

July 7, 2026

VIA ELECTRONIC SUBMISSION

Ms. Anna Atkinson  
Information Collection Clearance Officer  
Department of the Interior, Bureau of Ocean Energy Management  
45600 Woodland Road  
Sterling, Virginia 20166

**Re: Agency Information Collection Activities; Proposals, Submissions, and Approvals: Oil Spill Financial Responsibility for Offshore Facilities, Docket No. BOEM-2026-0496**

Dear Ms. Atkinson:

## **I. Introduction**

W&T Offshore, Inc. and W&T Energy VI, LLC (collectively “W&T”) respectfully submit these comments to the Department of the Interior’s Bureau of Ocean Energy Management (“BOEM”) in response to the notice revising the information collection request (“ICR”) for *Oil Spill Financial Responsibility for Offshore Facilities*, OMB Control No. 1010-0106.<sup>1</sup> W&T is an independent oil and gas producer with active operations on the Outer Continental Shelf (“OCS”) and submits Forms BOEM-1019 (Insurance Certificate), BOEM-1020 (Surety Bond), and BOEM-1023 (Financial Guarantee) in the ordinary course of demonstrating oil spill financial responsibility (“OSFR”) for its covered offshore facilities.

W&T appreciates the opportunity to participate in this comment period and offers these comments as a respondent that completes these instruments in practice. W&T supports the proposed revisions, which tie the applicable coverage period expressly to when an incident begins.

## **II. The Revised Forms Improve the Clarity and Utility of the Collection**

BOEM specifically invites comment on how it “might enhance the quality, utility, and clarity of the information to be collected.”<sup>2</sup> The revised forms do so in three concrete ways.

First, the forms adopt a single, occurrence-based temporal trigger. Each instrument now applies “only in relation to each incident . . . first occurring on or after the effective date . . . and on or before the termination date.”<sup>3</sup> The accompanying “under no circumstances” language, which

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<sup>1</sup> Agency Information Collection Activities; Oil Spill Financial Responsibility for Offshore Facilities, 91 Fed. Reg. 27,981 (noticed May 15, 2026).

<sup>2</sup> *Id.* at 27,982.

<sup>3</sup> Proposed BOEM Form 1019 §3 (Insurance Certificate), <https://www.regulations.gov/document/BOEM-2026-0496-0002>; Proposed BOEM Form 1020 §4 (Surety Bond), <https://www.regulations.gov/document/BOEM-2026-0496-0003>; Proposed BOEM Form 1023 §5 (Financial Guarantee), <https://www.regulations.gov/document/BOEM-2026-0496-0004>.

forecloses application of a terminated or post-incident instrument to a particular incident, eliminates a recurring dispute between applicants, OSFR providers, and claimants.

Second, the new prospective-application clauses confirm that the revisions do not affect the “validity, applicability, or effect of any previous version(s)” of the same instrument.<sup>4</sup> That clarification protects regulatory expectations and avoids disrupting in-force OSFR instruments.

Third, each form now includes an express order-of-precedence clause stating that, in the event of any conflict or inconsistency between the Oil Pollution Act of 1990<sup>5</sup> (“OPA”) or its implementing regulations, the statute and regulations prevail.<sup>6</sup> The clause forecloses arguments that ambiguous form language could narrow obligations imposed by OPA itself.

### **III. The Revisions Are Necessary to the Proper Functioning of BOEM’s OSFR Program**

Section 1016 of OPA requires responsible parties to establish and maintain evidence of financial responsibility. OPA in turn defines “incident” as “any occurrence or series of occurrences having the same origin . . . resulting in the discharge or substantial threat of discharge of oil.”<sup>7</sup> The “first occurring” trigger therefore matches how OPA defines an incident. The OSFR provider’s obligations turn on which instrument was in place when the incident began.

The existing forms’ silence on the temporal trigger for an incident has produced concrete administrative problems. Coverage disputes have arisen over whether OSFR instruments apply to incidents that first occurred before the instrument’s effective date but continued through the coverage window.<sup>8</sup> Because OPA defines an “incident” as a series of occurrences having the same origin, the current versions of the forms left open for interpretation whether subsequent occurrences within the same ongoing incident triggered coverage under successive OSFR instruments that were then in effect. The apparent ambiguity resulted in successive OSFR providers being drawn into coverage disputes none of them underwrote. The proposed revisions resolve this ambiguity prospectively by adopting “first occurring” as the operative temporal trigger, which ensures that liability attaches to a single OSFR provider at a single moment per incident.

Without a clear temporal trigger, BOEM, applicants, and OSFR providers must adjudicate coverage questions on a claim-by-claim basis, which frustrates BOEM’s ability to establish and maintain a continuous record of evidence of oil spill financial responsibility. The revised forms resolve the ambiguity at the front end and allow BOEM to administer the program on the basis of

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<sup>4</sup> *Id.* Proposed BOEM Form 1019 §8 (Insurance Certificate); Proposed BOEM Form 1020 §9 (Surety Bond); Proposed BOEM Form 1023 §10 (Financial Guarantee).

<sup>5</sup> Oil Pollution Act of 1990 § 1016, 33 U.S.C. §§ 2701-2762.

<sup>6</sup> Proposed BOEM Form 1019 §9 (Insurance Certificate); Proposed BOEM Form 1020 §10 (Surety Bond); Proposed BOEM Form 1023 §11 (Financial Guarantee).

<sup>7</sup> OPA 1990 § 1001(14), 33 U.S.C. § 2701(14).

<sup>8</sup> *See* United States v. HIS Syndicate 0033 @ Lloyd’s, No. 2:24-cv-02767 (E.D. La. filed Nov. 26, 2024) [hereinafter “Taylor Energy Suit”]; *see also* Mem. of Law in Supp. of Underwriters’ Mot. to Dismiss (addressing the Government’s interpretation of “incident” under OPA, first advanced in 2020 to seek coverage across multiple policy years for a 2004 Hurricane Ivan-related loss involving a Taylor Energy facility and associated wells).

plainly stated coverage parameters. This clarity restores predictability to the OSFR market and supports continuous compliance by responsible parties operating in the OCS.

Concern about this temporal-trigger ambiguity extends beyond the regulated community. The Louisiana Attorney General recently urged the U.S. Department of Justice to abandon the successive-provider theory, characterizing the argument as “fundamentally contrary to well-settled insurance law” and directly harmful to American energy production.<sup>9</sup>

#### **IV. The Proposed Revisions Will Increase the Availability of OPA Coverage**

W&T expects that adoption of the proposed revisions to the OSFR forms will significantly improve the availability of OPA coverage in the London insurance market. At the time the Taylor Energy Suit was filed, 17 major OPA insurers collectively offered more than \$300 million in capacity to a single purchaser, well above the \$150 million maximum OSFR requirement. In other words, the market had ample capacity to satisfy regulatory requirements.

Today, however, only 11 markets remain, providing approximately \$125 million to \$140 million in total capacity. This is not sufficient to meet the current \$150 million maximum OSFR requirement. According to W&T’s brokers, securing the upper end of currently available capacity would require an annual premium of approximately \$4.0 million to \$4.5 million. By comparison, in 2020, W&T obtained \$150 million in OPA coverage for an annual premium of approximately \$1.04 million. In recent years, W&T has purchased \$70 million of OPA coverage,<sup>10</sup> but because of the constrained insurance market, saw its premium increase from \$799,000 to \$1.222 million—a 53% increase. W&T expects that adoption of the proposed OSFR form revisions will encourage insurers to reenter the market, restore available capacity, and reduce premiums.

#### **V. Prompt Finalization Will Reduce Operator Costs and Advance Federal Energy Policy**

The timing pressure for finalization of this revision is particularly acute. OPA coverage is typically procured on an annual cycle in the late spring or early summer. The existing forms’ temporal-trigger ambiguity has forced operators to extend prior policy coverage as a stopgap to maintain continuous regulatory compliance, and those extensions are not available indefinitely. Funds diverted to this costlier stopgap are funds that would otherwise be deployed toward exploration, development, and production in the OCS, directly advancing the official policy of the United States to Unleash American Energy.<sup>11</sup> While W&T recognizes that BOEM must satisfy the procedural requirements of the Paperwork Reduction Act, the narrow and clarifying character of the proposed

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<sup>9</sup> Letter from Liz Murrill, La. Att’y Gen., to Pam Bondi, U.S. Att’y Gen. (Sept. 24, 2025), <https://ag.state.la.us/Files/Article/355/Documents/LettertoAttorneyGeneralPamBondi.pdf>.

<sup>10</sup> OPA coverage runs from a \$35 million floor to \$150 million based on a worst-case discharge. 33 U.S.C. § 2716(c)(1)(B), (C); 30 C.F.R. § 553.13. W&T’s worst-case discharge has decreased since 2020, placing it in the \$70 million tier.

<sup>11</sup> See Exec. Order No. 14,154, 90 Fed. Reg. 8,353, 8,353 (Jan. 29, 2025), <https://www.federalregister.gov/documents/2025/01/29/2025-01956/unleashing-american-energy>; U.S. Dep’t of the Interior, Secretarial Order No. 3418, Unleashing American Energy (Feb. 3, 2025), <https://www.doi.gov/document-library/secretary-order/so-3418-unleashing-american-energy>; U.S. Dep’t of the Interior, Secretarial Order No. 3445, Unleashing American Offshore Energy (Nov. 14, 2025), <https://www.doi.gov/document-library/secretary-order/so-3445-unleashing-american-offshore-energy>.

revisions, combined with the time-sensitive financial pressure on OCS operators, supports prompt completion of each step in the agency's clearance process.

## **VI. The Reduced Burden Estimate Is Reasonable**

BOEM proposes reducing the annual burden for this collection from 34,695 hours to 28,245 hours, attributing the reduction to faster OSFR demonstration methods and a decrease in the number of companies maintaining OSFR coverage.<sup>12</sup> W&T agrees that the proposed estimate is reasonable.

The form revisions themselves should yield additional efficiencies that BOEM has not fully captured in its estimate. Clearer coverage language will reduce the iterative correspondence between BOEM, applicants, brokers, and OSFR providers regarding the scope of in-force instruments. Additionally, the revised forms will reduce the volume of clarifying communications after an incident and will reduce disputes over coverage. W&T encourages BOEM to monitor actual respondent burden following implementation and to highlight any further efficiencies in the next renewal of this collection.

## **VII. Conclusion**

W&T supports BOEM's proposed revisions to Forms BOEM-1019, BOEM-1020, and BOEM-1023 and the associated burden estimate, and W&T respectfully urges BOEM to complete its review of comments and submit the ICR to OMB as promptly as practicable following the close of the 60-day comment period. As detailed in Section III, the temporal-trigger ambiguity in the existing forms has produced ongoing operational and market impacts on OCS operators, including extended coverage disputes over incidents that successive OSFR providers did not underwrite. Those impacts continue for so long as the existing forms remain in effect, and as outlined in Section V, time-sensitive procurement pressures on the annual OSFR procurement cycle are imposing avoidable costs on operators that prompt finalization would relieve.

W&T appreciates the opportunity to comment and welcomes the opportunity to discuss these comments with BOEM staff as the agency proceeds with OMB review.

Sincerely,



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<sup>12</sup> 91 Fed. Reg. at 27,982.