Comments on Proposed Changes to Financial Strength Rules
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1. Proposed Change to Financial Strength of Predecessors

- BOEM will consider the financial strength of jointly and severally liable predecessors when determining the need to provide supplemental financial assurance.

Comment 1A: This is an important provision that should be adopted in the final regulations. Holding predecessors responsible for decommissioning obligations they accrued while holding a lease deters them from attempting to assign leases for the purpose of avoiding decommissioning obligations. The rules should describe the specific procedures BOEM will follow in notifying predecessors of their decommissioning obligations. Does BOEM plan to concurrently notify all predecessors who it determined accrued decommissioning obligations? If so, that should be clearly stated in the rules. This will provide assurances to all predecessors that they have been treated equitably and not singled out to fulfill decommissioning obligations that were accrued by other parties.

2. Proposed Change to Credit Ratings

- The credit rating threshold used for evaluating the financial health of lessees and grantees is proposed to be lowered from BBB- to BB- from S&P Global Ratings (S&P) or Baa3 to Ba3 from Moody's Investor Service Inc. (Moody's) or other equivalent credit rating from a Nationally Recognized Statistical Rating Organization (NRSRO).

Comment 2A: The proposed change should not be adopted and the existing credit ratings thresholds BBB- and Baa3 should be retained. The BOEM does not have any clear risk-based rationale for lowering the credit rating threshold, which would apply to both current and predecessor lessees. The BOEM also understates the default risks of the proposed change by only citing the one-year default rate in apparent effort to justify the change. A BB- and a Ba3 rating is considered "non-investment grade" or "junk," meaning a company is more vulnerable to adverse economic conditions, such as a recession or a downturn in oi and gas prices. Current market estimates place the 3-year probability of default for a BB- rating at approximately 12.5% to 13%. Lowering the credit rating threshold to BBB- and Ba3 significantly increases the risks of default by lessees and increases the risk to the federal government and taxpayers if lessees who are assigned a lease accrue decommissioning and subsequently declare bankruptcy.

3. Proposed Change to Probabilistic Estimates of Decommissioning Costs

- BOEM probabilistic estimates of decommissioning cost used for determining the amount of supplemental financial assurance required are proposed to be lowered from P70 to P50.

Comment 3A: The proposed change should not be adopted and the probabilistic criteria for determining the level of financial assurance should be changed to P90. The P50 criteria is not sufficiently conservative to protect the interests of the federal government and taxpayers in the event of default, given the high costs of decommissioning and BOEM reliance on industry reported costs which are conservative. Reducing the BOEM probabilistic criteria for determining the amount of supplemental financial insurance required to P50 means there is a 50% chance BOEM cost estimates for decommissioning are underestimated further increasing risks borne by the federal government and taxpayer. According to BOEM, the cost to plug and abandon an average OCS oil and gas well in the Gulf of America ranges from $660,000 for a shallow water (200 m) platform well to $3.6 million for a mid-water depth (61-122 m) platform well. A company with a low credit rating who was assigned an OCS lease and then drilled wells and installed equipment on the platform could very quickly accrue significant decommissioning obligations amounting to millions to tens of millions of dollars. If such a company declares bankruptcy and defaults on fulfilling its decommissioning obligations the federal government and taxpayers would be saddled with covering the decommissioning costs unless BOEM had remained diligent in monitoring and increasing financial insurance levels concurrent with lessee development activities (see Comment 3D below).

Comment 3B: The P50 criteria is also not sufficiently conservative to protect the interests of the federal government and the taxpayer because the amount of financial assurance required by BOEM is based on industry reported costs which are conservative. The costs reported by industry are conservative because pursuant to BOEM guidance (NTL No. 2017-NO2) operators are only required to summit summaries of actual decommissioning costs for wells, pipelines and site clearance. Other expenses such as preparatory engineering studies for well plugging and abandonment, platform structure removal, pipeline and power cable removal, and general overhead are not required to be reported. The costs used by BOEM also exclude third party costs, which in the event of a default by an operator, would involve hiring an experienced decommissioning firm to manage and oversee the project. Decommissioning studies funded by the Bureau of Safety and Environmental Enforcement (BSEE) show that these expenses can account for 10-20% of the total decommissioning cost (TBS, Inc. Decommissioning Cost Update for Pacific OCS Region Facilities, September 2020). These points were acknowledged in a presentation made by the Gulf of Mexico Regional Deputy Director of BSEE at a 2016 Decommissioning Liability Assessment Workshop. Bulletized below are two excerpts from the Regional Director's Power Point presentation.

- "Should decommissioning liabilities ultimately fall to BSEE, the final cost will be higher than otherwise as BSEE would have to contract with a third party to perform the work, the cost of which would include profit and risk assumption components for the contractor."

- "BSEE needs estimates that provide more certainty than that of the mean, median or most likely. **No BSEE official wants to have to say, "We thought there was a 50% chance that the bond amount would cover the actual cost**."

Comment 3C: Experience in California has shown that relying on industry reported costs can be problematic. Two studies (listed below) prepared for decommissioning California state water oil and gas platforms reported cost estimates provided by operators for plugging and abandoning wells and removing platforms and pipelines were 2-3-fold lower than those estimated by experienced decommissioning consultants who assumed the work would be conducted by third parties, which would be the case if operators/lessees declared bankruptcy and defaulted on meeting their decommissioning obligations.

1. Abandonment Cost Estimate for Oil and Gas Assets in California State Waters, April 2020. The report was prepared by DRILTEK for the California Department of Conservation.
2. Offshore Oil and Gas Operations Abandonment, SB 1147 Report prepared by the California Geologic Energy Management Division (CalGem) pursuant to Senate Bill 1147, January 20, 2022.

The DRILTEK report was commissioned by CalGEM to provide an independent third party estimate of decommissioning costs for oil and gas platforms and islands in State waters. The report was prepared in accordance with Senate Bill 1147 (Hertzberg, Ch. 607, Statutes of 2018). SB 1147 created Public Resources Code Section 3205.6, which requires the State Oil and Gas Supervisor of the Department of Conservation's CalGEM, in close consultation with the California State Lands Commission (CSLC), to estimate the costs necessary to decommission, plug, and abandon all oil and gas wells in State waters, compare these estimated costs with current industry-provided financial surety levels; and, if necessary, create a schedule of bonding increases to close this gap.

Table 1 shows operator cost estimates and the cost estimates for the Most Likely Scenario for the four existing State water platforms. The DRILTEK and CalGEM cost estimates are 2-3-fold higher than the high-end estimates provided by the operators of Emmy, Eva, and Esther. For Holly, the costs are more than double the cost ($55 million) reported by the operator. The differences in costs are primarily due to the tendency of the operators to base their cost estimates on unrealistic "best case scenarios" that do not take into consideration the condition of aging wells, platform and drilling rig refurbishment and repair costs, structural reinforcement requirements, the time to complete the work, additional contracting and engineering costs, weather contingencies, economies of scale, disposal options as well as other contingencies. The CalGEM costs estimates also included costs for remediation of sites (e.g., hydrocarbon contaminants and other hazardous materials are present in the drilling muds and cuttings and shell mounds found surrounding the base of the platform jackets), repairs due to neglect, and third-party engineering costs that were not considered in the DRILTEK report.

Table 1. Comparison of Operator, DRILTEK, and CalGEM Platform Decommissioning Cost Estimates			
Platform	Operator High End Estimate ($MM)	DRILTEK[1] Estimate ($MM)	CalGEM[1] Estimate ($MM)
Emmy	$34.4	$73.2	$91.9
Eva	$24.9	$75.5	$85.5
Esther	$21.8	$70.3	$74.9
Holly	$55.0[1]	$134.6	Not reported

[1] Most Likely Decommissioning Scenario – platforms and pipelines/power cable are fully removed.

Comment 3D: The rules should include a provision stating BOEM will review and update operator/lessee financial security requirements on an annual basis or more frequently as circumstances warrant. Lax enforcement of bonding requirements was noted to be a significant problem in the 2024 General Accounting Office report entitled "Interior Needs to Improve Decommissioning Enforcement and Mitigate Related Risks." An example of problems resulting from lax enforcement is a case in the Pacific OCS Region where an operator/lessee was permitted to drill sidetracked wells without BOEM maintaining adequate bonding levels to cover the plugging and abandonment of those wells. The BOEM reported there is an approximate $10 million deficit in financial insurance to decommission 21 orphaned sidetrack wells on Platforms Hogan and Houchin. The operator/lessee declared it was financially insolvent, abandoned the platforms, and relinquished its OCS leases in 2020. The federal government and taxpayers will therefore be responsible for covering the $10 million well plugging and abandonment costs because there is no financial assurance available to cover those costs and predecessor lessees are only responsible for decommissioning obligations accrued while they held ownership interests in the lease. This points to the need for BOEM to be diligent in updating financial security requirements for operators/lessees.

4. Using Proved Reserves for ROW Grant Holder Decisions

- The Regional Director can consider the use of the 3-to-1 proved reserves to decommissioning liabilities ratio for ROW grant holders (when they also have lease rights to the proved reserves) when determining supplemental financial assurance requirements.

Comment 4A: Proved reserves should not be used as a basis for eliminating the need for supplemental assurance because reserve estimates are based on the current price of oil, which has historically been extremely volatile. Proven reserves are considered by many financial experts to be less reliable than bonds and decommissioning escrow cash accounts for immediate decommissioning security, particularly for late-life oil and gas infrastructure where decommissioning costs may exceed the value of remaining reserves which are likely to have been significantly depleted. As shown below, key factors influencing the price of oil and gas

include rapid economic expansion, financial crises, geopolitical conflicts in the Middle East, OPEC's shifting production strategies, and the emergence of the U.S. as a major producer.

- **The 2000s Super-Cycle Boom (2000–2008):** Rapid industrialization in emerging economies, primarily China and India, caused demand to outpace supply. Prices soared from roughly $20 in 2000 to a record peak over $145/bbl. in July 2008. Geopolitical tensions (Iraq/Iran) and weak U.S. dollar value fueled this rapid increase.

- **2008 Financial Crisis & Rebound:** The global recession in late 2008 caused demand to collapse, causing prices to plummet from $145 to nearly $32 in less than six months. Prices subsequently rebounded, averaging over $100/bbl. from 2011 to 2014, driven by the Arab Spring supply disruptions.

- **2014–2019: The Shale Revolution Impact:** Starting in late 2014, the rise of hydraulic fracturing (fracking) in the U.S. flooded the market with new supply. OPEC, led by Saudi Arabia, refused to cut production to keep market share, resulting in a price slump to below $50/bbl. by 2015.

- **2020: The COVID-19 Demand Crash:** The COVID-19 pandemic caused an unprecedented demand destruction, leading to a brief, historic collapse in April 2020, where WTI crude prices fell to roughly $11/bbl. (briefly trading negative).

- **2021–2022: Post-Pandemic Rebound and Geopolitical Spikes:** As economies reopened, demand surged, while supply remained tight, leading to a sharp rebound in 2021. In 2022, the Russia-Ukraine War triggered a major geopolitical shock, with prices spiking over $120/bbl.

- **2026: Middle East Conflicts:** Oil prices experienced a severe spike in early 2026, rising over 70% from late February to early April, largely driven by geopolitical conflict in the Middle East and the closure of the Strait of Hormuz. Brent crude, which began 2026 around $61 per barrel, peaked over $110 in March/April 2026.

Comment 4B: Proved reserves should not be used as a basis for eliminating the need for supplemental assurance because companies have a strong incentive to embellish and "book" higher proved undeveloped reserves to inflate corporate valuations (credit ratings) and evade having to obtain financial assurance. There have been several notable cases where OCS operators (Shell, El Paso, Stone Energy) were forced to significantly decrease their reserve estimates because they were found to be overly optimistic or fraudulent. Reserve estimation is also inherently technical and complex, involving geological and engineering data that may be interpreted differently by various professionals. Using reserves as a criterion for determining

financial insurance increases the potential for disputes over reserve estimates between BOEM and operators which can result in protracted negotiations, and lead to operators filing appeals with the Interior Board of Land Appeals (IBLA) contesting BOEM's decisions. This was the case in the Pacific OCS Region where an operator continually appealed orders to increase bonding over a 20-year period before becoming insolvent and abandoning the first two platforms (Hogan and Houchin) installed on the OCS offshore California. The platforms have not been decommissioned because predecessor lessees are appealing their decommissioning obligations. During the settlement negotiations associated with those appeals, the operator provided highly inflated reserve estimates that were not considered credible by BOEM.

Comment 4C: Using the 3 to 1 proved reserves to decommissioning liabilities criterion to waive the need for operators to obtain financial assurance provides a false sense of security to the government and taxpayers. The concern over potential operator default is magnified by the fact that most (if not all) developers organize themselves as Limited Liability Companies whose sole assets are the oil and gas infrastructure they own, which are their only revenue-generating assets. MAA's assumption that another entity would step in to assume or purchase control of a company that became insolvent because the insolvents leases meet the 3 to 1 reserve to decommissioning cost criteria is extremely optimistic and poses a risk to the government and taxpayers if another entity can't be found to purchase the insolvent company's assets. BOEM's assumption is questionable because companies who become insolvent are unable to generate revenue that exceeds its operating costs. Although another company may opt to take over the leases of the insolvent company, this is more likely to be the exception than the rule. BOEM has not provided any documentation or statistics supporting its claim that leases with a sufficient "reserves to decommissioning cost ratio" would likely be purchased by another company if a current lessee defaults on its decommissioning obligations.

5. Appeal Bonds

- Removes the requirement that a lessee provides an appeal bond in the amount of the demand as a condition of staying the demand during the IBLA appeal process.

Comment 5A: The proposal to remove the appeal bond requirement should not be adopted and the existing rule should be retained. This is a critical rule that serves to protect the interests of the government and the taxpayers. Retention of the appeal bond provision means that, in the event of a stay of a financial assurance order, there will be an appeal bond, ensuring that, even if the appellant becomes insolvent during the appeal, there will be sufficient funds to perform decommissioning when it is ordered by BSEE. The case cited in Comment 4B above where an operator continually appealed orders to increase bonding over a 20-year period before becoming insolvent and abandoning the first two platforms (Hogan and Houchin) installed on the OCS offshore California provides an excellent example of why the appeal bond rule should be retained. Currently, there is no bonding available to cover the decommissioning obligations accrued by the insolvent operator. Had an appeal bond been in place this problem would have been avoided and the interests of the government and taxpayers protected. In 2024, when the financial strength rules were last updated, BOEM reported of the 1,449 appeals the IBLA had received during the previous five fiscal years, only five were from BOEM decisions concerning

financial assurance. Retention of the appeals bond would therefore not impose any significant burdens on the industry.