

Risk Management & Financial Assurance Rule

What is the “Risk” Rule?

On April 15, 2024, BOEM released the final *Risk Management and Financial Assurance for OCS Lease and Grant Obligations* Rule. The rule strengthens and simplifies financial assurance requirements for the offshore oil and gas industry operating on the U.S. Outer Continental Shelf (OCS).

Companies provide **financial assurance** to BOEM in the form of surety bonds, decommissioning accounts, or other guarantees.

This rule updates existing regulations to better protect the American taxpayer from bearing the cost of oil and gas facility decommissioning.

Why is The Rule Needed?

- Decommissioning costs on the OCS are substantial.
- Existing oil and gas infrastructure is aging.
- The number of oil and gas company bankruptcies is increasing.
- The types of oil and gas companies operating on the OCS have changed.
- Existing regulations are outdated.

Key Provisions

- The new rule establishes two metrics by which BOEM will assess a company’s financial risk: 1) credit ratings and 2) the known value of remaining oil and gas reserves on an existing leasing area, referred to as **proved reserves**.
- Companies without an investment-grade credit rating or sufficient proved reserves will now need to provide supplemental financial assurance.
- Current grant holders and lessees cannot rely on the financial strength of prior owners and must now hold their own financial assurance.
- Right-of-Use and Easement holders now have a \$500K financial assurance requirement.
- Companies appealing and seeking a stay of BOEM supplemental financial assurance demands must now provide an appeals bond while the appeal is resolved.
- Companies can now request phased-in payments over the first 3 years to meet new supplemental financial assurance requirements.

New Financial Evaluation Criteria Introduced

Credit Ratings

- Companies will be evaluated based on their Nationally Recognized Statistical Rating Organization (NRSRO) Credit Rating.
- For companies without an NRSRO credit rating, BOEM will generate a proxy credit rating using audited financials and the S&P credit model.

OR

Proved Reserves

- If BOEM determines a company’s lease area has sufficient proved reserves, a company can avoid financial assurance demands on that specific property.

Financial Assurance Types

1. General Financial Assurance

- Covers all types of lease obligations and extends beyond the end of lease.
- Required of all lessees (no waivers).
- Companies can have either a lease-specific bond or a bond for a larger area (i.e., Gulf of Mexico, Alaska, Pacific). The bond amount is based on the level of activity in the area or specific lease. See amounts below:

Level of Activity	Lease-Specific Amount	Area-Wide Amount
No approved operational activity	\$50,000	\$300,000
Exploration Plan	\$200,000	\$1,000,000
Development Production Plan	\$500,000	\$3,000,000
Pipeline – Right-of-Way (ROW)	N/A	\$300,000
Right-of-Use and Easement (RUE)	N/A	\$500,000

2. Supplemental Financial Assurance

- Covers all types of lease obligations and extends beyond the end of lease.
- Two metrics are used to determine if it is required—a company’s credit rating and proved reserves.
- Released after decommissioning is completed/certified by the Bureau of Safety and Environmental Enforcement, and the Office of Natural Resources Revenue gives clearance for outstanding payments.

Credit Ratings

- The rule streamlines the number of factors BOEM uses to determine the financial strength of a company by using a credit rating from a NRSRO, or a proxy credit rating equivalent.
- A substantial amount of offshore liability, approximately \$14.6 billion, is associated with companies that have a less-than investment grade credit rating or are not rated. A low credit rating may indicate that a company poses high financial risk and may be susceptible to bankruptcy.
- Lessees with investment grade credit ratings are not required to post supplemental financial assurance. Additional credit rating information is available on S&P’s website: <https://www.spglobal.com/ratings/en/about/intro-to-credit-ratings>.
- Companies without an NRSRO credit rating can qualify by submitting audited financials but would be subject to supplemental financial assurance demands as a default stance.

Proved Reserves

A company can avoid financial assurance demands on a specific property if BOEM determines the property has \$3 dollars of known remaining oil and gas reserves (i.e., proved reserves) for every \$1 of estimated decommissioning liability.

- This allows BOEM to predict which assets would have an attractive, positive net-present-value (NPV) and therefore likely to be marketable to other companies in the event of a bankruptcy.
- 3:1 ratio provides BOEM a financial cushion to account for commodity price volatility, volumetric risk, and interest rate risk.
- BOEM uses the U.S. Securities and Exchange Commission reserve pricing valuation.
- Companies are familiar with and may already be using this reserve pricing methodology.

