



Offshore Financial Assurance Forum

February 26, 2015



7:30 – 8:30	Registration – Pick up Badges and Blank Question and Comment Cards
8:30 – 8:40	Welcome
	John Rodi, Director, Gulf of Mexico Region
8:40 – 8:50	BOEM Viewpoint
	Abigail Ross Hopper, Director, BOEM
8:50 – 9:20	Long-term Priorities, Policy Goals, ANPR Summary, BOEM Response
	Renee Orr, Chief, Office of Strategic Resources
9:20 – 9:50	Near-term Priorities and Operational Changes
	John Rodi
9:50 – 10:10	Break - Attendees Submit Written Questions and Comments
10:10 – 11:40	BOEM Senior Management Panel Addresses Questions and Comments
11:40 – 12:00	Forum Wrap-up and Summarize Next Steps in the Process
	John Rodi



- Please use the index cards in your folders to write down comments and questions throughout this event
- Members of our Risk Management Program will be collecting them
- Panel members will read the questions or comments and respond
- All cards will be kept by BOEM for reference



Risk Management
and the
Advance Notice of Proposed
Rulemaking

February 26th, 2015



- Envision full coverage of Outer Continental Shelf liabilities associated with oil and gas and sulphur leases.
- Protect the United States from financial loss when a leaseholder or operator is unable to perform required decommissioning or pay rents and royalties.





Advance Notice of Proposed Rulemaking



An Advanced Notice of Proposed Rulemaking (ANPR) was published in the Federal Register on August 19, 2014 and the comment period closed November 17, 2014. The ANPR was comprised of 54 questions grouped in the following four topic areas:

- Identification of Pertinent Risks/Liabilities
- Risk Monitoring and Risk Management
- Demonstrating Financial Assurance Over Project Lifecycles
- Financial Assurance, Bonding Levels and Requirements

BOEM received 35 responses to the ANPR from Industry, Trade Groups, and other interested parties. The majority focused on broadly addressing the four topic areas.



BOEM identified several major themes in the responses, including:

- Company financial evaluations
- Decommissioning estimates
- Other forms of financial assurance
- Bonding amounts / levels
- Catastrophic events
- Bond timing requirements
- Joint and several liability
- Reviews for self-insurance

Some topics had similar responses in several submissions, but many had different and even conflicting comments



- **Company financial evaluations**
 - Should be in line with the standards set forth by the Financial Accounting Standards Board for financial strength
- **Decommissioning estimates**
 - Industry would like more information on how BSEE assesses decommissioning
 - Rely more on third-party decommissioning estimates
- **Other forms of financial assurance**
 - BOEM should give credit to money already held in escrow – whether it is a privately- or federally-managed



- **Bonding amounts / levels**
 - The current two tier approach to bonding is preferable
 - Excessive bonding across the industry results in duplicate or redundant financial security
- **Catastrophic events**
 - BOEM should require proof of insurance for catastrophic events instead of increasing bond amounts
- **Bond timing requirements**
 - Financial assurance should be tendered when permits are approved rather than at the plan stage



- **Joint and several liability**
 - Industry believes that a better practice would be to allocate supplemental bonding liability on a proportionate basis, which would result in self-insurance only applying to the proportionate interest held by a financially exempt party, as opposed to the entire lease
 - Eliminate the concept of other exempt partners in the lease negating the obligation to post supplemental bonds
- **Reviews for self-insurance**
 - Quarterly certification that the annual filing has not materially changed and/or that it still exceeds the thresholds for self-insurance
 - Create a process to ensure a company's financials will cover their net lease obligations, including abandonment responsibilities





Priority Areas for Rulemaking

Bonding Amounts / Levels

RUE Financial Assurance

Required Filings

Financial Assurance Appeals



- ANPR Comments:
 - “The current two tier approach to bonding is preferable”
 - “general bonds should not be expected to cover decommissioning activities”
 - “The General Bond amount should be increased”
 - “a distinction should be made in bonding amounts required for shelf and deep water activities”
 - “Excessive bonding across the industry results in duplicate or redundant financial security“
 - “decommissioning liability for purposes of determining exemption status should be based only on each owner’s fractional ownership.”



- ANPR Comments:
 - “allocate supplemental bonding liability on a proportionate basis, which would result in self-insurance only applying to the proportionate interest held by a financially exempt party, as opposed to the entire lease.”
 - “BOEM should take into account existing private financial assurances”
 - “The financial strength criteria that may be necessary for an exemption must remain fair and consistent”
 - “we do not believe the BOEM should regulate the specific programs employed by OCS participants to protect against such risks.”



- ANPR Comments:
 - “Exemptions from posting supplemental financial assurance ... should be maintained, although a more robust set of financial tests may be appropriate.”
 - “[A] single company’s self-insurance should remain available to provide the required financial assurance for all lessees (record title and operating rights) of a particular lease.”
 - “Eliminate the concept of other exempt partners in the lease negating the obligation to post supplemental bonds”
 - “Every owner should provide its own proportionate financial assurance without receiving a "zero assessment" due to the benefit of an exempt co-owner within the block”



- BOEM determines financial assurance requirements, including:
 - BSEE decommissioning cost estimates,
 - ONRR rents and royalties
 - All other financial obligations except Oil Spill Financial Responsibility
- Possible actions include:
 - Evaluate the two tier bonding approach
 - Determine the appropriate amount for the general bond(s)
 - Review the area-wide and lease-specific bond structure



- RUE Financial Assurance Considerations
 - Clarify that a RUE holder is subject to financial assurance requirements similar to lease or Right-of-Way holders
 - Develop regulations that fit RUE's unique circumstances



- Current regulations require some filings, including
 - Carried working interests
 - Overriding royalty interests
 - Payments out of production
- Other transactions may materially affect a company's finances and its ability to self-assure
 - Identify what information we need to monitor self-assurance status
 - Clarify how we will collect the information and how we will use it



- Establish guidelines for appeals of financial assurance
- ANPR Comments
 - “the process should allow a company to challenge the [agency determined] abandonment numbers”
 - “work with the operator to determine the decommissioning estimate, given that technologies can change, and abandonments can be performed using different equipment safely and at reduced costs”
 - “a review of a company's projected decommissioning should be based on Net Present Value”
 - “Permit companies to bond the delta between the company’s actual net worth and the threshold set forth in NTL No. 2008-N07, Section III.”





Next Step(s) in Rulemaking



- Incorporate ideas from this Forum
 - Continue dialog on these topics
- Capture lessons from near-term operations the next speaker will discuss
- Publish a draft rule by December 2015



**Near Term Program Revisions
Under Current Consideration**

For Implementation via Revised Notice to Lessees

February 26, 2015



BOEM's mandate is to require proper financial assurances from OCS energy lessees and permittees which guarantee that all of their regulatory obligations are satisfied.



- **The Outer Continental Shelf Lands Act provides the Secretary with the authority to require bonds or other forms of financial assurance.**
- **30 CFR § 556 is the primary regulatory source regarding BOEM's financial assurance requirements.**
- **A Notice to Lessees (NTL) clarifies the procedures and criteria used to apply the CFR to BOEM's financial assurance program.**



Waived Entities under the Current NTL

Number of active leases held per entity	Number of entities holding leases	% of entities that have a waiver
0-1	121	11*
2-25	166	8
26-50	19	5
51-75	12	25
76-100	7	43
101-200	14	64
201-610	12	75

** The 11% reflects mainly pipeline companies in addition to a few single active leaseholders*



The amount of self-insurance (via BOEM waiver) authorized under the current NTL is excessive, and is flawed for the following reasons:

- Size of the company as currently favored is not an inherently valid criterion for determining financial strength and reliability.**
- Allowing company liabilities amounting to 2-3 times net worth is too lenient and is inconsistent with standard bank credit/lending practices.**
- Using net worth without measurable definitions, versus using a defined tangible net worth, has caused analytical problems, difficulty in consistent application and challenges in ensuring fairness with all companies.**



- **Include self-insurance rule-out criteria that:**
 - Apply equitably to all oil and gas lessees/permittees on the OCS.
 - Use appropriate and defensible financial criteria.
 - Include applicable BOEM/BSEE/ONRR compliance criteria.

- **Include self-insurance approvals that:**
 - Are based on a set amount of credit per company approved by BOEM.
 - Are appropriately and routinely adjusted based on newly available financial or compliance information.



- **Self-insurance would be limited to “investment grade” companies.**

E.g. Publicly traded companies must have Baa3 or higher rating by Moody’s or BBB- or higher rating by Standard & Poor’s.

E.g. Non-publicly traded companies equate to a composite credit appraisal rating of 1 (High) by Dun & Bradstreet.

- **Self-insurance may not be allowed if:**

BOEM or BSEE has an outstanding compliance issue with a given company, especially if it has notable potential adverse environmental protection impact.

ONRR has collection problems with a given company.



- **Appropriate financial tests of future corporate financial reliability should be based on liquidity, financial strength and profitability.**
- **Differing financial metrics and ratios apply to each of these measures.**
- **More concrete, definable and measurable criteria.**
- **Criteria that do not favor large or small companies but rather reward sound business practices.**
- **Use risk exposure standards similar to credit industry requirements and establish a company specific limit to self-insurance based on a BOEM credit support analysis.**

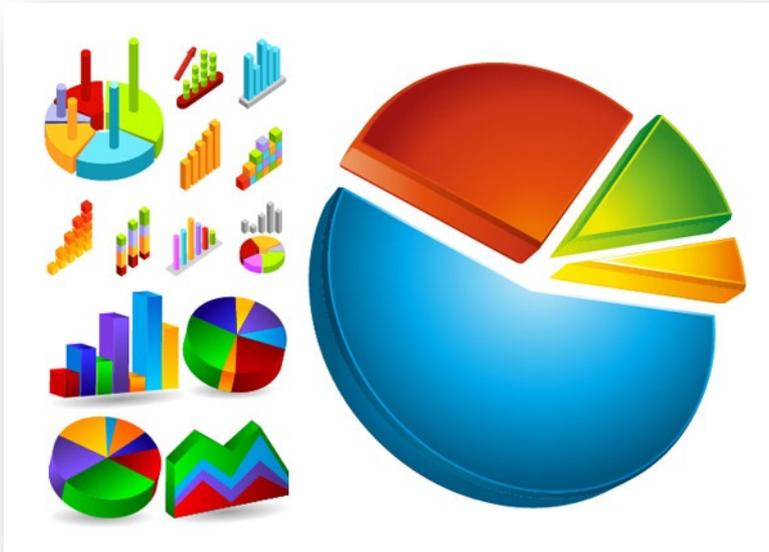


Examples of components that may be included in the BOEM credit model

- **Balance Sheet, Cash Flow, and Income Statement Key Data**
 - Times Interest Earned
 - Debt to Equity Ratio
 - Return on Assets
 - Current Ratio
- **Credit Rating Agency Component**
- **Year to Year Comparison Analysis**
- **Quarterly Financial Analysis**
- **Adjustable Weighted Factors**
- **Customization for Private and Public Company's**
- **Credit Ratings Equivalent Score**



Additional Factors that may be considered by the Regional Director



- **Size of the entity**
- **Tangible net worth**
- **Past decommissioning record**
- **Number of leases**
- **Expected Default Ratio**

- **Debt to NPV of proven reserves**
- **Management team experience**
- **Customer base**
- **Other financial ratios**



- **A credit control analysis and related document that is commonly used by banking industry.**
- **Allows the use of credit line thresholds.**
- **Utilizes credit ratings and ratios for increasing or decreasing credit lines.**
- **Provides for additional types of financial security.**
- **Defines industry credit terms.**
- **Can be customized for public and private companies.**
- **Protects from deteriorating credit quality.**
- **Provisions for non-compliance.**



There was consensus among the respondents to API, OOC, and the OCSAB that should a currently waived company lose their exemption due to new regulations, they should be allowed to develop a plan for the Bureau's review and approval outlining the steps the lessee plans to take in an effort to provide any additional security the Bureau may require. This plan could include one or more of the currently allowed mechanisms and an agreed-upon timeline for implementation.



- **Supplemental financial assurance to meet obligations on a lease, ROW or RUE may be in the form of:**
 - **A surety bond.**
 - **U.S. Treasury Security.**
 - **A Third-Party Guarantee.**
 - **An overriding royalty interest to fund an abandonment account (pursuant to a Trust Agreement).**
 - **Alternative forms of security if approved by the Regional Director**
 - **Any bond or other security that you, as lessee or operator, provide under this part must be payable upon demand to the Regional Director *30 CFR § 556.54 (a)(1)***



- **Allow a larger and more diverse number of methods of financial assurance to fulfill obligations.**
- **Allow packaging of multiple types of financial assurance to achieve the total required amount of supplemental financial assurance.**
- **Individualized plans for supplemental financial assurance to leverage individual company strengths and allow cost savings.**



The API and OOC comments noted that phased implementation would be best, beginning with older facilities that are more likely to be abandoned in the near term (such as 5 years), and facilities associated with “higher risk” companies (e.g. those with weaker balance sheets).



- **Due to BOEM workload challenges and bonding market's capacity, phased implementation of the NTL is recommended by BOEM.**
- **Phasing in of the NTL can be accomplished by:**
 - **Phasing Compliance over Time – e.g. full compliance may be incrementally required over a one year period based on a clearly known schedule with set intermediate milestones.**
 - **Phasing by Risk Level - e.g. the higher risk liabilities as determined by BOEM (in consultation with BSEE, ONRR, and company) may require earlier financial assurance compliance versus other lower risk liabilities.**



- ***Higher Priority*** - Entities that are least able to demonstrate sufficient financial strength and reliability under the NTL.
- ***Other potential considerations*** that BOEM will use in prioritizing financial assurance plans for review and approval include:
 - **Amount of uncovered liabilities**
 - **Amount of idle iron**
 - **Potential risks to safety or the environment**
 - **Other indicators of insolvency or financial stress**



- **We all share a public responsibility to manage the OCS for the benefit of the Nation.**
- **BOEM's programmatic approach to financial risk management will reduce exposure to high-dollar liabilities associated with unique challenges posed by offshore business development.**
- **BOEM recognizes industry challenges and the related business environment .**
- **BOEM has worked hard to engage industry and other stakeholders throughout this process and expects to leverage individual company strengths in order to effect mutually satisfactory solutions.**
- **BOEM is committed to continue such engagement with each planned step forward regarding both near and longer term efforts.**



- Presentations will be posted here:
<http://www.boem.gov/Risk-Management/>
- Question and comment cards
 - Review for concepts we didn't cover today
 - Determine if additional or different outreach is needed

