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December 15, 2020

U.S. Department of the Interior  
Bureau of Safety and Environmental Enforcement  
Office of Offshore Regulatory Programs  
Regulations and Standards Branch  
Attention – Kelly Odom  
45600 Woodland Rd (Mail code VAE-ORP)  
Sterling, VA 20166

**Re: Risk Management, Financial Assurance and Loss Prevention, RIN 1082-AA02  
Notice of Proposed Rulemaking and Request for Comments  
30 CFR Parts 250 and 290  
Federal Register Volume 85, No. 201, Page 65904, Dated October 16, 2020**

Gentlemen and Ladies,

Chevron U.S.A. Inc. (Chevron) appreciates the opportunity to comment on the Bureau of Safety and Environmental Enforcement's ("BSEE") Federal Register Notice requesting feedback on the Proposed Risk Management, Financial Assurance and Loss Prevention rulemaking ("Proposed Rule"). Chevron, and its affiliated companies, have been exploring and developing outer continental shelf ("OCS") leases from inception of the federal offshore leasing program under the Outer Continental Shelf Lands Act of 1953 ("OCSLA") through today and are committed to remain active on the OCS well into the future. We continue to hold interest in significant acreage, both including hundreds of producing and non-producing leases in the Gulf of Mexico and have held interests in thousands of leases during the existence of the offshore leasing and development program established under OCSLA. Chevron and its legacy companies have a long history of operating safely and in an environmentally responsible manner on the OCS. We believe our company's focus on developing and operating world class projects in a prudent manner coupled with the development of new offshore technologies that will unlock significant new proven resources on the GOM OCS will position us to effectively and efficiently continue to explore for and produce hydrocarbons needed for the U.S. economy today and in the future.

Chevron fully supports revising the risk management, financial assurance, and loss prevention regulations to better reflect the changing offshore business environment that exists today. It is imperative that owners of offshore leases have the capability to meet all obligations of a prudent operator, including both contractual and regulatory responsibilities associated with acquiring and developing these leases including all obligations associated with decommissioning activities. A robust risk management, financial assurance and loss prevention program ensures the federal government, and ultimately the U.S. taxpayers, will not be required to fund any lease decommissioning obligation that goes unaddressed.

**All offshore operators and leaseholders should be held to the highest standards when operating on the OCS, and there should be no exception to this requirement.** Whether an offshore operator/leaseholder is associated with a 50-person company or a 50,000-person organization, the same high standard of responsibility, performance and care should apply when operating offshore leases. To that end, all entities are expected to comply with the laws, regulations, industry practices, government procedures and guidelines that enable safe and environmentally responsible operations. At Chevron we take complying with these laws, regulations, industry practices, government procedures and guidelines very seriously. There is no different standard of operating for Chevron. We are committed to conducting our business responsibly and in accordance with applicable laws, regulations, industry practices, government procedures and guidelines everywhere we operate. Protecting our employees and the environment are our highest priorities without exception. We expect other companies in the energy industry to conduct their business under these same guiding principles to protect the people and the environment, especially those entities operating offshore.

### **Proposed Regulations Comment Overview**

Chevron appreciates BSEE's effort to streamline the risk management, financial assurance and loss prevention regulations found under 30 CFR Chapter II Subchapter B Part 250 and Subchapter C Part 290. We understand BSEE's intended goal for its new proposed financial assurance program is to continue to protect the U.S. taxpayers from exposure to financial loss associated with OCS development while ensuring that the financial assurance program does not detrimentally affect offshore investment or competitively disadvantage offshore energy companies. We agree with this objective and fully support a financial assurance regime that is fair to all parties, balanced, understandable and can be easily administered. Regulations that are clear, provide certainty and predictability are paramount to the success of the OCS program.

In addition to these comments, Chevron supports and has participated in the development of comments being submitted by the American Petroleum Institute (API), of which Chevron is a member, and, to the extent not inconsistent, incorporates them by reference herein. For ease of review, we have divided our comments into the parts and subparts of the regulations that are under consideration for change. Under these parts and subparts, we will provide Chevron's answers to the questions BSEE asked throughout the Federal Register Notice, offer feedback on the proposed regulatory changes, and in some cases recommend enhancements to those proposed regulatory changes. If Chevron has no suggested enhancements or commentary to offer on any particular subpart, the subpart has not been addressed in this comment letter. In addition, we have included an attachment at the end of our comments that specially identifies the textual edits we are recommending to the actual language in the proposed rule. Our proposed edits are shown in a different color.

**Title 30 Chapter II, Subchapter B, Part 250, Subparts 1700 – 1709 (Decommissioning Obligations)**

**Chevron supports BSEE’s intent to modify its decommissioning regulations in a manner that when holding predecessors responsible for the performance of accrued decommissioning obligations BSEE would issue decommissioning orders to predecessors in reverse chronological order through the chain-of-title, organized in groups by designated operator(s).** We believe this approach is fair and equitable especially when considering the immediate prior owners may have private security arrangements with the defaulting lessees or grant holders of which BSEE is not aware that can be used to offset the cost of performing any outstanding decommissioning obligation that the predecessors or group of predecessors have accrued. Further, it looks to the most recent owner/operator who has the most current knowledge of the infrastructure, operations and operational history and is best positioned to assume operational control.

We agree that when the current lessee or grant holder defaults on the unperformed decommissioning liabilities, BSEE should enforce predecessor decommissioning obligations by focusing on the most recent predecessor(s) first before turning to predecessors up the chain of title. Chevron believes using the reverse chronological order approach better ensures safety and environmental protection, as well as provides greater predictability and transparency as to how BSEE enforces decommissioning obligations, compared to the current approach. Immediate predecessors, especially the prior operator, have a better understanding of the wells, platforms, pipelines, and other equipment on the lease or grant at the time the lease or grant was conveyed to others. These immediate predecessors have knowledge and operational history that predecessors farther up the chain of title will not have.

Chevron supports BSEE’s proposal to identify predecessor lessees or grant holders who held their interests during the prior designated operator(s)’ tenure and focus demands for underperformed decommissioning activities on those lessees and/or grant holders. We appreciate this group of predecessors will include the assignors of the defaulting current owners.

We do, however, want to highlight one area of concern we have in reviewing the proposed draft BSEE regulations. The current regulations first adopted in 1997 are clear that decommissioning obligations accrue to the record title interest or operating rights owners of a lease incorporating the regulations when a well is drilled, a platform installed, or a pipeline laid. For such leases, until the drilled well(s) is permanently plugged and abandoned, the platform(s) removed, and pipeline(s) abandoned, and the site cleaned up, these obligations remain, jointly and severally, with the owners of the lease at the time the obligations were created. Contractually assigning the decommissioning obligations to a third party does not eliminate the accrued decommissioning obligation of the assignor under the regulations. **Government approval of an assignment of record title interest or operating rights creates a point in time when no further decommissioning obligation accrues to an assignor (predecessor) on the lease.** Further

government approval of an assignment of interest recognizes that the successor is responsible for any and all obligations including decommissioning obligations on said lease.

**Chevron concurs with the fact Right-of-Use and Easement (RUE) and Pipeline Right-of-Way (ROW) grant holders accrued decommissioning obligation in the same manner as a lessee during their ownership in a RUE or ROW.** Until these accrued obligations are satisfied pursuant to the regulations, parties accruing such obligations retain the decommissioning obligations regardless of whether the grant with unperformed decommissioning obligations is assigned to a third party. As with a lease, no additional decommissioning obligation accrues to the assignor (predecessor) after government approval of the assignment of the grant.

However, in the proposed regulations, there appears to be an attempt by BSEE to significantly expand the obligations of a predecessor if a predecessor receives a demand from BSEE to fulfill any unperformed accrued decommissioning obligation. BSEE is proposing when demanding performance from a predecessor, or group of predecessors, that the predecessors identify an entity to begin maintaining and monitoring “any facility identified” in the BSEE decommissioning order within 30 days of receiving the order. The demand would also require predecessors to identify a designated operator for decommissioning within 60 days of receiving an order, and to submit a decommissioning plan that includes the scope of work and projected decommissioning schedule for “all” wells, platforms, and other facilities within 90 days of receiving an order. According to existing regulations and applicable leases, a predecessor’s unperformed decommissioning obligations are limited to only those that accrued during its ownership in a lease or grant. Decommissioning obligations associated with new wells, platforms, pipelines and other lease, RUE or ROW equipment that accrue after the ownership of a predecessor ceases and accrues to the current lease or grant holders. It could be interpreted that BSEE is attempting to expand a predecessors liability by stating in a demand order the predecessor has a decommissioning obligation associated with any well, platform, pipeline or other equipment accrued after a point in time where the predecessor no longer owned an interest in the lease or grant. This concern is further affirmed by the use of the word “all” in the proposed regulation whereby a predecessor operator is expected to submit a decommissioning work plan and schedule to BSEE covering the unperformed decommissioning work to be performed by the predecessor. **Chevron objects to any expansion of such obligations and recommends that the proposed regulations are clear that a predecessor’s responsibilities for reporting on and performing any outstanding decommissioning obligation is limited only to those that have accrued to the predecessor and not otherwise.** No legal authority exists for imposing unaccrued obligations on a predecessor. Further, the timelines proposed for action by the predecessor on the obligations that have not been met by the most recent lessee/interest owner are too aggressive and should be modified allowing ample time for the predecessor to obtain information and respond in an informed manner.

Considering our comments above, Chevron suggests the following:

**§ 250.105 Definitions.**

Chevron supports expanding the definition of “You” to include Right-of-Use and Easement grant holders but disagrees with including the word “predecessor” in the general definition of “You.” By including the word “predecessor” in the definition of “You”, it can clearly be interpreted that the definition greatly expands the liability of a predecessor to include not only those obligations that accrued during the predecessor’s ownership in a lease or grant but also liabilities that accrue in a current lease, RUE or ROW grant after the predecessor no longer owns an interest in the lease or grant. **As stated above, a predecessor’s obligations cease to accrue upon approval by the government of their assignment to others under a lease or grant. To ensure this ambiguity of expanded predecessor liability does not occur, Chevron proposes the new “You” definition be drafted as follows:**

*You*, depending on the context of the regulations, means a bidder, a lessee (record title owner), a sublessee (operating rights owner), a right-of-use and easement grant holder, a pipeline right-of-way grant holder, ~~a predecessor~~, a designated operator or agent of the lessee or grant holder, or an applicant seeking to become one of the above. **The definition of “You” will also apply to a predecessor only after a government demand or order has been issued to a predecessor related to complying with an unperformed accrued decommissioning obligation of the predecessor.**

**§ 250.1700 What do the terms “decommissioning,” “obstructions,” “facility,” and “predecessor” mean?**

We suggest modifying the new definition of “Predecessor” to clarify the accrued obligation of the predecessor.

(a) *Predecessor* means a prior lessee or owner of operating rights, or a prior holder of a right-of-use and easement grant, or a pipeline right-of-way grant, that is liable for **the unperformed ~~accrued~~ decommissioning obligations that accrued during its ownership in the lease or grant.**

**§ 250.1701 Who must meet the decommissioning obligations in this subpart?**

Chevron supports BSEE’s proposal to expressly extend decommissioning obligations to RUE grant holders in the same manner as lessees and operating rights owners who retain those obligations jointly and severally until satisfied. RUE grant holders would retain their joint and several liability for satisfying any decommissioning obligations accrued during their ownership of the RUE.

We provide the following enhancements to the proposed regulations to reduce ambiguity and ensure clarity in who has what decommissioning obligations. Our suggested changes are highlighted below:

(a) Lessees, owners of operating rights, **and** or their predecessors, are jointly and

severally liable for meeting decommissioning obligations for facilities on leases, including the obligations related to lease-term pipelines, as the obligations accrue **to current lessees, operating rights owners or in the past to predecessors**, and until each obligation is met.

(b) All holders of a right-of-way grant ~~and~~ **or** their predecessors are jointly and severally liable for meeting decommissioning obligations for facilities on their right-of-way, including right-of-way pipelines, as the obligations accrue **to the current grant holder or predecessor** and until each obligation is met.

(c) All right-of-use and easement grant holders and prior lessees of the parcel on whose leases there existed facilities or obstructions that remain on the right-of-use and easement grant are jointly and severally liable for meeting decommissioning obligations, including obligations for any well, pipeline, platform or other facility, or an obstruction, on their right-of-use and easement, as the obligations accrue **to the current grant holder or lessees** and until each obligation is met.

(d) In this subpart, the terms “you” or “I” refer to lessees and owners of operating rights, ~~including their predecessors~~, as to facilities installed under the authority of a lease; to pipeline right-of-way grant holders, ~~including their predecessors~~, as to facilities installed under the authority of a pipeline right-of-way grant; and to right-of-use and easement grant holders, ~~including their predecessors, such as former lessees of the parcel~~, as to facilities constructed, modified, or maintained under the authority of the right-of-use and easement grant. **The definition of “You” or “I” will also apply to a predecessor only after a demand or order has been issued to the predecessor related to complying with an unperformed accrued decommissioning obligation of the predecessor.**

#### **§ 250.1702 When do I accrue decommissioning obligations?**

Chevron concurs with revising paragraph (e) to clarify that all holders of a ROW accrue the obligation to decommission during their ownership in a ROW and add a new paragraph (f) to provide that an entity accrues decommissioning obligations when it is or becomes the holder of a RUE grant on which there is a well, pipeline, platform or other facility, or an obstruction.

#### **§ 250.1703 What are the general requirements for decommissioning?**

No comments

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

Chevron recommends the timeframe allotted in the new paragraph (b) in the Table requiring predecessors to submit for BSEE approval, within 90 days of receiving a decommissioning order under proposed § 250.1708, a decommissioning plan with a scope of work and schedule to address

wells, pipelines, and platforms, be changed to 120 days. Any predecessor who has either not owned an interest in a lease, RUE or ROW for years, or a predecessor that never operated, will need time to assess the status of the accrued unperformed decommissioning obligations being assumed by the predecessor. This will include verifying decommissioning obligations that were accrued by the predecessor and those that were not. It will take time to conduct this analysis especially if data and information is limited. We propose the following changes to the table heading, second column entitled “When to submit”:

Within ~~90~~ 120 days of receiving an order to perform decommissioning under § 250.1708(a)

**§ 250.1708 – How will BSEE enforce accrued decommissioning obligations against predecessors?**

**Chevron supports BSEE issuing demands to predecessors in reverse chronological order ONLY after current owners of leases, RUEs, or ROWs default on their decommissioning obligations. However, BSEE should not demand a predecessor or group of predecessors assume the responsibility for conducting unperformed accrued decommissioning obligations until it has exhausted all reasonable means of compelling the defaulting party or parties to comply with their regulatory and contractual obligations to fulfil their decommissioning obligations.** Ultimately, current operators and co-lessees should be held primarily liable to meet their decommissioning obligations and thus should be held accountable to the maximum extent possible before demanding predecessor companies to handle accrued underperformed decommissioning obligations. Should BSEE have no choice but to issue a demand letter to a predecessor, or group of predecessors, the demand needs to be very clear as to the accrued decommissioning obligations BSEE is demanding the predecessor assume. Under no circumstance is a predecessor responsible for the maintenance, monitoring or the development of a decommissioning work plan for any well, platform, pipeline, or facility on which it has not accrued any unperformed decommissioning obligation. The proposed regulations should make this very clear.

Once a predecessor receives a demand, BSEE is proposing that the predecessors identify an entity to begin maintaining and monitoring any facility identified in the BSEE decommissioning order within 30 days of receiving the order. The entity identified may or may not be the decommissioning operator, but it is unclear if that is BSEE’s intent with the proposed rule changes. Within 60 days of receiving the order, predecessors will then identify a designated operator for decommissioning. This may or may not be the same entity identified in the first 30-day period describe above. This seems overly complicated. The predecessors should designate a decommissioning operator in the first phase of the demand process, and this should be made clear in the regulations. The 30-day period is too short from the receipt of the demand to the designation of a decommissioning operator. Entities that have not operated leases, RUEs or ROWs for years will need time to access the obligations they are assuming and to develop a plan to address these obligations. BSEE has the authority to compel current owners of leases, RUEs, and ROWs to

comply with the terms and conditions of their lease, RUE or ROW. Once the lease, RUE or ROW terminate, and the current owner defaults on their decommissioning obligations, any predecessor brought in to assume an accrued unperformed decommissioning obligation should be given adequate time to assess the obligation and to formulate a safe plan to address the obligation. We agree that decommissioning needs to proceed in a timely and structured fashion that ensures safety and environmental protection, but BSEE needs to have reasonable expectations when bringing in a replacement decommissioning operator to abandon wells, platforms, pipelines or other facilities that they may not have operated in years. In addition, if BSEE requests a predecessor oversee the maintenance and monitoring of wells, platforms or pipelines on which it has no accrued liability, should the predecessor agree, it will take time for the predecessor operator to assess these wells, platforms and pipelines and to develop a plan to provide the necessary safe operations of these wells, platforms and pipelines until an abandonment agreement can be reached with BSEE.

Chevron does not disagree that BSEE should retain the flexibility to deviate from the reverse chronological order, and potentially issue decommissioning orders to any or all other liable predecessors, where previously ordered parties fail to obtain approval of a decommissioning plan, or fail to timely execute the decommissioning according to the approved decommissioning plan. Chevron recognizes the fact that when predecessors fail to perform, unacceptable delays in decommissioning are likely to occur. Such delays could, in some cases, lead to safety or environmental risks. If exercised, this deviation should not allow obligated parties who have failed to perform to circumvent the responsibility of remaining financially liable for the work ultimately performed. **BSEE should ensure the regulations are clear that the financial obligations do not cease if BSEE sends out additional demands to predecessors up the chain of title who retain unperformed accrued decommissioning obligations.**

In support of Chevron's position concerning the above commentary, we offer the following suggested enhancements (highlighted below) to the proposed language in **§250.1708**:

- (a) Except as provided in paragraph (d), when holding predecessors responsible for performing **only their** accrued decommissioning obligations, BSEE will issue decommissioning orders to groups of predecessors who held interests in the lease or grant within the same general timeframe in reverse chronological order. BSEE will issue such orders to predecessors in groups organized by the following:
  - (1) Changes in designated operator(s) over time (*i.e.*, all predecessors who held relevant lease, **operating rights**, or grant interests during the tenure of a particular designated operator or during the tenure of contemporaneous designated operators **as determined by BSEE**) and
  - (2) Predecessors who assigned interests to a lessee, owner of operating rights, or grant holder that subsequently defaulted.
- (b) When BSEE issues an order to predecessors to perform **their** accrued decommissioning obligations, the predecessors must:
  - (1) Within **30 90** days of receiving the order, begin maintaining and monitoring, through a single entity identified to BSEE, any facility, including wells and pipelines as

- identified by BSEE in the order, **in which the predecessors have an outstanding accrued decommissioning obligation**, in accordance with applicable requirements under this part (including, but not limited to, testing safety valves and sensors, draining vessels, and performing pollution inspections); and
- (2) Within ~~60~~ 120 days of receiving the order, designate a single entity to serve as operator for the **unperformed accrued decommissioning operations only**;
  - (3) Within ~~90~~ 180 days of receiving the order, the entity identified in paragraph (2) must submit a decommissioning plan for approval by the Regional Supervisor that includes the scope of work and a reasonable decommissioning schedule for ~~all~~ **the wells, platforms and other facilities, pipelines, and site clearance for which it has an accrued liability**, as identified in the order **and agreed to by the predecessor operator**; and
  - (4) Perform the required decommissioning in the time and manner specified by BSEE in its decommissioning plan approval.
  - (5) **BSEE will immediately grant access to and provide necessary copies of all information, data, records, and associated files associated with the demand or order to the predecessor operator.**
  - (6) **Predecessors will not be responsible or liable for maintenance, repair, monitoring or permanent abandonment of any well, platform, production equipment, pipelines, facility or site clean-up for which they did not accrue an obligation during their ownership in the lease or grant.**
- (c) Failure to comply with the obligations under paragraph (b) to maintain and monitor a facility or to submit a decommissioning plan may result in a Notice of Incident of Noncompliance and potentially other enforcement actions, including civil penalties and disqualification as an operator.
- (d) Under certain circumstances, BSEE may depart from the order of recourse prescribed in paragraph (a) and issue orders to any or all predecessors for the performance of their respective **unperformed** accrued decommissioning obligations. Those circumstances include, but are not limited to:
- (1) Failure to obtain approval of a decommissioning plan under paragraph (b)(3) or to execute decommissioning according to the approved decommissioning plan;
  - (2) Determination by the Regional Supervisor that there is an emergency condition, safety concern, or environmental threat, including but not limited to facilities not being properly maintained and monitored **in which a subsequent predecessor has an accrued liability**, in accordance with applicable requirements under this part; ~~or~~
  - (3) ~~Determination by the Regional Supervisor that proceeding pursuant to paragraph (a) would unreasonably delay decommissioning.~~
- (e) BSEE's issuance of orders to any predecessors will not relieve any current lessee or grant holder, or any ~~other~~ **previously ordered** predecessor, of its **financial** obligations to comply with any prior decommissioning order or to satisfy any **unperformed** accrued decommissioning obligations. **BSEE will continue to pursue collection of any funds due to any subsequent predecessor for performing the decommissioning activities of any non-performing predecessor or the current owners. Funds collected by BSEE will be disbursed**

to the predecessor who performed the decommissioning activities as soon as reasonably possible after collection.

**§ 250.1709 What must I do to appeal a BSEE final decommissioning decision or order issued under this subpart?**

Chevron supports requiring entities failing to meet the minimum financial credit rating threshold established under §550.901 for providing additional security under an OCS lease, RUE or ROW, to provide a bond when appealing a decommissioning decision or order in an amount deemed by BSEE to be adequate to ensure completion of decommissioning if the lessee or grant holder loses its appeal and subsequently defaults on its obligation. The obligation to provide the bond should not be a requirement for entities whose issuer credit rating exceeds the minimum threshold under §550.901.

We propose the following language (highlighted text) to reflect Chevron's recommended position on posting bonds during an appeal:

If you file an appeal, pursuant to 30 CFR part 290, of a BSEE decision or order to perform any decommissioning activity under subpart Q of this part, in order to seek to obtain stay of that decision or order, **if you fail to meet the credit rating threshold for providing additional security as determined under 30 CFR 556.90**, you must post a surety bond in an amount that BSEE determines will be adequate to ensure completion of the specified **unperformed accrued** decommissioning activities in the event that your appeal is denied and you thereafter fail to perform any of your decommissioning obligations.

**§ 250.1725 When do I have to remove platforms and other facilities?**

No comments.

**Title 30 Chapter II, Subchapter C, Part 290 (Appeal Procedures)  
PART 290—APPEAL PROCEDURES**

**§ 290.7 Do I have to comply with the decision or order while my appeal is pending?**

Chevron understands that BSEE's regulations allow parties adversely affected by a BSEE order or decision, including a decommissioning order or decision, to administratively appeal that decision to the IBLA. There is no bonding requirement for appeals of decommissioning orders under current regulations. In the past, the absence of an express bonding requirement for decommissioning appeals was of little or no practical consequence because, when a current lessee or grant holder failed to perform its decommissioning obligations, BSEE usually issued decommissioning orders to all jointly and severally liable predecessors at the same time. Thus, even if one or more of the predecessors appealed such an order, it was probable that other

predecessors would perform the decommissioning in a timely manner. However, under the proposed reverse chronological approach involving predecessors, BSEE is of the opinion that each temporally related group of lessees or grant holders ordered to perform decommissioning at any given point will be smaller in number than the entire set of “any or all predecessors” ordered to decommission under BSEE’s current approach. BSEE believes the smaller number of entities in any chronological group could increase the probability that performance of decommissioning could be delayed by appeals from a predecessor or predecessors in that group, or by a succession of appeals by later groups of predecessors. Chevron does not disagree that the reduced pool of lessees or grant holders in the designated group of predecessors, and the potential for such resulting delays, could exacerbate the possibility that the ultimate responsible party(ies) might default or otherwise be unavailable or unable to perform decommissioning if the appeal is ultimately unsuccessful. We agree, BSEE might have difficulty ensuring that decommissioning will actually be performed on a timely basis, and without reliance on taxpayer funds, absent the additional financial assurance provided by the proposed requirement to post a surety bond in order to obtain a stay of a decision or order pending appeal.

BSEE’s intent with the new bonding requirement when an appeal is filed is to provide up-front assurance that the appealing party will ultimately meet its financial decommissioning obligations if the appeal is denied. In the event that the appeal is denied and the appealing party defaults, and no other viable predecessors exist at that point, BSEE could use the proceeds of the forfeited bond to arrange for decommissioning without shifting that financial burden to the public.

BSEE proposes to amend its regulations to require any predecessor who appeals a decommissioning order or decision to post a surety bond in order to obtain a stay of that decision or order pending the appeal. While we believe this is reasonable for financially weak lessees, grant holders and predecessors, we don’t agree bonds should be provided by financially strong entities under demand from BSEE who can meet the credit rating threshold for providing additional security as determined under 30 CFR 556.90.

We propose the following language (highlighted text) to reflect Chevron’s recommended position on posting bonds during an appeal:

(a)(2) You post a surety bond under 30 CFR 250.1409 pending the appeal challenging an order to pay a civil penalty. **If ~~or~~ under 30 CFR 250.1709 you have an appeal pending ~~the appeal~~ challenging a decommissioning decision or order, you will post a bond if you fail to meet the credit rating threshold for providing additional security as determined under 30 CFR 556.90.**

### **Other Questions and Feedback**

**BSEE Question:** BSEE requests comments on whether, as some stakeholders have asserted, issuing decommissioning orders first to the predecessors nearest in time to the current lessees or grant holders would have positive safety and environmental impacts because the most recent

predecessors should be more familiar with the current circumstances at a decommissioning site than more remote predecessors.

*Chevron Answer: As stated above, Chevron believes the immediate past operator is the best party to address unperformed decommissioning obligations due to the fact they would be better positioned to understand the wells, platforms, pipelines and other facilities on a lease, RUE or ROW they managed during their tenure as operator. Entities up the chain of title will not have this in-depth knowledge or past history as a recent operator(s) in the chain of title.*

**BSEE Question:** BSEE also requests comments on any other potential effects of the proposed changes on the timely and effective completion of decommissioning.

*Chevron Answer: Chevron supports using reverse chronological order as the preferred method of pursuing unperformed accrued decommissioning obligations of a predecessor. As mentioned above, immediate predecessors, especially the prior operator, have a better understanding of the wells, platforms, pipelines, and other equipment on the lease or grant at the time the lease or grant was conveyed to others. These predecessors have the knowledge and operational history that predecessors farther up the chain of title will not have. We believe safety and environmental protection of the OCS will be enhanced by following the reverse chronological order methodology. However, any deviation from using reverse chronological order should be the exception and should not circumvent the responsibility of those failing to perform.*

### **Additional Comments**

In the commentary provided by BSEE in the proposed rule BSEE makes the statement, “BSEE’s proposals result in no cost impacts.” Chevron disagrees with this statement. **Predecessors will be significantly impacted by orders or demands placed on them by BSEE should current lessees and grant holder’s default on their decommissioning obligations.** The costs incurred by the predecessors, especially the operator, can be significant. Predecessors do not hold funds in reserve to cover costs associated with OCS properties previously sold. In addition, they don’t retain staff to address unknown liabilities. Receipt of a demand letter from BSEE for accrued decommissioning obligations others have assumed from a predecessor triggers significant internal action by the predecessor. This action includes mobilization of inhouse, field staff, legal and regulatory staff along with budget discussions. None of these unplanned costs are addressed in BSEE’s assessment of the proposed rule on the regulated public, especially the predecessors. BSEE should gather cost data from predecessors who have received decommissioning demands from BSEE in the past to better assess the costs incurred by predecessors once a demand is received from BSEE to address unperformed decommissioning obligations on a lease, RUE or ROW.

Chevron also has concerns about BSEE allowing operators who default on their decommissioning obligations to continue to operate in the OCS. There are numerous examples where operators/lessees/grant holders have defaulted on their lease, RUE and ROW decommissioning obligations through bankruptcy or other means but are allowed to continue to operate other OCS

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leases, RUE's, or ROWs. **An entity that defaults on any decommissioning obligations should be disqualified from operating in the OCS.** By allowing these entities to continue to operate, BSEE is encouraging these operators to repeat their previous behavior and default again. This practice should stop. BSEE should implement a policy disqualifying any operator from operating any lease, RUE or ROW in the OCS should they default on any decommissioning obligation.

Chevron is also concerned about the way the proposed rule is structured which could be interpreted to allow current operators failing to address their idle iron obligations on an active or inactive lease, RUE or ROW to trigger a demand from BSEE to a predecessor to conduct these unperformed idle iron decommissioning obligations. The edits we have suggested to enhance the proposed rule attempt to eliminate the possibility of BSEE demanding a predecessor to decommission a well, platform or pipeline classified as idle iron on an active lease, RUE or ROW. **BSEE should use all the tools in its toolbox to ensure that the current operator timely addresses its idle iron obligations.** This includes requiring the delinquent operator to provide additional security under the new financial assurance program equal to BSEE's estimate of the costs to be incurred to permanently plug the idle wells and abandon the idle platforms and pipelines.

Should you have any questions regarding Chevron's comments or feedback on the proposed rule, please do not hesitate to contact me.

Yours very truly,  
**Chevron U.S.A. Inc.**

*Mark Hatfield*

Mark Hatfield  
Vice President

# Attachment

Attached to and made part of Chevron's Comments regarding BSEE's Risk Management, Financial Assurance and Loss Prevention Proposed Rule

## **TITLE 30—MINERAL RESOURCES**

### **CHAPTER II—BUREAU OF SAFETY AND ENVIRONMENTAL**

#### **ENFORCEMENT, DEPARTMENT OF THE INTERIOR**

##### **SUBCHAPTER B--OFFSHORE**

###### **PART 250—OIL AND GAS AND SULFUR OPERATIONS IN THE**

###### **OUTER CONTINENTAL SHELF**

1. The authority citation for part 250 continues to read as follows:

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

2. Amend § 250.105 by removing the terms and definitions for “Easement” and “Right-of-use” and replacing them with a new term and definition for “Right-of-Use and Easement” to read as follows:

#### **§ 250.105 Definitions.**

\* \* \* \* \*

*Right-of-Use and Easement* means a right to use a portion of the seabed at an OCS site, other than on a lease you own, to construct, modify, or maintain platforms, artificial islands, facilities, installations, and other devices, established to support the exploration, development, or production of oil and gas, mineral, or energy resources from an OCS or State submerged lands lease.

*You* means depending on the context of the regulations, means a bidder, a lessee (record title owner), a sublessee (operating rights owner), a right-of-use and easement grant holder, a pipeline right-of- way grant holder, ~~a predecessor~~, a designated operator or agent of the lessee or grant holder, or an applicant seeking to become one of the above.

The definition of “You” will also apply to a predecessor only after a government demand or order has been issued to a predecessor related to complying with an unperformed accrued decommissioning obligation of the predecessor.

\* \* \* \* \*

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3. Amend § 250.1700 by revising the section title, revising paragraph (a)(2), and by adding a new paragraph (d), to read as follows:

**§ 250.1700 What do the terms “decommissioning,” “obstructions,” “facility,” and “predecessor” mean?**

(a) \* \* \*

(2) Returning the lease, pipeline right-of-way, or the area of a right-of-use and easement to a condition that meets the requirements of BSEE and other agencies that have jurisdiction over decommissioning activities.

\* \* \* \* \*

(a) *Predecessor* means a prior lessee or owner of operating rights, or a prior holder of a right-of-use and easement grant, or a pipeline right-of-way grant, that is liable for **the unperformed ~~accrued~~ decommissioning obligations that accrued during its ownership in the lease or grant.**

4. Revise § 250.1701 to read as follows:

**§ 250.1701 Who must meet the decommissioning obligations in this subpart?**

(a) Lessees, owners of operating rights, **and or** their predecessors, are jointly and severally liable for meeting decommissioning obligations for facilities on leases, including the obligations related to lease-term pipelines, as the obligations accrue **to current lessees, operating rights owners or in the past to predecessors**, and until each obligation is met.

(b) All holders of a right-of-way grant **and or** their predecessors are jointly and severally liable for meeting decommissioning obligations for facilities on their right-of-way, including right-of-way pipelines, as the obligations accrue **to the current grant holder or predecessor** and until each obligation is met.

(c) All right-of-use and easement grant holders and prior lessees of the parcel on whose leases there existed facilities or obstructions that remain on the right-of-use and easement grant are jointly and severally liable for meeting decommissioning obligations, including obligations for any well, pipeline, platform or other facility, or an

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obstruction, on their right-of-use and easement, as the obligations accrue to the current grant holder or lessees and until each obligation is met.

(d) In this subpart, the terms "you" or "I" refer to lessees and owners of operating rights, ~~including their predecessors~~, as to facilities installed under the authority of a lease; to pipeline right-of-way grant holders, ~~including their predecessors~~, as to facilities installed under the authority of a pipeline right-of-way grant; and to right-of-use and easement grant holders, ~~including their predecessors, such as former lessees of the parcel~~, as to facilities constructed, modified, or maintained under the authority of the right-of-use and easement grant. ~~The definition of "You" or "I" will also apply to a predecessor only after a demand or order has been issued to the predecessor related to complying with an unperformed accrued decommissioning obligation of the predecessor.~~

5. Amend § 250.1702 by revising paragraph (e), re-designating paragraph (f) as paragraph (g), and adding new paragraph (f), to read as follows:

### **§ 250.1702 When do I accrue decommissioning obligations?**

\* \* \* \* \*

(e) Are or become a holder of a pipeline right-of-way on which there is a pipeline, platform, or other facility, or an obstruction;

(f) Are or become the holder of a right-of-use and easement grant on which there is a well, pipeline, platform, or other facility, or an obstruction; or

(g) Re-enter a well that was previously plugged according to this subpart.

6. Amend § 250.1703 by revising paragraph (e) to read as follows:

### **§ 250.1703 What are the general requirements for decommissioning?**

\* \* \* \* \*

(e) Clear the seafloor of all obstructions created by your lease, pipeline right-way, or right-of-use and easement operations;

\* \* \* \* \*

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7. Amend § 250.1704 by re-designating paragraphs (b) through (j) as paragraphs (c) through (k) and by inserting a new paragraph (b) to read as follows:

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

\* \* \* \* \*

### DECOMMISSIONING APPLICATIONS AND REPORTS TABLE

Decommissioning applications and reports	When to submit	Instructions
<p>*****</p> <p>(b) Submit decommissioning plan per § 250.1708(b)(3) that addresses all wells, platforms and other facilities, pipelines, and site clearance upon receiving an order to perform decommissioning.</p> <p>*****</p>	<p>Within <del>90</del> 120 days of receiving an order to perform decommissioning under § 250.1708(a)</p>	<p>Include information required under § 250.1708(b)(2) and (b)(3)</p>

8. Replace reserved § 250.1708 with a new § 250.1708 to read as follows:

**§ 250.1708 – How will BSEE enforce accrued decommissioning obligations against predecessors?**

(a) Except as provided in paragraph (d), when holding predecessors responsible for performing **only their** accrued decommissioning obligations, BSEE will issue decommissioning orders to groups of predecessors who held interests in the lease or grant within the same general timeframe in reverse chronological order. BSEE will issue such orders to predecessors in groups organized by the following:

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- (1) Changes in designated operator(s) over time (*i.e.*, all predecessors who held relevant lease, **operating rights**, or grant interests during the tenure of a particular designated operator or during the tenure of contemporaneous designated operators **as determined by BSEE**) and
  - (2) Predecessors who assigned interests to a lessee, owner of operating rights, or grant holder that subsequently defaulted.
- (b) When BSEE issues an order to predecessors to perform **their** accrued decommissioning obligations, the predecessors must:
- (1) Within ~~30~~ **90** days of receiving the order, begin maintaining and monitoring, through a single entity identified to BSEE, any facility, including wells and pipelines as identified by BSEE in the order, **in which the predecessors have an outstanding accrued decommissioning obligation**, in accordance with applicable requirements under this part (including, but not limited to, testing safety valves and sensors, draining vessels, and performing pollution inspections); and
  - (2) Within ~~60~~ **120** days of receiving the order, designate a single entity to serve as operator for the **unperformed accrued decommissioning operations only**;
  - (3) Within ~~90~~ **180** days of receiving the order, the entity identified in paragraph (2) must submit a decommissioning plan for approval by the Regional Supervisor that includes the scope of work and a reasonable decommissioning schedule for ~~all~~ **the** wells, platforms and other facilities, pipelines, and site clearance **for which it has an accrued liability**, as identified in the order **and agreed to by the predecessor operator**; and
  - (4) Perform the required decommissioning in the time and manner specified by BSEE in its decommissioning plan approval.
  - (5) **BSEE will immediately grant access to and provide necessary copies of all information, data, records, and associated files associated with the demand or order to the predecessor operator.**
  - (6) **Predecessors will not be responsible or liable for maintenance, repair, monitoring or permanent abandonment of any well, platform, production equipment, pipelines, facility or site clean-up for which they did not accrue an obligation during their ownership in the lease or grant.**
- (c) Failure to comply with the obligations under paragraph (b) to maintain and monitor a facility or to submit a decommissioning plan may result in a Notice of Incident of Noncompliance and potentially other enforcement actions, including civil penalties and

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disqualification as an operator.

(d) Under certain circumstances, BSEE may depart from the order of recourse prescribed in paragraph (a) and issue orders to any or all predecessors for the performance of their respective **unperformed** accrued decommissioning obligations. Those circumstances include, but are not limited to:

(1) Failure to obtain approval of a decommissioning plan under paragraph (b)(3) or to execute decommissioning according to the approved decommissioning plan;

(2) Determination by the Regional Supervisor that there is an emergency condition, safety concern, or environmental threat, including but not limited to facilities not being properly maintained and monitored, **in which a subsequent predecessor has an accrued liability**, in accordance with applicable requirements under this part; ~~or~~

~~(3) Determination by the Regional Supervisor that proceeding pursuant to paragraph (a) would unreasonably delay decommissioning.~~

(e) BSEE's issuance of orders to any predecessors will not relieve any current lessee or grant holder, or any ~~other~~ **previously ordered** predecessor, of its **financial** obligations to comply with any prior decommissioning order or to satisfy any **unperformed** accrued decommissioning obligations. **BSEE will continue to pursue collection of any funds due to the subsequent predecessor for performing the decommissioning activities of the non-performing predecessor or the current owners. Funds collected by BSEE will be disbursed to the predecessor who performed the decommissioning activities as soon as reasonably possible after collection.**

(f) A pending appeal, pursuant to 30 CFR part 290, of any decommissioning order does not preclude BSEE from proceeding against any or all predecessors other than the appellant in accordance with paragraph (d).

9. Replace reserved § 250.1709 with a new § 250.1709 to read as follows:

**§ 250.1709 What must I do to appeal a BSEE final decommissioning decision or order issued under this subpart?**

If you file an appeal, pursuant to 30 CFR part 290, of a BSEE decision or order to perform any decommissioning activity under subpart Q of this part, in order to seek to obtain stay of that

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decision or order, **if you fail to meet the credit rating threshold for providing additional security as determined under 30 CFR 556.90**, you must post a surety bond in an amount that BSEE determines will be adequate to ensure completion of the specified **unperformed accrued** decommissioning activities in the event that your appeal is denied and you thereafter fail to perform any of your decommissioning obligations.

**10.** Amend § 250.1725 by revising the first sentence of paragraph (a) to read as follows:

**§ 250.1725 When do I have to remove platforms and other facilities?**

(a) You must remove all platforms and other facilities within 1 year after the lease, pipeline right-of-way, or right-of-use and easement terminates, unless you receive approval to maintain the structure to conduct other activities.\* \* \*

\* \* \* \* \*

### **SUBCHAPTER C—APPEALS**

#### **PART 290—APPEAL PROCEDURES**

**11.** The authority citation for part 290 continues to read as follows: Authority: 5

U.S.C. 305; 43 U.S.C. 1334.

\* \* \* \* \*

Amend§ 290.7(a) by revising paragraph (a)(2) to read as follows:

(a)(2) You post a surety bond under 30 CFR 250.1409 pending the appeal challenging an order to pay a civil penalty. **If ~~or~~ under 30 CFR 250.1709 you have an appeal pending ~~the appeal~~ challenging a decommissioning decision or order, you will post a bond if you fail to meet the credit rating threshold for providing additional security as determined under 30 CFR 556.90.**

\* \* \* \* \*