Bureau of Ocean Energy Management, 30 CFR Parts 550, 556, and 590 [Docket No. BOEM–2025–0042] RIN 1010–AE26, Risk Management and Financial Assurance for OCS Lease and Grant Obligations, published 3/9/2026

Comments submitted by Elmer P. Danenberger, May 5, 2026

I. Comments summary

1. The legal boundaries, limitations, and processes for administering predecessor liability authority should be clearly established before financial assurance requirements are relaxed.
2. The Marine Minerals Administration (MMA) should adopt policies that provide greater certainty regarding decommissioning obligations at the time leases are assigned.
3. To better protect the public from decommissioning liabilities, two major mistakes in BOEM's 2024 financial assurance revisions should be corrected:
    a. Reserve estimates should not be a basis for reducing supplemental assurance requirements.
    b. Safety compliance records should be considered in determining financial assurance amounts and eligibility for lease assignments.
4. The revised regulation (30 CFR 585.516) that allows wind lessees to defer the funding of decommissioning financial assurance should be rescinded.

II. Taxpayer funding of decommissioning is unacceptable

For more than 40 years, challenges associated with bankruptcies (or the threat thereof), a divided offshore industry, political pressure, hurricane damage, and unresolved legal issues have hindered initiatives to better protect the public from decommissioning liabilities. Nonetheless, regulators and industry were able to prevent taxpayers from incurring any decommissioning costs.

Unfortunately, that is no longer the case. For the first time in history, the government has funded decommissioning on the OCS (Matagorda Island Area of the Gulf), and inexplicably called this a success.

Uncertainty remains regarding the funding of more significant decommissioning liabilities in both the Gulf and Pacific. The public must be protected from incurring further costs.

III. Predecessor Liability

Predecessor liability, which helps prevent companies from assigning leases for the purpose of avoiding decommissioning obligations, was not established in the regulations until much of the OCS infrastructure was already in place. In a final rule that was effective on 8/20/1997, the Minerals Management Service (thanks to the perseverance of Gerry Rhodes, John Mirabella, and Dennis Daugherty) codified the joint and several liability principle in 30 CFR 250.110.

Prior to that rule, the official policy of the Dept. of the Interior, as expressed in a 1988 letter from the Director of the Minerals Management Service, was that lease assignors would NOT be held accountable should their successors fail to fulfill their decommissioning responsibilities.

A major unresolved issue regarding decommissioning obligations is thus the extent to which predecessor liability applies to lease assignments prior to the 1997 regulation. Do pre-1997 predecessors retain liability?

Other predecessor liability questions that should be addressed:

- Given that the reverse chronological order guidance was scrapped in 2023, what will be the process for determining which predecessors will be held responsible and in what order?
- If the new lessees don't fulfill their performance obligations (e.g. funding escrow accounts, timely well plugging, maintenance, structural integrity, insurance, etc.) and comply with Federal regulations, to what extent are predecessors still liable?
- Should a predecessor several transfers removed from owning the facilities, and not a party in subsequent transfers, still be held liable for decommissioning?
- How will financial assurance requirements be administered for wells and other facilities constructed or modified by the new lessees?

For predecessor liability to be fairly and effectively implemented, and survive legal challenges, **MMA should consider adopting these lease assignment policies**:

- Before approving lease assignments, verify that the assignors and assignees have contractually agreed, with MMA concurrence, how the decommissioning of assigned assets will be funded.

- Not approve subsequent lease assignments until the predecessor being held financially responsible has approved a funding agreement with the new lessees.

IV. MMA should nullify two prior BOEM regulation changes that further expose the public to decommissioning liabilities and increase safety and environmental risks.

1. **Reserve estimates should not be a basis for reducing or eliminating supplemental final assurance.**
    a. The Federal government should not assume any portion of the risk associated with reserve estimates.
    b. Because of the high degree of uncertainty in reserve and decommissioning cost estimates, BOEM's assumed 3 to 1 reserves/costs buffer may be meaningless.
    c. Allowing the lessee to use reserve estimates to reduce decommissioning assurance failed completely at the Carpinteria Field in the Santa Barbara Channel (Platforms Hogan and Houchin).
    d. Accidents, hurricanes, and other events can exponentially increase decommissioning costs, and negate the value of remaining reserves.
2. **A company's record of compliance and safety performance should be a primary consideration in determining the need for supplemental financial assurance.**
    a. Had BOEM been more attentive to safety performance and compliance data, taxpayers would have been better protected from the safety and financial risks associated with lease acquisitions by Fieldwood, Cox, Black Elk, Signal Hill, Matagorda Island Gas Operations, and others.
    b. Safe operations, as reflected in compliance and performance data, are critical to a company's financial success. Operators with poor safety/compliance records are at a high risk of financial failure. Safe operations make good business sense, not just good social sense.
    c. Decommissioning obligations are not a high priority for companies with poor safety compliance records.
    d. Accidents are not mere matters of chance; management and culture matter. MMA's financial assurance authority should be implemented in a manner that

encourages safety leadership and robust safety and environmental management programs.

e. The authors of the previous BOEM revisions wrongly inferred that Incidents of Noncompliance (INCs) are solely dependent on the number and complexity of facilities. Decades of normalized compliance data demonstrate that there are marked differences among operators in terms of compliance and safety performance. Companies with poor safety performance records are likely to fail.

f. Bankruptcy procedures have been used to avoid or transfer decommissioning obligations. In that regard, Chevron's comprehensive objection to Fieldwood's restructuring plan was compelling.

g. **Perhaps because of the fragmentation of regulatory responsibilities, BOEM seemed to have a poor understanding of the link between safety and financial integrity. Hopefully, the reunification of BOEM and BSEE will correct this problem.** Some specific examples of the relevance of safety to financial performance follow:

i. Cox's 2023 bankruptcy was predictable given their past safety performance. In 2022, Cox was a violations leader, and was responsible for 9 of the 30 safety incidents that were significant enough to require investigation by BSEE.

ii. Fieldwood's poor safety performance has been well established, and there was ample evidence of performance problems prior to their bankruptcy declaration in 2018. In 2016 and 2017 Fieldwood was, by far, the GoM violations leader with 818 INCs, 401 of which required a facility or component shut-in.

iii. The other noncompliance leader in 2016 and 2017 was future Cox affiliate Energy XXI GOM. Energy XXI earned 465 INCs (240 shut-ins) during that 2 year period. Did BOEM object to or otherwise comment on the 2018 Cox-Energy XXI merger?

iv. Black Elk Energy was new in 2007 and quickly became a violations leader. Between 2010 and 2012, BSEE cited Black Elk 415 times. 218 of these violations were serious enough to require facility or component shut-ins. On November 16, 2012, explosions at Black Elk's West Delta 32

platform killed 3 workers, and 2 others suffered severe burns. Criminal charges and a complex bankruptcy followed. BSEE records show 1107 INCs during the company's short history, 464 of which required facility or component shut-ins.

v. The rapid growth of Fieldwood, Cox, and Black Elk was in part facilitated by lax lease assignment and financial assurance policies that failed to consider compliance. Companies should have to demonstrate that they can operate safety and comply with the regulations before they are approved to acquire more properties.

vi. The **Signal Hill saga** in the Santa Barbara Channel has been documented. Signal's financial failure was predictable based on violations data and inspector feedback. Nonetheless, and despite internal objections, Signal Hill was allowed to tap into its decommissioning account to cover operating expenses.

V. Offshore Wind

The revised regulation (30 CFR 585.516) that allows wind lessees to defer the funding of decommissioning financial assurance should be rescinded. **BOEM waived the "pay as you build" decommissioning financial assurance requirement for Vineyard Wind** and subsequently **relaxed financial assurance requirements for all offshore wind projects**. These mistakes should be corrected without delay.

VI. Concluding Remarks

1. MMA's highest priority must be assuring that facilities are safely decommissioned without public funding. Supplemental financial assurance determinations and lease assignment approvals must be consistent with that priority.
2. Predecessor liability is an important financial assurance principle, but legal boundaries and administrative procedures must be clearly established.
3. Safety and compliance are inextricably related to financial performance, and must be considered in determining supplemental assurance requirements.

4. Using reserve estimates to reduce supplemental assurance exposes taxpayers to geologic and accounting risks.
5. Unacceptable public risks have resulted from financial assurance decisions intended to advance offshore wind development.