

Statement for the Record
Bureau of Safety and Environmental Enforcement
U.S. Department of the Interior

House Committee on Natural Resources
Subcommittee on Water, Wildlife and Fisheries

H.R. 6814, Marine Fisheries Habitat Protection Act

March 21, 2024

Introduction

The Bureau of Safety and Environmental Enforcement (BSEE) appreciates the opportunity to submit this statement for the record on H.R. 6814, the Marine Fisheries Habitat Protection Act. BSEE is responsible under the Outer Continental Shelf Lands Act (OCSLA) for regulating the development of oil, gas, and other energy and mineral resources on the United States outer continental shelf (OCS) in an orderly manner while safeguarding the environment. Current BSEE regulations allow for converting decommissioned platform jacket structures to artificial reefs when such structures become part of a State artificial reef program and the responsible State agency acquires the necessary permit and accepts title and liability for the structure.

Rigs-to-Reefs Background

BSEE is responsible for permitting and overseeing the installation and eventual removal of oil and gas and other energy-related facilities on the OCS. When an OCS lease, right-of-way, or right of use and easement expires and/or the facilities are no longer useful for operations, the responsible parties are obligated to decommission and remove their facilities (30 CFR §§ 250.1703, 1725(a)) and clear the seabed of all obstructions (30 CFR § 250.1740).

In 1984, the National Fishing Enhancement Act was enacted to address increased interest and participation in fishing at offshore oil and gas platforms and widespread support for effective artificial reef development by coastal states. The Act recognizes the social and economic values in developing artificial reefs, establishes national standards for artificial reef development, provides for creation of a National Artificial Reef Plan, and provides for establishment of a reef-permitting system.

Since 1985, BSEE has supported and encouraged the reuse of obsolete oil and gas platform jackets as artificial reef material and may grant a departure from removal requirements under 30 CFR § 250.1725(a) and applicable lease obligations when:

- The structure becomes part of a State reef program that complies with the National Artificial Reef Plan;
- The State agency acquires a permit from the U.S. Army Corps of Engineers and accepts title and liability for the reefed structure once removal/reefing operations are concluded;

- The lessee, owner, or grant holder satisfies any U.S. Coast Guard navigational requirements for the structure; and
- The reefing proposal complies with BSEE engineering and environmental standards.

H.R. 6814

H.R. 6814 would amend the National Fishing Enhancement Act by codifying terms related to the conversion of idle oil and gas infrastructure on the OCS to artificial reefs. The bill directs the Administrator of the National Oceanic and Atmospheric Administration (NOAA) to conduct assessments of such structures to determine if there is an established reef ecosystem, and gives authority to the Administrator to designate a reef planning area in the immediate vicinity of such structures. It also requires the Administrator to submit a report to the Secretary of the Interior (Secretary) within one year of enactment regarding each assessment conducted and determination reached.

H.R. 6814 would also amend OCSLA by codifying terms related to the conversion of idle oil and gas infrastructure on the OCS to artificial reefs. The bill would require the Secretary to suspend removal of idle structures pending the Administrator's report. If the Secretary concurs with the determination of the Administrator, the Secretary cannot require structure removal as it continues through the process for acceptance into an artificial reef program managed by a coastal State or Federal agency. All other decommissioning obligations must be accomplished by the lessee, owner, or grant holder within two years of filing a notice of intent to become part of an artificial reef program, and reefing in place of the structure must be completed within five years.

Analysis

BSEE appreciates the sponsor's focus on this topic and support of the Rigs-to-Reefs process and science-based decision making, including scientific-based ecosystem assessment. However, BSEE has concerns about some provisions of the legislation that would impact the government's oversight of oil and gas infrastructure and its potential use as artificial reefing material on the OCS.

Rigs-to-Reefs Process and Policy

BSEE is concerned about the legislation's proposed changes to the Rigs-to-Reefs process and policy that could fundamentally change the scope and intent of the program. The bill as written is not entirely clear as to whether the intent is to provide greater authority to NOAA to establish a national Rigs-to-Reefs program on the OCS in the Gulf of Mexico, with NOAA taking on liability for artificial reefs established in NOAA designated reefing areas, in addition to the State programs.

The bill also defines "Idle Structure" to include pipelines and associated equipment and infrastructure. These structures are not currently considered adequate or appropriate reefing materials under BSEE's Rigs-to-Reefs Program Policy (BSEE Directive 550.4 DS-G, November

21, 2019). BSEE also believes the definition conflicts with BSEE's definition of "idle iron," which will create confusion for industry regarding its decommissioning obligations (BSEE NTL No. 2018-G03, Idle Iron Decommission Guidance for Wells and Platforms). Aligning the bill's definitions to BSEE's definitions would ensure consistency across programs and properly identify platform structures that are no longer of use for their original purpose.

Federal/State Coordination

The bill lays out coordination between Federal and State agencies, but BSEE believes there could be more clarity on the role of State programs and their authority and responsibilities regarding the designation and approval of reef planning areas and the selection of structures for reefing purposes.

BSEE supports science-based, informed decision-making for all activities on the OCS. In support of those efforts, especially with regard to Rigs-to-Reefs, BSEE created and maintains the publicly available [OCS Facility Infrastructure Dashboard](#), which already provides the information contemplated by the bill's requirement to create an Offshore Infrastructure Dashboard. BSEE's OCS Facility Infrastructure Dashboard is an important tool that has served all stakeholders in the Rigs-to-Reef process.

Decommissioning Obligations and Enforcement

The bill would restrict the Secretary's ability, through BSEE, to enforce decommissioning requirements on idle structures until the Administrator has completed reports on its assessment of idle facilities and makes its determinations regarding the existence of a reef ecosystem. Because of the large number of idle facilities in the Gulf of Mexico, this restriction could impede BSEE's ability to require decommissioning in a timely manner, causing potential safety and pollution hazards to remain in the water longer than they would otherwise.

Conclusion

BSEE appreciates this opportunity to share its experience working with its Federal and State partners to assess certain offshore oil and gas platforms for potential use as artificial reefs while continuing to ensure energy operations on the OCS are safe and environmentally responsible. BSEE welcomes the opportunity to work with the Subcommittee, NOAA, and the Sponsor to address the areas of the proposed legislation that have been noted to be of concern.