




Bureau of Ocean Energy Management (BOEM)

Gulf of Mexico OCS Region



Rocky Mountain Mineral Law Foundation  
Bonding and Oil Spill Financial Responsibility

January 23-25, 2013  
New Orleans, Louisiana



# Agenda

- General Bond Requirements
- Supplemental Bond Requirements
- Oil Spill Financial Responsibility

# BOEM Regions

- Gulf of Mexico (GOM)
- Atlantic
- Alaska
- Pacific

# General Bond Requirements

- Codified in the Code of Federal Regulations (CFR)
  - ✓ 30 CFR 556 - Subpart I - Bonding
- GOMR, NTL No. 2000-G16, September 7, 2000
- Guidelines for General Lease Surety Bonds
  - ✓ On the Internet:  
<http://cfr.regstoday.com/30cfr556.aspx>

# New Leases and Assignments

- Bond Review

A bond review will be conducted prior to the request for any changes to a lease assignment or an operational activity such as a EP, DPP or DOCD. This includes any changes to the Record Title owner, or Designated Operator of a lease or a holder of RUE or ROW.

# Meeting Bond Requirements

- General Lease Surety Bonds
  - ✓ Lease Specific (Level of Activity of the Lease)
  - ✓ Areawide (Largest Level of Activity of the leases you cover)
- General Bond Payment
  - ✓ Surety Bonds from a surety listed 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.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Regional-Leasing/Gulf-of-Mexico-Region/Bonding.aspx>

## Q. How much general bond do I need to provide?

- Determine the level of activity per Designated Operator
  - ✓ No Operations (NOP), No Activity
  - ✓ Exploration Plan (EP), Wells
  - ✓ Development (DEV), Wells and Facilities

## No 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



# Submittal or significant revision of an Exploration Plan (EP)

## 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 has been reviewed and deemed acceptable.

# Submittal or significant revision of DOCD or DPP

Development and Production Plan (DPP) and

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 has been reviewed and deemed acceptable.

# General Bond Requirements

## Questions

# Supplemental Bond Requirements

- Supplemental Bonding Procedures

- ✓ NTL No. 2008-N07, August 28, 2008

- ✓ On the Internet:

- <http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Regional-Leasing/Gulf-of-Mexico-Region/Bonding.aspx>

## When is a Supplemental Bond required?

The BOEM 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. The Supplemental Bond will be required prior to the issuance of a lease, Right of Use and Easement (RUE) or Right of Way (ROW) and prior to any proposed activity such as exploration or development, as well as prior to the assignment of any lease, RUE or ROW.

# Decommissioning Determination

- Estimated cost is determined pursuant to supplemental bond procedures and available data
- Information will be reviewed by BOEM and based on historical data and industry information
- Decommissioning amounts and supplemental bonds can be adjusted by:
  - ✓ 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.BOEM.GOV
2. Click on Oil and Gas Energy Programs
3. Click on Leasing
4. Click on Bonding
5. Click on Plugging and Abandonment (P&A) Liability

Or go directly to the site:

[http://www.data.boem.gov/homepg/data\\_center/leasing/LeaseLiab/master.asp](http://www.data.boem.gov/homepg/data_center/leasing/LeaseLiab/master.asp)

# 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 jointly and severally liable for 100% of the abandonment cost
- Requires United States audited financial statements meeting General Accepted Accounting Practices (GAAP) standards



# Bond Forms

Bonding Form - BOEM-2028A and Third-Party Indemnity Agreement available at:

<http://www.boem.gov/Oil-an-Gas-Energy-Program/Leasing/Regional-Leasing/Gulf-of-Mexico-Region/Bonding.aspx>

# Bond Submittals and Correspondence

Leasing & Financial Responsibility Section

BOEM – LFRS

GM 274A


1201 Elmwood Park Blvd.

New Orleans, LA 70123-2394

# Bonding Contacts


 Bond Analysis – Joshua Joyce

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 Decommissioning Assessments – Susan Green

 [Susan.Green@bsee.gov](mailto:Susan.Green@bsee.gov)

 (504-736-2401)

 Bond Adjudication - Processing Bonds – Cheryl Olivier

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 (504-736-2435)

# BONDING

Review

Questions and Comments

# OSFR

## 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

# Federal Guidelines

Codified in the Code of Federal Regulations

- 30 CFR 553
- NTL No. 2008-N05, effective August 26, 2008 (replaces NTL 99-N01 and NTL 99-N01 Addendum 1)
- Internet site :

<http://cfr.regstoday.com/30cfr553.aspx>

# 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 (Designated Applicant, Responsible Party, Indemnitor) 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 553.11

### 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

[http://cfr.regstoday.com/30cfr553.aspx#30\\_CFR\\_553p11](http://cfr.regstoday.com/30cfr553.aspx#30_CFR_553p11)



# 30 CFR 553.13

## 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 553.14

### How to determine worst case oil spill volume

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

## 30 CFR 553.20

What methods may I use to demonstrate OSFR ?

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

# 30 CFR 553.32

## Alternative Methods

- BOEM Director's approval
  - ✓ Pooling
  - ✓ Letters of Credit
  - ✓ Pledges of Treasury Notes
  - ✓ Trust Agreements
  - ✓ Other comparable methods

## 30 CFR 553.40

### 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 – BOEM Form 1021 or 1022
  - ✓ Form 1021 - Covered Offshore Facilities
  - ✓ Form 1022 - Covered Offshore Facility Changes
- Treasurer's Letter and Financial Statements

## 30 CFR 553.21 - 553.24 Self-Insurance

Complete Form BOEM-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

## 30 CFR 553.29 Insurance (commercial)

### Complete Form BOEM-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 553.30 - Indemnification

- Complete Form BOEM-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 553.31 - Surety Bonds

- Complete Form BOEM-1020, Surety Bond
  - ✓ Licensed in State where bond is executed
  - ✓ Listed on U.S. Treasury Circular No. 570

# CIVIL PENALTIES FOR NONCOMPLIANCE

Amounts of Civil Penalties Per <a href="#">COF</a> for Noncompliance with Oil Spill Financial Responsibility (OSFR) Requirements <sup>1</sup>			
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 <a href="#">Responsible Party</a> 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 <sup>2</sup>	\$100	\$250/week	\$1,000/week

<sup>1</sup> 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.

<sup>2</sup> 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 Designated Applicants providing OSFR: 169*
- *Total Number of COFs: 7,648*  
OCS (6,668) St (980) AK(156), AL(30), CA(5), LA(700), MS(1), TX(88)
- *Total Coverage by Type:*
  - ✓ *Self-Insurance* \$ 2,180,000,000 (18.14%)
  - ✓ *Insurance* \$ 5,484,900,000 (45.65%)
  - ✓ *Indemnification* \$ 4,350,000,000 (36.21%)
  - ✓ *Bonds* \$ 100,000 ( 0.00%)
  - ✓ *Other* - 0 -
  - ✓ *Total* \$12,015,000,000
- *Company Coverage by Amount:*
  - ✓ \$ 10 M: 18 \$ 35 M: 88 (Self-Insurance 9, Indemnified 15, Insurance 64)
  - ✓ \$ 70 M: 4 \$ 105 M: 6
  - ✓ \$ 150 M: 53

# OSFR Contacts

## Gulf of Mexico Region

- Pat Clancy (504-736-2600)
- Yolanda Clark (504-736-2851)

## Pacific Region

- Craig Ogawa (805-389-7569)

## Alaska Region

- Kyle Monkeliën (907-271-6431)

THANK YOU FOR ATTENDING

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