *Secretary-General's statement on the IPCC Working Group 1 Report on the Physical Science Basis of the Sixth Assessment*, Aug. 9, 2021, https://www.un.org/sg/en/content/secretary-generals-statement-the-ipcc-working-group-1-report-the-physical-science-basis-of-the-sixth-assessment.

[83] IPCC, Climate Change 2022, Impacts, Adaptation and Vulnerability (2022), https://www.ipcc.ch/report/ar6/wg2/; NOAA, National Centers for Environmental Information, Billion-Dollar Weather and Climate Disasters, https://www.ncdc.noaa.gov/billions/ (reporting that in 2021 alone in the U.S., there were 20 weather and climate disaster events with losses exceeding $1 billion each and 688 deaths).

[84] Donaghy, Tim & Charlie Jiang for Greenpeace, Gulf Coast Center for Law & Policy, Red, Black & Green Movement, and Movement for Black Lives, Fossil Fuel Racism: How Phasing Out Oil, Gas, and Coal Can Protect Communities (2021), https://www.greenpeace.org/usa/wp-content/uploads/2021/04/Fossil-Fuel-Racism.pdf; U.S. Environmental Protection Agency, Climate Change and Social Vulnerability in the United States: A Focus on Six Impacts, EPA 430-R-21-003 (2021), www.epa.gov/cira/social-vulnerability-report.

[85] IPCC, Summary for Policymakers, In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty (2018) [Masson-Delmotte, V. et al. (eds.)], https://www.ipcc.ch/sr15/; IPCC, 2022*:* Climate Change 2022: Mitigation of Climate Change, Contribution of Working Group III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [P.R. Shukla et al. (eds.)], Cambridge University Press, Cambridge, UK and New York, NY, USA; doi: 10.1017/9781009157926.

[86] IPCC, Summary for Policymakers 2018, Oil Change International, Drilling Toward Disaster: Why U.S. Oil and Gas Expansion Is Incompatible with Climate Limits (2019), http://priceofoil.org/drilling-towards-disaster; Tong, Dan et al., Committed emissions from existing energy infrastructure jeopardize 1.5°C climate target, 572 Nature 373 (2019), https://www.nature.com/articles/s41586-019-1364-3; SEI, IISD, ODI, E3G, and UNEP, The Production Gap: The discrepancy between countries' planned fossil fuel production and global production levels consistent with limiting warming to 1.5°C or 2°C (2020), http://productiongap.org/; SEI, IISD, ODI, E3G, and UNEP, The Production Gap: Governments' planned fossil fuel production remains dangerously out of sync with Paris Agreement limits (2021), http://productiongap.org/2021report; Teske, Sven & Sarah Niklas, Fossil Fuel Exit Strategy: An orderly wind down of coal, oil and gas to meet the Paris Agreement (June 2021), https://fossilfueltreaty.org/exit-strategy; Welsby, Dan et al., Unextractable fossil fuels in a 1.5 °C world, 597 Nature 230 (2021), https://doi.org/10.1038/s41586-021-03821-8; Trout, Kelly et al., Existing fossil fuel extraction would warm the world beyond 1.5°C, 17 Environmental Research Letters 064010 (2022).

to 1.5°C, meaning that no new fossil infrastructure can be built and much existing infrastructure must be ***retired early*** to avoid catastrophic climate harms.[87]

The U.S. and other wealthy, high-emitting producer nations with the greatest capacity to achieve a just transition must make more rapid cuts. A recent Tyndall Center study concluded that an equitable phase-out requires the U.S. to end all oil and gas production by 2031 to preserve a 67 percent chance of limiting temperature rise to 1.5°C.[88] For a lower 50 percent of 1.5°C, the U.S. must reduce oil and gas production 74 percent by 2030 and end production by 2034.[89]

Proper offshore decommissioning and well plugging can be leveraged as a catalyst for economic revitalization and job creation in the Gulf region. In January 2021, President Biden signed Executive Order 14008, titled "Tackling the Climate Crisis at Home and Abroad."[90] This order included Section 222, specifically the issue of idle oil and gas wells on federal lands and submerged lands, and it emphasizes the potential for well plugging and decommissioning to create good-paying union jobs and revitalize impacted communities.

While the decline of the oil and gas industry is undeniable, decommissioning presents a unique opportunity to redeploy skilled labor and revitalize existing infrastructure. Dismantling platforms, plugging wells, and managing waste requires diverse skillsets, from welders and engineers to logistics specialists and environmental scientists. This demand creates direct employment opportunities, offering a just transition for displaced oil workers in fields aligned with their existing skillsets. The expertise gained during these projects can be applied to developing renewable energy infrastructure. This not only promotes ecological sustainability, but also fosters the growth of a green economy.

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In summary, the dangers of leaving offshore oil and gas infrastructure in the Gulf of Mexico for a prolonged period are multifaceted and far-reaching. Addressing these risks through timely decommissioning and proactive environmental stewardship is essential to safeguarding the ocean's ecosystems, ensuring public safety, mitigating financial liabilities for the federal government and taxpayers, and catalyzing a green economy.

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[87] Tong, Dan et al., 2019; Pfeiffer, Alexander et al., Committed emissions from existing and planned power plants and asset stranding required to meet the Paris Agreement, 13 Environmental Research Letters 054019 (2018).

[88] Calverley and Anderson, Phaseout Pathways for Fossil Fuel Production Within Paris-compliant Carbon Budgets (2022), https://www.research.manchester.ac.uk/portal/en/publications/phaseout-pathways-for-fossil-fuel-production-within-pariscompliant-carbon-budgets(c7235a8e-e3b1-4f44-99de-c27958c03758).html (Tyndall Report).

[89] *Id*. at 6.

[90] Exec. Order No. 14008, 86 Fed. Reg. 7619 (Feb. 1, 2021).

4. Federal Failures in Oversight of Offshore Oil and Gas Infrastructure Decommissioning

The GAO unearthed critical issues concerning the Department of the Interior's oversight of offshore oil and gas infrastructure decommissioning. While Interior has a mandate to compel operators to decommission their offshore oil and gas infrastructure and ample existing authority to enforce these obligations, it has failed to adequately exercise that authority. There are three primary problem areas, each representing a failure to uphold essential standards and safeguards.

a. Failure to require decommissioning of offshore oil and gas infrastructure long beyond deadlines

The BSEE's lax approach to enforcement has allowed industry operators to skirt decommissioning deadlines, resulting in widespread delays, and escalating risks. There are more than 2,700 wells and nearly 500 platforms awaiting overdue decommissioning, posing heightened environmental, safety, and financial hazards over time.[91] This failure to enforce timely decommissioning exacerbates risks, underscoring the urgent need for proactive intervention.

b. Failure to require adequate financial assurances delays clean-up

The absence of robust financial assurances fails to ensure that oil companies will cover the substantial liabilities associated with decommissioning costs. Despite estimated decommissioning liabilities ranging up to $70 billion, BOEM holds supplemental bonds of only $3.5 billion amounting to only a fraction of this figure.[92] Despite record earnings from oil and gas companies, this discrepancy leaves a significant financial risk of decommissioning in the event of operator default, highlighting the imperative for stringent financial safeguards to safeguard public interests. BSEE and BOEM officials have expressed ongoing concerns about the adequacy of financial assurances,[93] given the industry's noncompliance with decommissioning deadlines and the significant period since the last guidance update.

Although BOEM proposed a new rule to modify the financial assurances in 2023,[94] that proposed rule is inadequate to ensure that the oil industry is held accountable for decommissioning costs. The proposed rule, while having some improvements over current practices, continues to allow the oil industry to have insufficient bonds that fail to cover their actual decommissioning liabilities. The base financial assurances are too low to begin with, and supplemental financial assurances are waived if certain minimal criteria are met.[95] Instead, operators must be required to provide financial assurances that fully cover their decommissioning obligations. There must also be a mechanism to ensure that bonds are

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[91] GAO 2024.
[92] GAO 2024 at 26.
[93] GAO 2024 at 27.
[94] BOEM, Risk Management and Financial Assurance for OCS Lease and Grant Obligations, 88 Fed. Reg. 42136 (June 29, 2023).
[95] Ibanez Amador, Ava, et al., Comment Risk Management, Financial Assurance for OCS Lease and Grant Obligations; 88 Fed. Reg. 42,136 (Aug. 28, 2023)

maintained at a level that keeps pace with the operator's activities, including new wells and infrastructure, and increasing decommissioning costs.

c. Failure to ensure operator fitness and good track records

The Department of the Interior's oversight fails to adequately vet operators to ensure they possess the requisite qualifications, track records, and financial capacities to fulfill decommissioning obligations. Operators consistently fall short of BSEE's one-year decommissioning deadline, with more than 40 percent of wells and 50 percent of platforms in the Gulf of Mexico remaining unaddressed.[96] This failure to ensure operator fitness perpetuates noncompliance and exacerbates risks associated with aging infrastructure. Despite BSEE issuing citations or orders for overdue infrastructure, actual enforcement, such as civil penalties, are imposed on less than two percent of cases.[97]

In confronting these multifaceted challenges, regulatory bodies and policymakers must compel timely decommissioning, strengthen financial assurances, and ensure operator accountability. Failure to address these deficiencies not only jeopardizes environmental and safety standards but also exposes taxpayers to significant financial liabilities, underscoring the urgency of decisive action to uphold the integrity and sustainability of offshore oil and gas operations.

5. Interior Must Promulgate Regulations that Ensure Proper Decommissioning of Offshore Oil and Gas Infrastructure

Specifically, we petition the Secretary of Interior to promulgate regulations that ensure the:

1. **Effectiveness of Enforcement Tools:** Establish clear regulatory criteria and timelines for the application of enforcement tools and compel the agency to timely issue enforcement orders, incidents of noncompliance, civil penalties, suspensions of operations, and disqualification proceedings.

2. **Enforceability of Decommissioning Deadlines:** Adopt regulations that establish clear, realistic, and enforceable deadlines for decommissioning activities; establish reporting of compliance with deadlines; define consequences for operators who fail to meet decommissioning deadlines, such as fines or disqualification.

3. **Require Pipeline Removal:** End the practices of allowing pipelines to be decommissioned-in-place, ensure adequate financial assurances for decommissioning pipelines; monitor and inspect pipelines post-decommissioning.

4. **Adequate Financial Assurances for Decommissioning**: Promptly finalize strong financial assurance regulations that ensure adequate bonding levels from offshore oil and gas operators that fully cover decommissioning liabilities and ensure a mechanism for periodic adjustment of supplemental bonding requirements. We further request that BOEM revise its 2023 proposed

[96] GAO 2024 at 1.
[97] GAO 2024 at 17.

rule to ensure bonding in the full amount of decommissioning costs and strengthen criteria for operators.

5. **Operator Standards:** Establish robust qualification procedures and clear fitness to operate standards that ensure new and existing operators' financial and technical capacity for decommissioning; require reporting and periodic review of operators' fitness; and mandate disqualification proceedings based on an operator's failure to meet obligations.

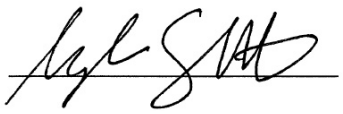
Petitioners provide proposed regulatory language below. If any provision of this petition is found to be invalid or unenforceable, the invalidity or lack of legal obligation shall not affect other provisions of the petition. Thus, the provisions of this petition are severable.

6. Conclusion

In conclusion, it is imperative that the Secretary of the Interior takes decisive action to address the shortcomings in decommissioning oversight within the offshore oil and gas industry. The findings outlined in this petition underscore the urgent need for robust regulatory measures to ensure the timely and effective decommissioning of offshore infrastructure, thereby mitigating environmental, safety, and financial risks. By promulgating comprehensive regulations that enhance enforcement mechanisms, strengthen financial assurances, and prioritize operator accountability, the Secretary can uphold the Department's mandate to safeguard our nation's marine resources and protect the interests of taxpayers and coastal communities. We urge the Secretary to act swiftly in implementing these essential reforms to ensure the responsible stewardship of our offshore assets for current and future generations.

Any responses and all correspondence related to this petition should be directed to the Center for Biological Diversity at the email and address provided below.

Respectfully submitted this 29 day of February 2024.



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Submitted on behalf of the undersigned organizations

PROPOSED REGULATORY LANGUAGE

Add the following provisions to the regulations at 30 C.F.R. Part 250:

§ 250.1704 What decommissioning applications and reports must I submit and when must I submit them?

(a) * * *

(b) Each operator with idle and end-of-lease wells, pipelines, and platforms shall submit an annual report to the Regional Director detailing compliance with decommissioning deadlines for such infrastructure. The report shall include, but not be limited to, the following information:

- A list of all operator's idle and end-of-lease wells, pipelines, platforms, and structures;
- The decommissioning status of each well, pipeline, platform, and structure including whether decommissioning activities have been completed, are in progress, or have not yet commenced;
- The decommissioning deadlines applicable to each well, pipeline, platform, and structure;
- Any deviations from the decommissioning deadlines, along with explanations for such deviations;
- Efforts made to comply with decommissioning deadlines and any challenges encountered;
- Plans and timelines for future decommissioning activities, including anticipated completion dates.

(c) The annual report required under this section shall be submitted electronically to BSEE no later than March 31st of each calendar year, covering the previous calendar year.

(d) BSEE may, at its discretion, request additional information or documentation from operators to verify compliance with decommissioning deadlines and requirements.

(e) Failure to submit the annual report in accordance with this section may result in enforcement action by BSEE, including but not limited to the imposition of civil penalties.

§ 250.1705 How does BSEE enforce deadlines for decommissioning activities?

(a) Decommissioning activities must be completed within one year after the lease or pipeline right-of-way terminates or is canceled, unless otherwise approved by the Regional Supervisor.

(b) The Regional Supervisor will notify operators and predecessors of the deadlines that apply to their decommissioning activities when the lease or pipeline right-of-way terminates or is canceled. If the operator, has not completed decommissioning its structures by the deadline, BSEE shall take these enforcement actions as follows:

- Issuance of enforcement orders 30 days and 180 days after the decommissioning deadline.
- Assessment of civil penalties one year after the decommissioning deadline.
- Suspension of operations two years after the decommissioning deadline.
- Referral to disqualification proceedings three years after the decommissioning deadline.

(c) Any deviations from the timelines or criteria established in accordance with subsection (b) of this section must be documented and justified by BSEE.

(d) BSEE may extend the deadlines for decommissioning activities, only if it determines that the extension is necessary and advisable and has no significant adverse safety or environmental effects, and not beyond five years from the original decommissioning deadline.

(e) Operators failing to comply with the deadlines specified in this section may be subject to enforcement actions as determined by BSEE, in accordance with the timelines or criteria established pursuant to subsection (b) of this section.

* * * *

Revise regulations on decommissioning pipelines as follows:

§ 250.1750 When may I decommission a pipeline in place?

Pipelines must be removed and the marine environment remediated. You may **not** decommission a pipeline in place **unless** ~~when~~ the Regional Supervisor determines that:

(a) the pipeline **removal will have unmitigable adverse safety or environmental effects; and** ~~does not constitute a hazard (obstruction) to navigation and commercial fishing operations, unduly interfere with other uses of the OCS, or have adverse environmental effects.~~

(b) the operator furnishes financial assurances that guarantees compliance with reporting, monitoring, and § 250.1754; and

(c) the operator submits an annual report on March 31 evaluating the location, exposure risks, condition of the pipeline decommissioned-in place, and sufficient financial assurances in the amount of the full removal decommissioning.

* * * *

250.1753 After I decommission a pipeline, what information must I submit?

Within 30 days after you decommission a pipeline, you must submit a written report to the Regional Supervisor that includes the following:

(a) A summary of the decommissioning operation including the date it was completed;

(b) Video or photo documentation of compliance with § 250.1751 or § 250.1752;

(**c**) A description of any mitigation measures you took; and

(**d**) A statement signed by your authorized representative that certifies that the pipeline was decommissioned according to the approved application.

The Regional Supervisor must verify the decommissioning evidence or inspect the pipeline decommissioning within one year.

§ 250.1754 When must I remove a pipeline decommissioned in place?

You must remove a pipeline decommissioned in place if the Regional Supervisor determines that **it is necessary and advisable**~~the pipeline is an obstruction~~.

Finalize the rule proposed by BOEM on June 29, 2023;[98] with the following revisions:

§ 550.105 Definitions

Estimated Cost of Remediation means the aggregate cost of
(A) Plugging and abandoning all of the operator's wells;
(B) Restoring the seabed disturbed by wells, pipelines, platforms and attendant structures to its natural state as near as practicable; and
(C) Fully remediating known contamination; and
(D) Estimated cost of mitigation for damages to natural resources.

Financial assurance means a surety bond, a pledge of Treasury securities, **or** a decommissioning account~~, a third-party guarantee, or another form of security acceptable to the BOEM Regional Director,~~ that is used to ensure compliance with obligations under the regulations and under the terms of a lease, a RUE grant, or a pipeline ROW grant.

Investment grade credit rating means an issuer credit rating of **AAA, AA, or A** ~~BBB- or higher, or its equivalent,~~ assigned to an issuer of corporate debt by a nationally recognized statistical rating organization (NRSRO) as that term defined by the United States Securities and Exchange Commission (SEC).

Issuer credit rating means a credit rating assigned to an issuer of corporate debt by Standard and Poor's (S&P) Ratings Services (or any of its subsidiaries) **and** by Moody's Investors Service Incorporated (or any of its subsidiaries) ~~or by another NRSRO, as that term is defined by the United States SEC~~.

§ 550.166 If BOEM grants me a RUE, what financial assurance must I provide?

[98] 88 Fed. Reg. 42136 (June 29, 2023).

(a) Before BOEM grants you a RUE on the OCS, you must maintain financial assurance **of an amount equal or greater than the estimated cost of remediation** ~~$500,000 that guarantees compliance with the regulations and the terms and conditions of the RUEs you hold.~~ **An operator shall revise the estimated cost of remediation and notify the division no later than 30 days after any change to the operator's operations, including, but not limited to, the drilling of a new well or wells that would increase the operator's prior estimated cost of remediation. An operator that notifies the division of an increase in the estimated cost of remediation shall file a supplemental financial assurance with the Regional Supervisor that covers the revised estimated cost of remediation.**

~~(1) You are not required to submit and maintain the financial assurance of $500,000 pursuant to this paragraph (a) if you furnish and maintain area-wide lease financial assurance in excess of $500,000 pursuant to~~ 30 CFR 556.901(a)~~, provided that the area-wide lease financial assurance also guarantees compliance with all the terms and conditions of the RUEs you hold.~~

(1) The Regional Supervisor shall review the estimated cost of remediation and require a higher amount of financial insurance if it finds that the operator's estimated cost of remediation does not accurately reflect the cost of remediation.
(2) The financial assurance shall remain in effect until all wells, pipelines, platforms, and structures are decommissioned, but the supervisor may reduce the amount of the security required of an operator to reflect reduced obligations as wells are plugged and abandoned though the supervisor must find that the remaining financial assurance amount is equal to or greater than the sum of all remaining decommissioning obligations.
(3) The Regional Supervisor shall review and adjust financial assurance amounts whenever there is a transfer of ownership.

§ 550.1011 Financial assurance requirements for pipeline right-of-way (ROW) grant holders.

(a) When you apply for, attempt to assign, or are the holder of a pipeline right-of-way (ROW) grant, you must furnish and maintain ~~$300,000 of area-wide~~ financial assurance **in an amount equal or greater to the estimated cost of remediation to** ~~that~~ guarantees compliance with the regulations and the terms and conditions of all the pipeline ROW grants you hold in an OCS area as defined in 30 CFR 556.900(b). The requirement to furnish and maintain area-wide financial assurance for a pipeline ROW grant is separate and distinct from the requirement to provide financial assurance for a lease or right-of-use and easement (RUE). **An operator shall revise the estimated cost of remediation and notify the division no later than 30 days after any change to the operator's operations that would increase the operator's prior estimated cost of remediation. An operator that notifies the division of an increase in the estimated cost of remediation shall file a supplemental financial assurance with the Regional Supervisor that covers the revised estimated cost of remediation.**

(b) The requirement to furnish and maintain area-wide pipeline ROW financial assurance under paragraph (a) of this section may be satisfied if your operator or a co-grant holder provides such

financial assurance in the required amount that guarantees compliance with the regulations and the terms and conditions of the grant.

(c) The Regional Supervisor shall review the estimated cost of remediation and require a higher amount of financial insurance if it finds that the operator's estimated cost of remediation does not accurately reflect the cost of remediation.

(d) The bond shall remain in effect until all wells, pipelines, platforms, and structures are decommissioned, but the supervisor may reduce the amount of the security required of an operator to reflect reduced obligations as wells are plugged and abandoned though the supervisor must find that the remaining financial assurance amount is equal to or greater than the sum of all remaining decommissioning obligations.

§ 556.401 What do I need to show to become qualified to hold a lease on the OCS and obtain a qualification number?

(a) You may become qualified to hold a lease on the OCS and obtain a qualification number in accordance with § 556.402, if you submit evidence demonstrating that you **meet both criteria**:

(i) (1) *****

and

(ii) You have demonstrated that you meet fitness to operate standards in accordance with § 556.406.

(b) Statements and evidence submitted to demonstrate qualification under paragraphs (a)(1) through (6) of this section are subject to the penalties of 18 U.S.C. 1001.

(**c)** BOEM may issue you a qualification number after you have provided evidence acceptable to BOEM.

* * *

§ 556.406 What are the fitness to operate standards to become eligible to obtain a lease or an interest in a lease on the OCS?

(a) To become eligible to obtain a lease or an interest in a lease on the OCS, operators, including their owners and officers, must meet all of the following fitness to operate standards:

(1) Operators must maintain a satisfactory compliance history with OCSLA regulations, federal agencies' regulations, and industry standards, free from significant violations related to safety, environmental protection, financial reporting, or lease terms.

(2) Operators must demonstrate financial capability to fulfill their obligations, including decommissioning costs and potential liabilities, by providing evidence that they can meet the financial assurances for all interests as provided in § 556.901.
(3) Operators' must provide evidence that they have technical capabilities and expertise to ensure they can conduct OCS operations safely and efficiently, considering factors such as experience, qualified personnel, and access to technology.
(4) Operators must have a good environmental and safety record, free from significant incidents or violations.

(b) Operators must submit evidence and statements to demonstrate their fitness to operate, and BOEM will make a determination whether the standards are met based on the above criteria.
(c) BOEM must conduct reviews of an operator's fitness to operate at least once every five years and prior to any transfer of ownership. Operators failing to meet these standards will be referred to disqualification processes.
(d) BOEM will establish and maintain a public dashboard containing operator eligibility information, including but not limited to:
a. the identity of operators determined to be eligible to obtain a lease or interest in a lease on the OCS;
b. the identity of operators disqualified from holding a lease or interest in a lease on the OCS;
c. the compliance history of all operators, including compliance with decommissioning obligations and safety and environmental rules; and
d. all persons who own or control such entities.

§ 556.901 Base financial assurance and supplemental financial assurance.

(a) This paragraph (a) explains what financial assurance you must provide before lease exploration activities commence.

(1) * * *

(i) You must furnish the Regional Director **of an amount equal or greater than the estimated cost of remediation** ~~$200,000~~ in lease exploration financial assurance that guarantees compliance with all the terms and conditions of the lease by the earliest of:

* * * * *

(b) This paragraph (b) explains what financial assurance you must provide before lease development and production activities commence.

(1) * * *

(i) You must furnish the Regional Director **of an amount equal or greater than the estimated cost of remediation** ~~$500,000~~ in lease development financial assurance that guarantees compliance with all the terms and conditions of the lease by the earliest of:

* * * * *

~~© If you can demonstrate to the satisfaction of the Regional Director that you can satisfy your decommissioning and other lease obligations for less than the amount of financial assurance required under paragraphs (a)(1) or (b)(1) of this section, the Regional Director may accept financial assurance in an amount less than the prescribed amount but not less than the amount of the cost for decommissionin©~~**(c) The Regional Supervisor shall review the estimated cost of remediation and require a higher amount of financial insurance if it finds that the operator's estimated cost of remediation does not accurately reflect the cost of remediation.**

~~(1) You are not required to submit and maintain the financial assurance of $500,000 pursuant to this paragraph (a) if you furnish and maintain area-wide lease financial assurance in excess of $500,000 pursuant to~~ 30 CFR 556.901(a)~~, provided that the area-wide lease financial assurance also guarantees compliance with all the terms and conditions of the RUEs you hold.~~

(1) An operator shall revise the estimated cost of remediation and notify the division no later than 30 days after any change to the operator's operations, including, but not limited to, the drilling of a new well or wells that would increase the operator's prior estimated cost of remediation. An operator that notifies the division of an increase in the estimated cost of remediation shall file a supplemental financial assurance with the Regional Supervisor that covers the revised estimated cost of remediation.

(2) The financial assurance shall remain in effect until all wells, pipelines, platforms, and structures are decommissioned, but the supervisor may reduce the amount of the security required of an operator to reflect reduced obligations as wells are plugged and abandoned though the supervisor must find that the remaining financial assurance amount is equal to or greater than the sum of all remaining decommissioning obligations.

(d) The Regional Director may determine that supplemental financial assurance (i.e., financial assurance above the amounts prescribed in 30 CFR 550.166(a), 30 CFR 550.1011(a), § 556.900(a) or paragraphs (a) and (b) of this section) is required to ensure compliance with your lease obligations, including decommissioning obligations; the regulations in this chapter; and the regulations in 30 CFR chapters II and XII. The Regional Director **shall** ~~may~~ require you to provide supplemental financial assurance if you ~~do not~~ meet ~~at least one~~ **any** of the following criteria:

(1) You **do not** have an investment grade issuer credit rating **as reported every year on March 31**. ~~If any SEC-recognized NRSRO provides a credit rating that differs from any other SEC-~~

~~recognized NRSRO credit rating, BOEM will apply the highest rating for the purposes of determining your financial assurance requirements.~~

~~(2) You have a proxy credit rating determined by the Regional Director, which must be based on audited financial information for the most recent fiscal year (which must include an income statement, balance sheet, statement of cash flows, and the auditor's certificate).~~

~~(i) The audited financial information for your most recent fiscal year must cover a continuous twelve-month period within the twenty-four-month period prior to the lessee's receipt of the Regional Director's determination that you must provide supplemental financial assurance.~~

~~(ii) In determining your proxy credit rating, the Regional Director may include the value of the contingent liabilities associated with any lease(s) or grants in which you have an ownership interest. Upon the request of the Regional Director, you must provide the information that the Regional Director determines is necessary to properly evaluate your contingent liabilities, including joint ownership interests and liabilities associated with your OCS leases and grants.~~

(**2**) Your co-lessee or co-grant-holder **does not have** ~~has~~ an issuer credit rating ~~or a proxy credit rating~~ that meets the criteria set forth in paragraph (d)(1) of this section; however, the Regional Director may require you to provide supplemental financial assurance for decommissioning obligations for which such co-lessee or co-grant-holder is not liable.

(3) You or your co-lessee is in non-compliance with decommissioning regulations as reported annually on March 31.

(4) The Regional Director deems it advisable to require supplemental bonding.

~~(4) There are proved oil and gas reserves on the lease, as defined by the SEC Regulation S-X at 17 CFR 210.4-10 and SEC Regulation S-K at 17 CFR 229.1200, the value of which exceeds three times the estimated cost of the decommissioning associated with the production of those reserves, and that value must be based on reserve reports submitted to the Regional Director and reported on a per-lease basis. BOEM will determine the decommissioning costs associated with the production of your reserves on a per-lease basis, and will use the following decommissioning cost estimates:~~

~~(i) Where BSEE-generated probabilistic estimates are available, BOEM will use the estimate at the level at which there is a **90** 70 percent probability that the actual cost of decommissioning will be less than the estimate (**P90)** (P70).~~

~~(ii) If there is no BSEE probabilistic estimate available, BOEM will use the BSEE-generated deterministic estimate.~~

(e) You may satisfy the Regional Director's demand for supplemental financial assurance by increasing the amount of your existing financial assurance or providing additional surety bonds or other types of acceptable financial assurance.

(f) The Regional Director will determine the amount of supplemental financial assurance required to guarantee compliance. In making this determination, the Regional Director will consider potential underpayment of royalty and cumulative decommissioning obligations using the **BSEE generated probabilistic estimates at the 90 percent level, or other appropriate BSEE** methodology ~~set forth in paragraph (d)(4) of this section.~~

PETITIONERS

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Center for Biological Diversity

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Executive Director
Louisiana Bucket Brigade

Martha Collins
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