



GOMR Leasing Workshop

August 5, 2009

Bonding and OSFR

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Minerals Management Service – MMS

Gulf of Mexico Region - GOMR

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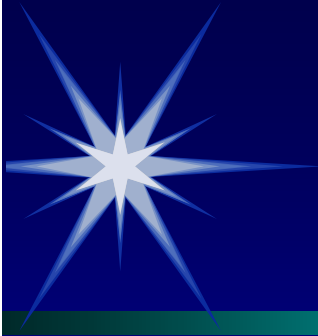
Agenda

General Bond Requirements

Supplemental Bond Requirements

Oil Spill Financial Responsibility

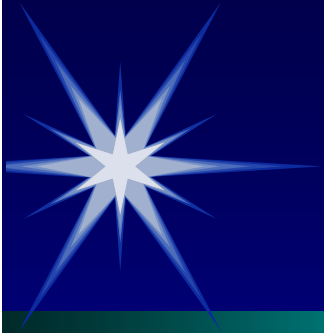
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Bonding Considerations

What are we dealing with in the Gulf of Mexico?

- **\$8 Billion in estimated plugging and abandonment**
- **8000 Active leases**
- **4000 Structures**
- **15,000 Wells**
- **500 Lessees**
- **200 Operators**
- **60 Surety companies**



MMS Regions

◆ Gulf of Mexico (GOM)

- Atlantic

◆ Alaska

◆ Pacific



General Bond Requirements

- ◆ Codified in the Code of Federal Regulations (CFR)
 - 30 CFR 256 - Subpart I – Bonding

- ◆ GOMR, NTL No. 2000-G16, September 7, 2000

Guidelines for General Lease Surety Bonds

- ◆ On the Internet:

- ✓ <http://www.gomr.mms.gov/homepg/regulate/regs/ntls/ntl00-g16.html>

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New Leases and Assignments

◆ Bond Review

- All bonds must be posted before approval of any new leases or assignments.



Posting Bonds

◆ General Lease Surety Bonds

- Lease Specific (Level of Activity of the Lease)
- Areawide

◆ General Bond Payment

- Surety Bonds from a surety on the U.S. Department of Treasury Circular 570.
 - ✓ Verified for Corporate and Surety Seal
- U.S. Treasury Securities

◆ Bond Forms are on the Internet

- <http://www.gomr.mms.gov/homepg/mmsforms/frmindx.html>



Q. How much General Bond do I need to provide?

A. Determine the level of activity per Designated Operator.

- ① No Operations (NOP), No Activity**
- ② Exploration Plan (EXP), Wells**
- ③ Development (DEV), Wells and Facilities**



① No Approved Approved Operational Activity Plan (NOP)

- ◆ Lease Specific Bond - \$50,000
- ◆ Company Areawide Bond - \$300,000
 - ✓ NOTE: Co-Principals are not acceptable on any required bond.



② Submittal or significant revision of an Exploration Plan (EXP)

- ◆ Exploration Plan (EP)
- ◆ Lease Specific Bond - \$200,000
- ◆ Company Areawide Bond - \$1,000,000
 - NOTE: Bond should be submitted with Exploration Plan (EP). The EP will not be approved until all bonding is in place.



③ Submittal or significant revision of DOCD or DPP

- ◆ Development and Production Plan (DPP)
- ◆ Development Operations Coordination Document (DOCD)
- ◆ Lease Specific Bond - \$500,000
- ◆ Company Areawide Bond - \$3,000,000
 - ✓ NOTE: Bond should be submitted with the DOCD or DPP. The DOCD or DPP will not be approved until all bonding is in place.



General Bond Requirements

Questions and Comments



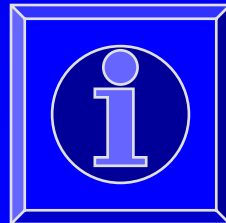


Supplemental Bond Requirements


Supplemental Bonding Procedures

On the Internet: NTL No. 2008-N07, August 28, 2008

<http://www.gomr.mms.gov/homepg/regulate/regs/ntls/2008NTLs/08-n07.pdf>



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When is a Supplemental Bond required?

- ✓ The MMS GOM Region will require a Supplemental Bond when a lessee's OCS liability, related to facility abandonment and site clearance, has been determined by the Technical Assessment and Operation Section and prior to the approval of any lease assignment, Right of Use and Easement (RUE) or Right of Way (ROW) or any proposed activity.



P&A Determination

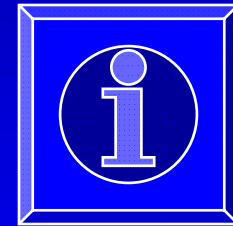
- ◆ Estimated cost is determined pursuant to supplemental bond procedures and available data.
- ◆ Information will be reviewed by MMS and based on historical data and industry information, the decommissioning amounts and supplemental bonds can be adjusted by
 - A company requested review
 - Completion of partial abandonment
 - Revised activity plans
 - Any change in responsible parties



P&A Liability on the Internet

Internet Location

1. Log on to WWW.MMS.GOV
2. Click on [Offshore Program](#)
3. Click on [Gulf of Mexico](#)
4. Click on [Fast Facts](#)
5. Click on [P&A Lease Liability](#)



Or go directly to the site:

<http://www.gomr.mms.gov/homepg/fastfacts/LeaseLiabilities/master.asp>

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Evidence of Financial Strength and Reliability

Meet the following criteria:

Credit, Trade References, and OCS History and

- Minimum \$65 Million Net Worth and a Debt to Equity (DE) Ratio (total liabilities divided by net worth)
 - ✓ DE < 2.5 & < 25% P&A
 - ✓ or DE < 2.0 & < 50% P&A
- > \$100 Million Net Worth and
 - ✓ DE < 3.0 & < 25% P&A
 - ✓ or DE < 2.5 & < 50% P&A
- Assumed herein is that each company is separately and jointly liable for 100% of the abandonment cost.
- Requires U.S. audited financial statements

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Bond Forms

Bonding Form - MMS-2028A

<http://www.gomr.mms.gov/homepg/mmsforms/frmindx.html>



Third-Party Indemnity Agreement

<http://www.gomr.mms.gov/homepg/regulate/regs/ntls/2008NTLs/08-n07-att1.pdf>



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Bond Submittals and Correspondence

Adjudication Unit

MMS - Adjudication Unit

MS 5421

1201 Elmwood Park Blvd.

New Orleans, LA 70123-2394

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Bonding Contacts

 Joshua Joyce(504-736-2779)

 Joshua.Joyce

 P&A Review – Steve Dessauer

 (504-736-2646)

 Stephen.Dessauer@mms.gov

 Adjudication Unit - Processing Bonds

 Land Law Examiners 504-736-2436

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Review

Questions and Comments

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Oil Spill Financial Responsibility for Offshore Facilities

Purpose: to ensure that the “designated applicant” for a “covered offshore facility” has the financial resources necessary to pay for cleanup and damages that could be caused by oil discharges

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Federal Guidelines

Codified in the Code of Federal Regulations

- 30 CFR 253
- NTL No. 2006-N, effective August 26, 2008
 - ✓ (replaces NTL 99-N01 and NTL 99-N01 Addendum 1)
- Internet site :

<http://www.gomr.mms.gov/homepg/lseale/osfr.html>

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Terminology

- ❖ **Covered Offshore Facility (COF)** - (1) any structure, equipment, pipeline, or device used for oil exploration, drilling, production, or transportation (2) > 1,000 bbl discharge potential, (3) seaward of coastline or in a bay
- ❖ **Designated Applicant** - the entity that (1) provides financial coverage and (2) the responsible party(s) designates to demonstrate OSFR for a COF
- ❖ **Responsible Party** - owner/operator of a pipeline, lessee/permittee, holder of a right-of-use and easement (RUE), operating rights holder
- ❖ **U.S. Agent for Service of Process** - Who is ? - an agent of the company who ensures that all potential claimants have a readily available contact to whom they can submit legal paperwork for claims for oil-spill cleanup and damages specified in Oil Pollution Act of 1990 (OPA 90).
 - ❖ Who can be ? - a company officer whose primary business office is located within the confines of the United States or a person or company whose function is to accept and process claims paperwork for the company.



30 CFR 253.11

Who must demonstrate OSFR?

A designated applicant (DA) must demonstrate OSFR. It may be a responsible party (owner, operator) or a parent company, authorized under the regulation.

30 CFR 253.13

How much OSFR must I demonstrate?

For a COF located wholly or partially in OCS waters:

- 1,001 bbl > 35,000 bbl = \$35 million
- 35,001 bbl > 70,000 bbl = \$70 million
- 70,001 bbl > 105,000 bbl = \$105 million
- > 105,000 bbl = \$150 million

For a COF not located in OCS waters:

- 1,001 bbl > 10,000 bbl = \$10 million
- 10,001 bbl > 35,000 bbl = \$35 million
- 35,001 bbl > 70,000 bbl = \$70 million
- 70,001 bbl > 105,000 bbl = \$105 million
- > 105,000 bbl = \$150 million



30 CFR 253.14

How to Determine Amount

✓ 30 CFR 254 – Part of your Response Plan

or

✓ 40 CFR 112 - Oil Pollution Prevention

or

✓ 49 CFR 194 - Oil Pipeline Response Plan

or

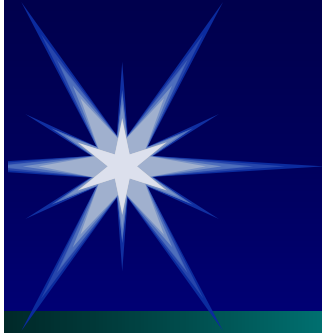
✓ \$150 Million – Maximum Amount

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30 CFR 253.20

What methods may I use to demonstrate OSFR ?

- ✓ **Self-Insurance**
- ✓ **Insurance (commercial)**
- ✓ **Indemnification (3rd party)**
- ✓ **Surety Bonds**
- ✓ **Alternative Methods (Director's approval)**



30 CFR 253.32

Alternative Methods

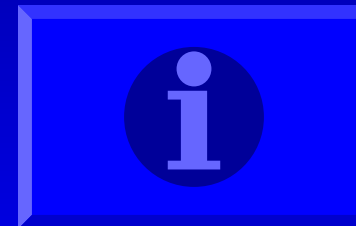
MMS Director's approval

- Pooling
- Letters of Credit
- Pledges of Treasury Notes
- Trust Agreements
- Other comparable methods

30 CFR 253.40

What OSFR evidence must I submit?

- ◆ **Designated Applicant - Form 1016 –**
 - **Single demonstration for all COF**
- ◆ **Designation of Applicant by Responsible Parties - Form 1017**
- ◆ **Financial evidence**
 - **Form 1018 – Self Insurance**
 - **Form 1019 – Insurance**
 - **Form 1020 – Surety Bonds**
- ◆ **Identification of COF's – MMS Form 1021 or 1022**
 - **Form 1021 - Covered Offshore Facilities**
 - **Form 1022 - Covered Offshore Facility Changes**
- ◆ **Treasurer's Letter and Financial Statements**





Forms for Designating Applicant

- ☰ Form MMS-1016, Designated Applicant Information Certification
 - ✓ Cover sheet identifying the applicant

- ☰ Form MMS-1017, Designation of Applicant
 - ✓ All responsible parties agreeing on an applicant



253.21 - 253.24 Self-Insurance

- ⇒ Complete Form MMS-1018, Self-Insurance or Indemnity Information
- ⇒ Pass Net Worth or Unencumbered Assets test
- ⇒ Submit financial supporting data
 - ▶▶ Independently audited financial statement
 - ▶▶ Treasurer's letter
 - ▶▶ Renew by 1st calendar day of 5th month after close of fiscal year



253.29 Insurance (Commercial)

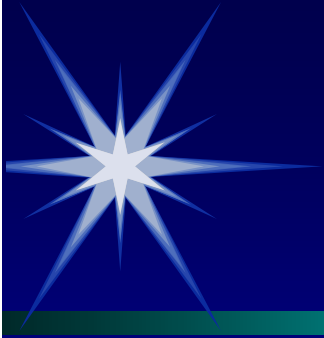
Complete Form MMS-1019, Insurance Certificate

- One Certificate per layer (no horizontal layers)
 - OCS (4) State waters (5)
- Insurance Options
 - Full
 - Deductible
 - Excess
- General Option (all facilities)
- Schedule Option (all facilities on dated attachment)
- Each Insurer's Name, Quota Share & Signature
- Rating - Secure, Rating Service, Date
- Fax Binder (90 days)



30 CFR 253.30 Indemnification

- ✓ Complete Form MMS-1018, Self-Insurance or Indemnity Information
 - ✓ One indemnity issued by one indemnitor
 - ✓ Indemnitor must be corporate parent or affiliate
- ✓ Pass Net Worth or Unencumbered Assets Test
- ✓ Submit Financial Supporting Data



30 CFR 253.31 Surety Bonds

- ✓ Complete Form MMS-1020, Surety Bond
 - ✓ Licensed in State where bond is executed
 - ✓ Approved by U.S. Treasury Circular No. 570

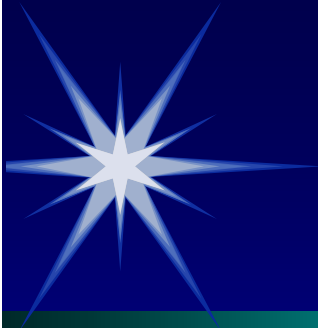
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**Amounts of Civil Penalties Per [COE](#) for Noncompliance with
Oil Spill Financial Responsibility (OSFR) Requirements¹**

Category of Noncompliance	Period of Noncompliance		
	First Week	Second and Third Weeks	After 3 Weeks
Failure to submit OSFR evidence	\$500	\$750/week	\$250/day
Failure of a Responsible Party to prepare Form MMS-1017 (Designation of Applicant)	\$500	\$750/week	\$250/day
Lapse in OSFR coverage	\$750	\$1,000/week	\$300/day
Cancellation of OSFR without alternative coverage	\$2,500	\$5,000/week	\$1,000/day
Failure to correct an erroneous or inadequate submission within 30 days of MMS request ²	\$100	\$250/week	\$1,000/week

¹ Penalties will double each time there is an additional violation within 1 calendar year of the first violation, up to a maximum of \$25,000/day. Periodically as needed to ensure compliance, the penalty amounts in this table will be updated.

² Includes under-subscribed insurance slips, use of insurers not rated "secure" or better, errors in lease, permit, or RUE identification and similar problems with the OSFR evidence submitted.



OSFR Statistics

- *Total Number of Companies:* 195
- *Total Number of COFs:* 8,945
OCS (7,771) States (1,174) AK(237), AL(29), CA(6), LA(739), MS(1), TX(162)
- *Total Coverage by Type:*
 - *Self-Insurance* 17%
 - *Insurance Indemnification* 42%
 - *Commercial Insurance* 41%
 - *Other (Bonds)* - 0 -
 - *Total* \$ 11.5 Billion
- *Company Coverage by Amount:*
 - \$ 10 M: 23 \$ 35 M: 120
 - \$ 70 M: 8 \$ 105 M: 3
 - \$ 150 M: 41



OSFR Contacts

Gulf of Mexico Region

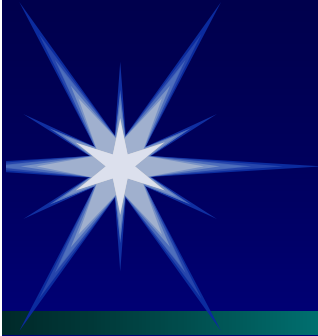
- Pat Clancy (504-736-2600)
- Yolanda Clark (504-736-2851)
- Harold “Rusty” Wright (504-736-2529)

Pacific Region

- Craig Ogawa (805-389-7569)

Alaska Region

- Kyle Monkeliën (907-271-6431)



**Thank You for Attending
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