4340-98-P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

30 CFR parts 550, 556, and 590

[Docket No. BOEM-2025-0042]

RIN 1010-AE26

Risk Management and Financial Assurance for OCS Lease and Grant Obligations

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: The Department of the Interior (the Department or DOI), acting through the Bureau of Ocean Energy Management (BOEM), in response to Executive Order (E.O.) 14154 of January 20, 2025, *Unleashing American Energy,* as well as Secretarial Order No. 3418 of February 3, 2025, has reviewed market conditions of supply and demand in the crude oil and gas markets, and, as a result, is proposing to amend its existing risk management and financial assurance regulations. BOEM is tasked with managing the development of U.S. Outer Continental Shelf (OCS) energy, mineral, and geological resources in an environmentally and economically responsible way. As such, BOEM is proposing to maintain certain provisions of the existing regulations and modify only those elements that, under new market conditions, merit updating. The major proposed amendments in this rule include returning to the previous BOEM practice of considering the financial strength of jointly liable predecessor lessees, revising the credit rating threshold for determining whether oil, gas, and sulfur lessees, right-of-use and easement (RUE) grant holders, and pipeline right-of-way (ROW) grant holders on the OCS are required to provide supplemental financial assurance above the required general financial assurance amount to ensure compliance with their Outer Continental Shelf Lands Act (OCSLA) obligations, revising the decommissioning estimate used to determine the amount of supplemental financial assurance required, and revising the

appeals bond provision related to the Interior Board of Land Appeals (IBLA) appeal procedures. Each of these proposed amendments will be discussed in its corresponding section of this preamble. This proposed rule, if finalized, would significantly reduce the amount of supplemental financial assurance required from oil, gas, and sulfur lessees operating on the OCS, thereby supporting the goals of E.O. 14154 *Unleashing American Energy*. BOEM estimates that a total of approximately $6.2 billion of financial burden to the regulated community will be reduced. This reduction of the financial burden increases the amount of capital available for oil and gas exploration and production on the OCS.

DATES: BOEM must receive your comments on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. BOEM has the discretion not to consider comments received after this date. You may make comments on the information collection (IC) burden in this rulemaking and the Office of Management and Budget (OMB) and BOEM must receive such comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The IC burden comment opportunity does not affect the deadline for the public to comment to BOEM on the proposed regulations.

ADDRESSES: You may submit comments on the rulemaking by any of the following methods. In your comments, please reference "Risk Management and Financial Assurance for OCS Lease and Grant Obligations, RIN 1010-AE26." See the **SUPPLEMENTARY INFORMATION** section of this document for more details on submitting comments.

- *Federal rulemaking portal*: https://www.regulations.gov (BOEM preferred method). Follow the online instructions for submitting comments.
- *Mail or delivery service*: Send comments on the proposed rule to the Department of the Interior, Bureau of Ocean Energy Management, Office of Regulatory Affairs, Attention: Karen Thundiyil, Office Director, Office of

Regulatory Affairs, BOEM, 1849 C Street NW, Washington, D.C. 20240.

You may submit comments on the IC to OMB's desk officer for the Department of the Interior through https://www.reginfo.gov/public/do/PRAMain. From this main webpage, you can find and submit comments on this particular information collection by proceeding to the boldface heading "Currently under Review—Open for Public Comments," selecting "Department of the Interior" in the "Select Agency" pull down menu, clicking "Submit," then, checking the box "Only Show ICR for Public Comment" on the next webpage, scrolling to this proposed rule, and clicking the "Comment" button at the right margin. Additionally, you may use the search function to locate the IC request related to the rule on the main webpage. Please provide a copy of your comments to the Information Collection Clearance Officer, Office of Regulatory Affairs, BOEM, Attention: Anna Atkinson, 45600 Woodland Road, Sterling, Virginia 20166; or by email to anna.atkinson@boem.gov. Please reference OMB Control Number 1010-0006 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Karen Thundiyil, Office Director, Office of Regulatory Affairs, BOEM, 1849 C Street NW, Washington DC 20240, at email address regulatory.affairs@boem.gov, or at telephone number (202) 742-0970.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting the contacts listed in this section. These services are available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Docket: For access to the docket to read background documents or comments

received, go to https://www.regulations.gov. In the entry titled, "Enter Keyword or ID," enter BOEM-2025-0042 then click search. Here you can view supporting and related materials available for this rulemaking, as well as posted publicly submitted comments. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at https://www.regulations.gov/docket/BOEM -2025-0042.

Instructions for submitting comments: In the entry titled, "Enter Keyword or ID," enter BOEM-2025-0042 then click search. Follow the instructions to submit public comments. All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking (1010-AE26). Please include your name, and phone number or email address in the https://www.regulations.gov submission portal so we can contact you if we have questions regarding your submission.

BOEM may post all comments to https://www.regulations.gov. Before including your name, return address, phone number, email address, or other personally identifiable information in the body of your comment, you should be aware that your entire comment – including your personally identifiable information – may be made publicly available. In order for BOEM to withhold from disclosure your personally identifiable information, you must identify, in a cover letter, any information contained in the submittal of your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe in such cover letter any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so. Even if BOEM withholds your information in the context of this rulemaking, your submission is subject to the Freedom of Information Act (FOIA) and any relevant court orders, and if your submission is requested under the FOIA or such court order, your information will

only be withheld if a determination is made that one of the FOIA's exemptions to disclosure applies or if such court order is challenged. Such a determination will be made in accordance with the Department's FOIA regulations and applicable law.

Preamble acronyms and abbreviations. Multiple acronyms are included in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, BOEM explains the following acronyms here:

ANCSA	Alaska Native Claims Settlement Act
BOEM	Bureau of Ocean Energy Management
BSEE	Bureau of Safety and Environmental Enforcement
CFR	Code of Federal Regulations
DOI	Department of the Interior (or Department)
E.O.	Executive Order
FDIC	Federal Deposit Insurance Corporation
FR	Federal Register
FSLIC	Federal Savings and Loan Insurance Corporation
GAO	Government Accountability Office
GOA	Gulf of America
IBLA	Interior Board of Land Appeals
IC	Information Collection
IRFA	Initial Regulatory Flexibility Analysis
mmboe	Million barrels of oil equivalents
MMS	Minerals Management Service
NAICS	North American Industry Classification System
NEPA	National Environmental Policy Act
NPRM	Notice of Proposed Rulemaking
NRSRO	Nationally Recognized Statistical Rating Organization

NTL	Notice to Lessees
OCS	Outer Continental Shelf
OCSLA	Outer Continental Shelf Lands Act
OIRA	Office of Information and Regulatory Affairs (a component of OMB)
OMB	Office of Management and Budget
ONRR	Office of Natural Resources Revenue
PRA	Paperwork Reduction Act
RIA	Regulatory Impact Analysis
RFA	Regulatory Flexibility Act
RUE	Right-of-Use and Easement
ROW	Right-of-Way
SBA	Small Business Administration
SBREFA	Small Business Regulatory Enforcement Fairness Act
SEC	Securities and Exchange Commission
S&P	Standard and Poor's
UMRA	Unfunded Mandates Reform Act
U.S.C.	United States Code

Background information. On April 24, 2024, the Department published the *Risk Management and Financial Assurance for OCS Lease and Grant Obligations* final rule (89 FR 31544, "2024 Final Rule"). The 2024 Final Rule finalized criteria for determining whether oil, gas, and sulfur lessees, RUE grant holders, and pipeline ROW grant holders on the OCS are required to provide financial assurance above the general financial assurance amount to ensure compliance with their OCSLA obligations. The 2024 Final Rule also streamlined the criteria for evaluating the financial health of lessees and grantees, codified the use of the Bureau of Safety and Environmental Enforcement's

(BSEE) probabilistic estimates of decommissioning costs in setting the level of demands for supplemental financial assurance, removed restrictive provisions for third-party guarantees and decommissioning accounts, added new criteria for cancelling supplemental financial assurance, and clarified financial assurance requirements for RUEs serving Federal OCS oil, gas, and sulfur leases. In response to E.O. 14154 *Unleashing American Energy*, the Department is proposing this action to revise the provisions that were finalized in the 2024 Final Rule.

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I. General Information

A. Executive Summary

1. Purpose of this Regulatory Action

The purpose of this proposed regulatory action is to address concerns regarding recent changes in BOEM's financial assurance program. Specifically, on April 24, 2024, the Department published the *Risk Management and Financial Assurance for OCS Lease and Grant Obligations* final rule (89 FR 31544, "2024 Final Rule"), which finalized criteria for determining whether oil, gas, and sulfur lessees, RUE grant holders, and pipeline ROW grant holders on the OCS are required to provide supplemental financial assurance above the general financial assurance amount required by regulation to ensure compliance with their OCSLA obligations. The 2024 Final Rule also streamlined the criteria for evaluating the financial health of lessees and grantees, codified the use of the BSEE probabilistic estimates of decommissioning costs in setting the level of demands for supplemental financial assurance, removed restrictive provisions for third-party guarantees and decommissioning accounts, added new criteria for cancelling supplemental financial assurance, and clarified financial assurance requirements for RUEs serving Federal OCS oil, gas, and sulfur leases. At the time of publication, BOEM estimated that the 2024 Final Rule would require a total of $6.9 billion in new supplemental financial assurance from lessees and grant holders to cover potential costs of decommissioning activities. The Department is proposing this action to revise regulatory provisions that were finalized in the 2024 Final Rule, in response to E.O. 14154 *Unleashing American Energy,* and to reduce the economic burden on OCS lessees and grant holders.

2. Summary of Major Provisions

The following amendments are included in this proposed rule:

- consideration of the financial strength of jointly and severally liable

predecessors when determining the need to provide supplemental financial assurance;

- revising the credit rating threshold used for evaluating the financial health of lessees and grantees 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) as defined in section 3(a)(62) of the Securities Exchange Act of 1934;
- revising the level of BSEE probabilistic estimates of decommissioning cost used for determining the amount of supplemental financial assurance required from P70 to P50, as described in section II.C of this preamble;
- revising the list of acceptable supplemental financial assurance instruments for leases to explicitly include dual-obligee financial assurance instruments;
- adding an alternative option to allow the Regional Director to 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;
- adding an alternative option for addressing supplemental financial assurance demands for short-term decommissioning activities; and
- removing the requirement that a lessee provide an appeal bond in the amount of the demand as a condition of staying the demand during the IBLA appeal process.

With this rulemaking, the Department is proposing to consider jointly and

severally liable predecessors and revise the credit rating threshold used for evaluating the financial health of lessees and grantees when determining if supplemental financial assurance is required. The current regulations require the use of an investment grade credit rating (BBB- from S&P, or Baa3 from Moody's, or other equivalent credit rating from an NRSRO.) threshold (or proxy credit rating equivalent) or a minimum 3-to-1 ratio of the value of proved reserves to decommissioning liability associated with those reserves to determine if a current lessee is required to provide supplemental financial assurance. The current regulations do not consider predecessors in this determination. With this rule, the Department is proposing to revise this credit rating threshold to BB- (S&P), or Ba3 from Moody's, or other equivalent credit rating from an NRSRO, and to consider the credit rating of predecessors when determining if a current lessee is required to provide supplemental financial assurance. If a current lessee or a predecessor meets the credit rating threshold of BB- (S&P), or Ba3 from Moody's, or other equivalent rating from an NRSRO, or the ratio of the current lessee's value of proved reserves to decommissioning liability associated with those reserves is at least 3-to-1 (as under current regulations), the current lessee will not be required to provide supplemental financial assurance. These proposed amendments will significantly reduce the regulatory financial burden on companies, allowing them additional capital for current and future oil and gas operations, and acknowledge the protection provided by joint and several liability. The impacts of the financial burden and capital constraints on offshore companies is illustrated by previously received public comments on the 2023 NPRM, with Talos Energy Inc., stating that the financial burden "would significantly reduce the capital available to the affected small businesses that they would otherwise be able to deploy in their lease operations and decommissioning operations," and Beacon Offshore Energy stating that the financial burden would "decrease oil and gas production in the [GOA]."

The Department is also proposing to revise the probabilistic value that would be used (i.e., P-value) from among the available BSEE probabilistic estimates of decommissioning cost for determining the amount of supplemental financial assurance required. Probabilistic estimation involves determining the likelihood of certain outcomes or parameters based on observed data. BSEE decommissioning cost estimates are based on industry-reported decommissioning costs required by regulations at 30 CFR 250.1704 and clarified by guidance.[1] Based on the reported data, BSEE has developed three publicly available probabilistic estimates (i.e., P-values) of decommissioning costs for each OCS facility on any given lease.[2] These probabilistic estimates represent the likelihood of covering the full cost of decommissioning a facility as a percentage. For example, P70 represents a 70 percent likelihood that the amount will cover the full cost of decommissioning a facility. The current regulations require the use of the P70 estimate when determining the amount of supplemental financial assurance that must be provided to cover future decommissioning activities. The Department is proposing to revise the probabilistic value used for determining the amount of supplemental financial assurance required from P70 to P50. BOEM also notes that the regulation only stipulates that the BSEE P-value be used to determine the amount of supplemental financial assurance that may be required to meet decommissioning obligations and does not limit the total cost of corrective action that may be required to bring a lease or grant into compliance.

In instances where decommissioning activities will be performed within 1 year of receiving a new supplemental financial assurance demand from BOEM, the Department is proposing to allow the Regional Director the discretion to accept third-party decommissioning contracts and decommissioning schedules from those entities in lieu of

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[1] https://www.bsee.gov/notices-to-lessees-ntl/ntl-2017-n02-reporting-requirements-for-decommissioning-expenditures-on-the.

[2] BSEE, https://www.bsee.gov/research-record/tap-738-decommissioning-methodology-and-cost-evaluation.

providing new supplemental financial assurance for that activity. This reduces the burden on the regulated community that may have difficulty acquiring new supplemental financial assurance for platforms scheduled for decommissioning. BOEM's review and approval of the decommissioning contracts and schedules for use in lieu of supplemental financial assurance is not an approval for decommissioning activities, which remains in BSEE's purview; BOEM's approval is only an acceptance of those documents in lieu of supplemental financial assurance.

As amended in 2024, the current appeals process requires that a lessee provide an appeal bond equivalent to the amount of the supplemental financial assurance demand if they seek to stay the supplemental financial assurance demand pending a decision from the IBLA. If the appeal is successful, the appeal bond would be returned to the appropriate party, and any required supplemental financial assurance would need to be posted in the form of bonds or other financial instruments. If the appeal is unsuccessful, the appeal bond could be replaced with, or converted into, bonds or other forms of financial assurance to cover the supplemental financial assurance demand. The Department is proposing to remove this requirement because of the undue burden it places on industry, as raised by commenters during the public comment period for that rulemaking.

The Department's goal for BOEM's financial assurance program continues to be the protection of the American taxpayers from exposure to loss associated with OCS development, while ensuring that the financial assurance program does not detrimentally affect offshore investment or position American offshore exploration and production at a competitive disadvantage. The Department acknowledges that, even though these proposed revisions will reduce the total amount of supplemental financial assurance required of offshore lessees and operators, there may still be some financial impact on affected companies because BOEM has not yet required them to provide supplemental

financial assurance as directed by the 2024 Final Rule. For this reason, the Department is proposing to revise the current 3-year phase-in provision for existing leaseholders to start a new phase-in period with the effective date of the new supplemental financial assurance requirements.

3. Costs and Benefits

The regulatory amendments in this proposed rule, if finalized, are expected to decrease the total amount of supplemental financial assurance required from OCS lessees and grant holders. BOEM has developed a Regulatory Impact Analysis (RIA) detailing the estimated impacts of the respective provisions of this proposed rule and has included it in the docket. The table below summarizes BOEM's monetized estimate of the savings incurred by lessees over a 20-year period. Additional information on the estimated transfers, costs, and benefits can be found in the RIA available in the docket for this proposed rulemaking (Docket No. BOEM-2025-0042).

Estimated Regulatory Savings of the Proposed Rule (2026–2045, 2025$ millions)

	Discounted at 3%	**Discounted at 7%**
Total Regulatory Savings	$7,207.60	$5,161.55
Annualized Regulatory Savings	$484.46	$487.21

This proposed rule is designed to minimize the amount of supplemental financial assurance required for financially strong companies while protecting the taxpayer from assuming responsibility for decommissioning liabilities. The regulatory amendments proposed with this action, if finalized, would help to reduce financial compliance burdens on the oil and gas industry that may hinder the continued development or use of domestically produced energy resources.

B. Does This Action Apply to Me?

Entities potentially affected by this action are holders of oil, gas, and sulfur leases,

ROW grants, and RUE grants on the OCS, as shown in the following table by North American Industry Classification System (NAICS) code.

Entities Potentially Affected by This Proposed Action

NAICS code*	Category Description
211120	Crude Petroleum Extraction
211130	Natural Gas Extraction
486110	Pipeline Transportation of Crude Oil and Natural Gas
*Some holders of OCS properties may be categorized under other NAICS codes. For example, a venture capital fund with only an economic interest in an OCS property may be categorized under another NAICS code, but BOEM believes the three presented here capture the large majority of OCS entities.	

C. Where Can I Get a Copy of This Document and Other Related Information?

In addition to being available in the docket, BOEM will post an electronic copy of the documents related to this action at: https://www.boem.gov/regulations-and-guidance.

II. Background

A. BOEM Statutory and Regulatory Authority and Responsibilities

Section 5 of OCSLA (43 U.S.C. 1334) authorizes the Secretary of the Interior (Secretary) to issue regulations to administer OCS leasing for mineral development. Section 5(a) of OCSLA (43 U.S.C. 1334(a)) authorizes the Secretary to "prescribe such rules and regulations as may be necessary to carry out [provisions of OCSLA]" related to leasing on the OCS. Section 5(b) of OCSLA (43 U.S.C. 1334(b)) provides that "compliance with regulations issued under" OCSLA must be a condition of "[t]he issuance and continuance in effect of any lease, or of any assignment or other transfer of any lease, under the provisions of" OCSLA.

The Secretary, in Secretary's Order 3299 (as amended), established BOEM and delegated to it the authority to carry out conventional energy- (i.e., oil and gas) functions on the OCS, including, but not limited to, activities involving resource evaluation,

planning, and leasing under the provisions of OCSLA. As such, BOEM is responsible for managing the development of the Nation's offshore energy, mineral, and geologic resources in an environmentally and economically responsible way. Secretary's Order 3299 also established BSEE and delegated to it the authority to, among other things, enforce an oil and gas lessee's obligation to perform decommissioning. BSEE provides estimates to BOEM to inform the financial assurance needed to cover the cost to perform decommissioning, thereby protecting the American taxpayer from incurring financial loss. When a current lessee is unable to perform its obligations, the Department's regulations at 30 CFR 556.604(d) and 556.605(e) hold current co-lessees responsible for all decommissioning obligations and predecessor lessees responsible for those decommissioning obligations that had accrued before they assigned their interests to others.

While BOEM also has program oversight for the financial assurance requirements set forth in 30 CFR parts 551, 581, 582, and 585, this proposed rule pertains only to the financial assurance requirements for oil and gas or sulfur leases and grants under parts 550 and 556 and appeals of supplemental financial assurance demands under part 590.

B. History of Bonding Regulations and Guidance

The Minerals Management Service (MMS), BOEM's predecessor, published the financial assurance requirements for oil, gas, and sulfur leases and pipeline ROW grants on May 22, 1997 (62 FR 27948). These regulations required lease-specific or area-wide base bonds in prescribed amounts, depending on the level of activity on a lease, and provided the authority to require additional supplemental financial assurance for leases above the base bonds depending on the financial health of the lessee. Additionally, MMS published the initial financial assurance requirements for RUE grants on December 28, 1999 (64 FR 72756). These regulations did not dictate a specific bond amount for a RUE but did provide the authority to require bonding if necessary. To implement these

regulations, BOEM employed the same criteria for RUE and ROW grants as it does for leases to determine whether supplemental financial assurance is required, because specific criteria pertaining to supplemental financial assurance for grants were not stated in those regulations.

The bonding regulations at 30 CFR 556.901(d) established in 1997 provided five criteria that the Regional Director considered when determining whether a lessee's potential inability to carry out present and future decommissioning obligations warrants a demand for supplemental financial assurance; however, the bonding regulations did not specifically describe how the criteria are weighted. To provide guidance, MMS issued a Notice to Lessees (NTL) effective December 28, 1998, which provided details on how it would apply the five criteria (NTL No. 98-18N). This NTL was superseded by NTL No. 2003-N06, effective June 17, 2003, and that NTL was later superseded by NTL No. 2008-N07, which was effective August 28, 2008. NTL No. 2008-N07 was superseded on September 12, 2016, with NTL No. 2016-N01, which was later rescinded in February of 2020.

On August 19, 2014, DOI issued an advance notice of proposed rulemaking (79 FR 49027) seeking comments and information on its effort to update the risk management regulations and program oversight. BOEM was specifically interested in comments regarding financial risks and liabilities associated with aging offshore infrastructure, deepwater decommissioning, subsea decommissioning, pipeline abandonment, Arctic operations, and new technologies designed to address deepwater development or exploration and/or development of energy or mineral resources in locations with unusually adverse conditions. BOEM also requested information on business risk associated with the changing characteristics of entities operating on the OCS, underperformance, non-performance or default on financial or legal obligations, and underpayment or non-payment of rentals and royalties. Additionally, BOEM

requested comments on the necessary elements of a comprehensive operational risk management, financial assurance, and loss prevention program, and how to monitor business risks. BOEM received 25 comments from affected entities on the advance notice.

In December 2015, the Government Accountability Office (GAO) reviewed BOEM's supplemental financial assurance procedures and issued a report titled "Offshore Oil and Gas Resources: Actions Needed to Better Protect Against Billions of Dollars in Federal Exposure to Decommissioning Liabilities." ("2015 GAO Report"). The GAO identified three main shortcomings in the Department's prior approach to financial assurance: (1) the Department faced challenges in determining actual decommissioning liabilities due to data system limitations and inaccurate data; (2) the Department did not require sufficient financial assurance to cover liabilities, primarily due to the practice of waiving supplemental bonding requirements, resulting in financial assurance coverage (such as bonds) for less than 8% of an estimated $38.2 billion in decommissioning liabilities; and (3) the Department's criteria for assessing lessees' financial strength did not provide accurate and timely information about their ability to cover future decommissioning costs. As the 2015 GAO Report indicated, the then existing regulatory structure was inadequate, introduced needless financial risk, and was unsustainable. While acknowledging BOEM's ongoing efforts to update its policies, the 2015 GAO Report recommended, inter alia, that "BOEM complete its plan to revise its supplemental financial assurance procedures, including the use of alternative measures of financial strength." *See* https://www.gao.gov/products/gao-16-40.

On October 16, 2020, DOI issued a notice of proposed rulemaking (85 FR 65904) to revise certain BSEE policies concerning decommissioning orders and the Department's financial assurance regulations that are administered by BOEM. In the joint proposed rule, the Department proposed the following based on comments received on

the 2014 advanced notice for proposed rulemaking:

- adjustment of the supplemental financial assurance evaluation criteria to streamline implementation;
- consideration of the financial stability of predecessor lessees by waiving supplemental financial assurance requirements for a current lessee when there is a financially strong predecessor lessee;
- amendment of the methodology for measuring financial strength to focus on credit rating and the value of proved oil and gas reserves; and
- application of the credit rating methodology to RUE grants and ROW grants as well.

On April 18, 2023, DOI finalized the BSEE-administered provisions of the 2020 proposal (88 FR 23569) without the BOEM-administered provisions. The Department's 2023 final rule implements provisions of the 2020 proposed rule to clarify decommissioning responsibilities of RUE grant holders and formalizes BSEE's policies regarding performance by predecessors ordered to decommission OCS facilities.

On June 29, 2023, the Department proposed a new rule in lieu of finalizing the BOEM provisions of the 2020 joint proposal. The new proposed rule provided recommended revisions to the regulations concerning risk management and financial assurance for OCS lease and grant obligations. The DOI published the proposed rule in the *Federal Register* at 88 FR 42136, which proposed amendments to 30 CFR parts 550, 556, and 590. This rule proposed to streamline the criteria used for evaluating the financial health of lessees, codify the use of the BSEE probabilistic estimates of decommissioning cost for determining the amount of supplemental financial assurance required, remove restrictive provisions for third-party guarantees and decommissioning accounts, add criteria for which a bond or third-party guarantee that was provided as supplemental financial assurance may be canceled, and clarify bonding requirements for

RUEs serving Federal OCS leases. Specifically, the Department proposed to revise the criteria used to evaluate the need for supplemental financial assurance from lessees from the existing five criteria—financial capacity, projected financial strength, business stability, reliability in meeting obligations based on credit rating or trade references, and record of compliance with laws, regulations, and lease terms—to one of two criteria: (1) credit rating and (2) the ratio of the value of proved reserves to decommissioning liability associated with those reserves. The Department proposed the use of an investment grade credit rating threshold (or proxy credit rating equivalent) and a minimum 3-to-1 ratio of the value of proved reserves to decommissioning liability associated with those reserves to determine if a lessee is required to provide supplemental financial assurance. The Department also proposed the use of the P70 value for determining the amount of supplemental financial assurance required.

On February 20, 2024, the GAO issued a new report titled, *Offshore Oil and Gas: Interior Needs to Improve Decommissioning Enforcement and Mitigate Related Risks* (GAO-24-106229) that provided four recommendations to DOI to strengthen BSEE's and BOEM's decommissioning oversight and enforcement. Recommendation 3 specifically stated the "Secretary of the Interior should ensure the BOEM Director completes planned actions to further develop, finalize, and fully implement changes to financial assurance regulations and procedures that reduce financial risks, including by (1) requiring higher levels of supplemental bonding, and (2) addressing other known weaknesses."

After review of the public comments received, the Department published the *Risk Management and Financial Assurance for OCS Lease and Grant Obligations* final rule (89 FR 31544, "2024 Final Rule") on April 24, 2024. This final regulatory action finalized criteria for determining whether oil, gas, and sulfur lessees, RUE grant holders, and pipeline ROW grant holders are required to provide financial assurance above the general financial assurance amount to ensure compliance with their OCSLA obligations.

The 2024 Final Rule streamlined the criteria for evaluating the financial health of lessees and grantees, codified the use of the BSEE probabilistic estimates of decommissioning costs in setting the level of demands for supplemental financial assurance, removed restrictive provisions for third-party guarantees and decommissioning accounts, added new criteria for cancelling supplemental financial assurance, and clarified bonding requirements for RUEs serving Federal OCS leases. The Department finalized the use of an investment grade credit rating threshold (or proxy credit rating equivalent) and a minimum 3-to-1 ratio of the value of proved reserves to decommissioning liability associated with those reserves to determine if a lessee is required to provide supplemental financial assurance. The Department also finalized the use of the P70 value for determining the amount of supplemental financial assurance required. BOEM estimated that the final regulatory action, with an effective date of June 29, 2024, would require a total of $6.9 billion in new supplemental financial assurance from lessees and grant holders to cover potential costs of decommissioning activities.

After publication of the 2024 Final Rule but prior to its effective date on June 17, 2024, several oil and gas industry associations and states sued DOI in the U.S. District Court for the Western District of Louisiana to stay or enjoin the 2024 financial assurance rule. *Louisiana v. Burgum*, No. 2:24-cv-00820 (W.D. La. 2024). On April 7, 2025, DOI and plaintiffs filed a joint motion to stay the case to allow time for DOI to review and consider suspending, revising, or rescinding the 2024 Final Rule in line with Secretary's Order No. 3418, and for the parties to file periodic status reports on the progress. On the same date, the court granted the joint motion staying the case.

C. Overview of BOEM's Financial Assurance Program

BOEM's existing financial assurance regulatory framework has two main components: (1) base financial assurance, generally required in amounts prescribed by regulation, and (2) supplemental financial assurance above the prescribed amounts that

may be required by order of the Regional Director upon determination that an increased amount is necessary to ensure compliance with OCS obligations. BOEM's goal for its financial assurance program continues to be the protection of the American taxpayers from exposure to financial loss associated with OCS development, while ensuring that the financial assurance program does not detrimentally affect offshore investment or position American offshore exploration and production companies at a competitive disadvantage.

A significant component of BOEM's financial assurance program has traditionally been the joint and several liability shared between co-lessees and co-grant holders with joint ownership and the predecessor liability retained by lessees and grant holders after asset divestiture. The 2024 Final Rule failed to recognize the risk reduction afforded by predecessors in the decommissioning liability chain of title. As a result of failing to recognize the risk reduction of predecessors, if implemented, the 2024 Final Rule would have resulted in significant capital burdens on the current lessees and grant holders who have financially strong predecessors in the chain of title for the lease or grant, as evidenced by public comments received on the proposal in 2023. This proposed rule recognizes the financial strength of the jointly and severally liable predecessor lessees and grant holders when determining the financial contribution required from current lessees and grant holders based on the risk reduction afforded by the presence of creditworthy predecessors in interest, thereby reducing the imposed capital burden.

D. Risk Management

Since 2009, more than 30 corporate bankruptcies have occurred involving offshore oil and gas lessees. The volume of bankruptcies has decreased since 2019, however the financial losses from bankruptcy have increased recently as a result of orphaned liability (i.e., those properties without a predecessor in the chain of title). Decommissioning liabilities on the OCS are large and increasing as more deepwater

facilities are being constructed. Additionally, decommissioning costs generally increase over time with inflation. The current estimate for routine decommissioning-related liabilities offshore ranges from approximately $35 to $41 billion, using the P50 and P70 BSEE decommissioning estimates, respectively.

Additionally, the characteristics of the types of companies operating on the OCS have changed. Larger companies often transfer sunset properties to typically smaller, less experienced companies, including non-strategic players (i.e., those who participate in oil and gas activities but do not necessarily aim to control significant market share or influence global prices and supply trends) and private equity firms. BOEM has gained experience with these various corporate structures and arrangements governing transactions on the OCS.

It is also noted that BOEM and BSEE continue to pursue decommissioning of older infrastructure, however older infrastructure is not necessarily an indicator of current or future financial risk. BSEE continues to monitor for "idle iron" in accordance with criteria in Bureau of Safety and Environmental Enforcement (BSEE) NTL no. 2018-G03 and can order remedial measures or decommissioning to address safety and environmental concerns.

In its mission to manage the development of OCS energy, mineral, and geological resources in an environmentally and economically responsible way, BOEM must balance OCS energy development with protection for both the taxpayer and the environment considering these factors.

E. *Purpose of this Rulemaking*

As directed by E.O. 14154 and Secretary's Order 3418, BOEM reviewed the *Risk Management and Financial Assurance for OCS Lease and Grant Obligations* final rule (89 FR 31544; April 24, 2024) to consider whether it should be suspended, revised, or rescinded. With this rulemaking, DOI proposes to revise the regulations associated with

the 2024 Final Rule as it unnecessarily burdens the development of domestic energy resources under current market conditions of high volatility and depressed prices. Additionally, BOEM is seeking public comment on the proposed amendments discussed in this preamble, as summarized in section VI.

III. Summary of the Proposed Rule

For each topic, this section provides a description of what the Department is proposing with this action.

A. Revisions to BOEM Supplemental Financial Assurance Requirements

The Department is proposing revisions to the supplemental financial assurance requirements for OCS oil, gas, and sulfur leases, RUE grants, and pipeline ROW grants, as discussed in the subsections below.

1. OCS Leases

The 2024 Final Rule finalized amendments to the financial assurance requirements to modify the evaluation process for requiring supplemental financial assurance by clarifying and streamlining the evaluation criteria. The 2024 Final Rule allows the BOEM Regional Director to require supplemental financial assurance when a lessee poses a substantial risk of becoming financially unable to carry out its obligations under its lease, or when the property may not have sufficient value to be sold to another company that could assume those obligations. In the former case, the risk that the taxpayer might have to take on the financial obligations of a lessee is mitigated when there is a co-lessee holder that has sufficient financial capacity to carry out the obligations. This proposed rule reevaluates the 2024 Final Rule amendments and proposes new amendments to reduce the regulatory burden on the regulated community associated with the 2024 Final Rule.

a. Evaluation Criteria

As discussed in the preamble to the 2020 joint proposed rule, the Department

proposed to use credit rating instead of relying primarily on net worth to determine whether a lessee must provide additional security (85 FR 65907). Credit rating agencies take many factors into account when evaluating a company, particularly those that emphasize cash flow, such as debt-to-earnings ratios and debt-to-funds from operations. A credit rating considers forward-looking factors, including the income statement and cash flow statement, which provide a broader picture of how well a company can meet its future liabilities. At the time of the 2020 joint proposed rule, the regulations relied on a backward-looking net worth analysis based on a company's balance sheet, which shows the current amount of its assets and liabilities. A lessee's or grant holder's financial deterioration can occur quickly, and relying on the proposed more forward-looking credit rating analysis would allow BOEM to foresee a lessee's or grant holder's possible financial distress sufficiently ahead of time to take appropriate action.

The Department continued to support the stance of the 2020 joint proposed rule with the 2023 proposed rule, which again proposed to replace the five criteria (i.e., financial capacity, projected financial strength, business stability, reliability, and record of compliance) with the credit rating criteria and proved reserves alternate criteria. As discussed in the preamble (88 FR 42142), DOI proposed to streamline the evaluation process by reducing the number of criteria from five to two and by better aligning BOEM's evaluation process with accepted financial risk evaluation methods used by the banking and finance industry. Corporate credit ratings are broadly intended to evaluate the potential for a company to default on its financial obligations and are designed so that the higher the credit rating, the lower the risk of default. Credit ratings and proved oil reserves are good indicators of the likelihood that a company will be able to meet its financial obligations. Eliminating subjective or less precise criteria – such as the length of time in operation to determine business stability, or trade references to determine

reliability in meeting obligations[3] – would simplify the process and remove criteria that may not accurately or consistently predict financial distress. As a specific example, corporate parents may spin-off subsidiaries, resulting in a relatively well-financed new entity and no indications of immediate financial risk. While the spin-off has zero years of operation offshore as a new corporate entity, the personnel may have decades of experience working offshore and in the oil and gas markets.

The 2024 Final Rule amended the criteria in 30 CFR 556.901(d) that were used to evaluate the need for supplemental financial assurance from lessees from the previously used five criteria—financial capacity, projected financial strength, business stability, reliability in meeting obligations based on credit rating or trade references, and record of compliance with laws, regulations, and lease terms—to a simpler analysis of one of two criteria: (1) credit rating or (2) the ratio of the value of proved reserves to decommissioning liability associated with those reserves. Specifically, the Department finalized amendments in 30 CFR 556.901(d) to determine whether supplemental financial assurance on a lease may be required using: (1) a credit rating, either from an NRSRO, as defined in section 3(a)(62) of the Securities Exchange Act of 1934, or a proxy credit rating determined by BOEM based on a company's audited financial statements; or (2) a minimum ratio for the value of proved oil and gas reserves on a lease to the decommissioning liability associated with those reserves.

With this proposed rulemaking, DOI has reviewed the 2024 Final Rule evaluation criteria and is proposing to continue the use of the credit rating criterion, including a proxy credit rating, and the ratio of the value of proved oil and gas reserves on a lease to the decommissioning liability associated with those reserves criterion as the evaluation

[3] Review of many years of data on length of operation and references showed no correlation to financial stability or business stability.

criteria for lessees.[4] The Department is not proposing any amendments to the use of the evaluation criteria with this proposed rule, however amendments to the evaluation criteria thresholds are discussed in section III.D of this preamble.

b. Evaluation of Predecessors

Lessees are jointly and severally liable for the lease decommissioning obligations that accrue during their ownership, as well as those that accrued prior to their ownership, which means that each current co-lessee is liable for the full obligation and BSEE may pursue full performance from any individual current lessee. See, e.g., 30 CFR 556.604(d). In addition, a lessee that transfers its interest to another party continues to be liable for any unperformed decommissioning obligations that accrued prior to, or during, the time that the lessee owned an interest in the lease. See, e.g., 30 CFR 556.710. This transferor liability applies, however, only to those obligations existing at the time of transfer. New facilities, or additions to existing facilities, that were not in existence at the time of any lease transfer are not obligations of a predecessor company but are considered obligations of the party that built such new facilities and its co- and successor lessees.

The existing supplemental financial assurance evaluation process, as amended by the 2024 Final Rule and contained in 30 CFR 556.901(d), does not allow for consideration of predecessor financial capacity when determining if supplemental financial assurance is required by the current lessee. The 2024 Final Rule failed to recognize the risk reduction afforded by the presence of financially strong predecessors in the chain of title; this proposed rule recognizes the reduced risk to the taxpayer by having multiple parties in the chain of title. The Department is proposing to add new paragraph 30 CFR 556.901(d)(4) to include an evaluation of the ability of a predecessor to carry out present and future obligations. This approach is rooted in the joint and several liability of

[4] These criteria align closely with standard financial practice, evaluating financials, and/or value of assets to liabilities.

all current lessees, co-lessees, and predecessor lessees for all non-monetary obligations on a lease. Except in cases of sole liability, when a default by a current lessee occurs, a predecessor lessee can be called to perform decommissioning, up to the amount of the decommissioning obligations that accrued during the predecessor lessee's interest in the lease. BOEM defines sole liability properties as those where only one owner is liable for the lease or grant obligations. BOEM defines non-sole liability properties as those that have more than one owner. This proposed amendment relies on the combined responsibility of all current and predecessor lessees to perform required decommissioning. Under current regulations, even in cases where a predecessor divested its full interest in a lease to another company by assignment after accruing an obligation to decommission certain infrastructure (i.e., well, platform, pipeline), the predecessor remains jointly and severally liable for decommissioning that infrastructure. This proposed rule acknowledges the larger universe of companies to whom BSEE can look for performance under the law and so would reduce the circumstances under which BOEM would need to require additional security and, by extension, prevent tying up a current lessee's financial resources that are better used to foster ongoing operations and production. While the goal of BOEM's financial assurance program is to protect the taxpayer, financial assurance required by the Department, where there are viable predecessors, serves to protect the predecessors. There is evidence that sellers on the secondary OCS oil and gas market are now accounting for their contingent and retained decommissioning liabilities through different mechanisms in the structure of their sales, such as by requiring their own surety bonds or requiring funding of a trust account at the time of sale. This proposed deregulatory effort would allow market participants to arrange and price these OCS liabilities without unnecessary government interference, while still affording adequate protection to the taxpayer.

The Department is proposing that, if neither the lessee nor any co-lessee meets the

issuer credit rating or proxy credit rating threshold and there are not sufficient oil and gas reserves on the lease, BOEM would look to the credit ratings of prior lessees. Under the proposed rule, the Regional Director may require a lessee to provide supplemental financial assurance if no predecessor lessee on that lease liable for decommissioning meets the issuer credit rating or proxy credit rating criteria. Moreover, even if a predecessor meets the issuer credit rating or proxy credit rating criteria, the Regional Director may require the lessee to provide supplemental financial assurance for decommissioning obligations for which such a predecessor is not liable.

2. Right-of-Use and Easement (RUE) Grants

The 2024 Final Rule amended the RUE financial assurance requirements to clarify the financial assurance requirement for RUEs serving Federal leases. The Department replaced the general statement in 30 CFR 550.160(c) that RUE grant holders "must meet bonding requirements" with the specific criteria governing financial assurance requirements found in 30 CFR 556.900 through 556.902, and the applicable financial assurance requirements in 30 CFR 550.166 and 30 CFR part 556, subpart I. Similar to the amendments to the evaluation criteria for lease holders, DOI finalized in 30 CFR 550.166(b) a provision to consider the issuer credit rating or proxy credit rating of RUE co-grant holders to determine if a grantee must provide supplemental financial assurance. The value of proved oil and gas reserves was not included in this evaluation because a RUE grant does not entitle the holder to any interest in oil and gas reserves.

BOEM has evaluated the 2024 Final Rule evaluation criteria and is proposing to continue the use of the credit rating criterion, including a proxy credit rating, as the evaluation criteria for determining if a RUE grant holder must provide supplemental financial assurance. The Department proposes to use the same credit rating or proxy credit rating for RUE grant holders as lessees, as modified by this proposed rule to the new proposed credit rating threshold of BB- (S&P), or Ba3 from Moody's, or other

equivalent rating from an NRSRO, instead of the finalized credit rating threshold of the 2024 Final Rule of BBB-, as further discussed in section III.D of this preamble. Similar to leases, the Department is proposing to clarify that BOEM can consider the issuer credit rating or proxy credit rating of a predecessor RUE grant holder and a predecessor lessee (i.e., a lessee that held interests in the lease on which the RUE is now located and is liable for accrued obligations for the facilities thereon), when determining if supplemental financial assurance is required.

3. Pipeline Right-of-Way (ROW) Grants

Similar to the final amendments to the evaluation criteria for lease holders, DOI finalized in the 2024 Final Rule at 30 CFR 550.1011(c) a provision to consider the credit rating or proxy credit rating of ROW co-grant holders to determine if the grantee must provide supplemental financial assurance. The preamble to the 2024 Final Rule stated that the value of proved oil and gas reserves was not included in this evaluation because a ROW grant does not entitle the holder to any interest in the associated oil and gas reserves.

BOEM has evaluated the 2024 Final Rule evaluation criteria and is proposing the continued use of the credit rating criterion, including a proxy credit rating, as an evaluation criterion for determining if a ROW grant holder must provide supplemental financial assurance. As for OCS leases, with this proposed rule, the ROW grant holder and predecessors would be evaluated based on the new proposed credit rating threshold of BB- (S&P) instead of the finalized credit rating threshold of the 2024 Final Rule of BBB-, as further discussed in section III.D of this preamble. Similar to its proposal for leases, the Department is proposing to clarify that BOEM can consider the credit rating or proxy credit rating of a predecessor ROW grant holder when determining if supplemental financial assurance is required because they remain liable for accrued decommissioning obligations for facilities and pipelines on their right-of-way until each obligation is met.

Additionally, BOEM has evaluated if the ratio of proved oil and gas reserves to the decommissioning liability associated with those reserves should be considered in its evaluation for ROWs and determined that it may be appropriate to consider when a ROW grant-holder can demonstrate that the grant holder also holds a lease or leases with associated reserves that meet the minimum ratio for decommissioning liabilities. The Department is proposing in 30 CFR 550.1011 to allow the Regional Director's discretion to consider the combined decommissioning liability of the ROW and the lease or leases that the ROW grant holder holds to determine if the total decommissioning liability meets the minimum ratio to waive supplemental financial assurance.

B. Revisions to Third-Party Guarantees

In the 2024 Final Rule, the Department amended 30 CFR 556.905(a) to evaluate a potential guarantor using the same issuer credit rating or proxy credit rating criterion as was finalized for lessees. The value of proved oil and gas reserves of an associated lease would not be considered because that value is a characteristic of the lease belonging to the guaranteed lessee and not an asset belonging to the guarantor, and because liquid assets are needed to finance compliance or decommissioning. Additionally, to allow more flexibility in the use of third-party guarantees, the final rule allowed a third-party guarantee to be used as supplemental financial assurance for a RUE or ROW grant as well as a lease. Most significantly, the amendment finalized in section 556.902(a)(3) removed the requirement for a third-party guarantee to ensure compliance with the obligations of all lessees, operating rights owners, and operators on the lease, and, as agreed to by BOEM, would allow a guarantee limited to a specific amount or limited to one or more specific lease obligations.

BOEM has evaluated the 2024 Final Rule revisions to third-party guarantees and is proposing that the amendments are still appropriate. The flexibilities provided by the 2024 amendments do not reduce the taxpayers' protection against paying for

decommissioning of offshore facilities and they provide industry additional options for securing supplemental financial assurance. It is noted, however, that with this proposed rule, the guarantor would be evaluated based on the new proposed credit rating threshold of BB- (S&P) instead of the finalized credit rating threshold of the 2024 Final Rule of BBB-, as further discussed in section III.D of this preamble.

C. Use of BSEE's Probabilistic Estimates for Determining the Amount of Supplemental Financial Assurance Required

If BOEM determines that supplemental financial assurance is required, BOEM bases the amount required on a BSEE decommissioning cost estimate. Prior to 2020, BSEE provided a single algorithm-based deterministic estimate for OCS facilities in the GOA to BOEM for use in determining the amount of supplemental financial assurance required. In 2020, BSEE updated decommissioning costs in the Technical Information Management System (https://www.data.bsee.gov/Leasing/DecomCostEst/Default.aspx) to reflect new estimates based on industry-reported decommissioning costs pursuant to the regulations at 30 CFR 250.1704 and clarified by NTL 2016-N03—*Reporting Requirements for Decommissioning Expenditures on the OCS*, later superseded by NTL 2017-N02.

Instead of the methodology used prior to 2020 for OCS facilities, where a deterministic estimate specifying that the cost to decommission an OCS facility was a specific dollar amount, BSEE's current methodology provides multiple decommissioning expenditure levels associated with a cumulative likelihood of not being exceeded. They do not represent a percentage of the cost to decommission any given facility; they represent the statistical likelihood that the specified value will be equal to or greater than the amount ultimately required (i.e., there is an X percent chance that the cost will be equal to or less than Y).

Based on the industry-reported data, BSEE has developed three publicly available

probabilistic estimates (i.e., P-values) of decommissioning costs for each OCS facility on any given lease (available here: https://www.bsee.gov/research-record/tap-738-decommissioning-methodology-and-cost-evaluation). The range of facility decommissioning estimates provided in the Technical Information Management System are at the P50, P70, and P90 levels. These values represent the likelihood of covering the full cost of decommissioning a facility as a percentage. The lowest cost estimate would have a 50 percent likelihood of covering the full cost of decommissioning a facility and is thus referred to as "P50." The second lowest cost estimate, P70, would have a 70 percent likelihood of covering the full cost of decommissioning a facility. The third and highest cost estimate, P90, would have a 90 percent likelihood of covering the full decommissioning cost of a facility. These BSEE-generated estimates are based on actual decommissioning expenditures reported by offshore companies.

In the 2024 Final Rule, at 30 CFR 556.901, the Department finalized an amendment to replace BSEE's former single, algorithm-based deterministic estimates for OCS facility decommissioning costs with the new BSEE methodology that provides probabilistic estimates (i.e., P-values) based on decommissioning costs reported by industry pursuant to NTL 2016-N03, later superseded by NTL 2017-N02. In the 2024 Final Rule, the Department amended 30 CFR 556.901(f) to use the P70 value to determine the amount of any required supplemental financial assurance and stated that if probabilistic estimates are not available, BOEM will use the deterministic value, if available.

BOEM has reevaluated the 2024 Final Rule use of the P70 value and is proposing that the P50 value is more appropriate for determining the amount of supplemental financial assurance an entity must provide. BOEM received numerous comments on the 2023 proposed rule, the majority from small independent operators, that asserted that P50 was the closest to their own internal asset retirement obligation estimates. BOEM's goal

for its financial assurance program continues to be the protection of the American taxpayers from exposure to financial loss associated with OCS development, while ensuring that the financial assurance program does not detrimentally affect offshore investment or position American offshore exploration and production companies at a competitive disadvantage. The Department's proposal to use P50 would reduce financial burden on available capital for offshore investment by oil and gas operators as compared to the existing requirement to use P70. Reducing the financial burden on offshore investment would increase available capital for exploration and production of oil and gas resources on the OCS, and in return, generate more capital for the companies, reducing their likelihood of bankruptcy.

BOEM also notes that the regulation only stipulates that the BSEE P-value will be used to determine the amount of supplemental financial assurance that may be required to meet decommissioning obligations and does not limit the total cost of corrective action that may be required to bring a lease or grant into compliance with decommissioning regulations found in 30 CFR 250 Subpart Q.

D. Evaluation Methodology

The 2024 Final Rule amended the financial assurance regulations to require supplemental financial assurance when a lessee or grant holder poses a substantial risk of becoming financially unable to carry out its obligations under its lease or grant, or when a leased property may not have sufficient value to be sold to another company that could assume those obligations. Specifically, the amendments required the use of an issuer credit rating with a threshold of investment grade, and, for leases, a ratio of 3-to-1 for the value of proved reserves to the value of decommissioning liabilities associated with those reserves. This proposed rule reevaluates the 2024 Final Rule amendments and proposes new amendments to address the regulatory burden on the regulated community associated with the 2024 Final Rule.

1. Credit Ratings

a. Use of an "Issuer Credit Rating"

The Department finalized an amendment in the 2024 Final Rule to use an "issuer credit rating" to evaluate the financial health of OCS lessees, grant holders, and guarantors, and included the new term and corresponding definition in 30 CFR 556.105. An issuer credit rating provides the rating agencies' opinions of the entity's ability to honor senior unsecured debt and debt-like obligations. The Department will currently only use issuer credit ratings from an NRSRO, such as S&P Global Ratings and Moody's Investors Service Incorporated.

As discussed in the preamble to the 2020 joint rule (85 FR 65913), an evaluation of S&P's and Moody's rating methodologies revealed that the analyses they perform to determine an issuer credit rating are wide-ranging and include factors beyond corporate financials (such as history, senior management, and commodity price outlook). An issuer credit rating provides the rating agencies' opinions of the entity's ability to honor senior unsecured debt and debt-like obligations. It is common for lessees to have both an issuer credit rating and a bond issuance rating. However, bond issuance ratings are opinions of the credit quality of a specific debt obligation only, which can vary based on the priority of a creditor's claim in bankruptcy or the extent to which assets are pledged as collateral. Due to the priority of claims associated with debt and the limited purpose of bond issuance ratings, BOEM proposed in the 2020 joint rule and finalized in the 2024 Final Rule to accept only issuer credit ratings from a NRSRO. As such, BOEM has evaluated the 2024 Final Rule amendment to require the use of an issuer credit rating and is proposing that this requirement is still appropriate. As noted below, however, the Department is reevaluating the threshold credit rating above which supplemental financial assurance may not be required of a lessee or grant holder.

b. Credit Rating Threshold

The Department finalized amendments with the 2024 Final Rule to use an investment grade credit rating threshold for determining if supplemental financial assurance may be required of a lessee or grant holder. The Department added the term and associated definition of "Investment grade credit rating" in 30 CFR 556.105. BOEM has evaluated the 2024 Final Rule amendments requiring an investment grade credit rating and has determined that this requirement should be revised.

As discussed in the 2023 proposed rule, BOEM reviewed historical default rates across the entire credit rating spectrum, as well as the credit profile of oil and gas sector bankruptcies arising from the commodity price downturn in 2014, to determine an appropriate level of risk. For this analysis, BOEM evaluated the S&P data, but it acknowledges that performance may vary across NRSROs. As expected, the average S&P historical 1-year default rates increase significantly with lower ratings. The 1-year default rate represents the percentage of companies having any given credit rating that have failed to meet their financial obligations during any given 12-month period. For example, for companies having had BBB- rating in 2020, 0.24 percent defaulted on their financial obligations in the subsequent 12-month period. The average S&P 1-year default rate for BBB- rated companies from 1981 to 2020 was 0.24 percent. Comparatively, the average 1-year default rate for BB- rated companies was 1.21 percent, for B- rated companies was 8.73 percent, and for C rated companies was 24.92 percent. BOEM believes that 1-year default rates are an appropriate measure of risk, given BOEM's policy of reviewing the financial status of lessees, ROW holders, and RUE holders at least on an annual basis (the review typically corresponding with the release of audited annual financial statements). In addition, throughout the year, BOEM monitors company credit rating changes, market reports, trade press, articles in major news media and quarterly financial reports to review the financial status of lessees, ROW holders, and RUE holders. The regulations do not preclude a demand for supplemental financial

assurance through the Regional Director's regulatory authority at any time (e.g., if an article about a company in a major news media indicates they may be having financial troubles, the Regional Director can issue a demand for supplemental financial assurance without having to wait for an NRSRO to lower the company's credit rating).

BOEM has reviewed the use of the BBB- threshold and is proposing to establish the issuer credit rating threshold of BB- (S&P) or Ba3 (Moody's), an equivalent credit rating provided by another NRSRO, or a proxy credit rating determined by the Regional Director. BOEM seeks to balance the financial risk to the government and the taxpayer with minimizing unnecessary regulatory burdens that could stifle offshore energy development and reducing the threshold from BBB- to BB- would achieve this goal, and determined that the increase in the current (i.e., the revised 1981 to 2024 average) 1-year default rate from 0.21 percent at BBB(-) to 0.87 percent at BB(-) presented an acceptable increase in risk. Previous analysis of oil and gas bankruptcies (as evidenced in the 2020 initial RIA and the 2024 RIA) indicated only two instances of BB rated companies declaring bankruptcy within a 1-year window of losing their BB rating. However, both companies successfully reorganized in Chapter 11 without relinquishing decommissioning liability. BOEM anticipates that, due to the stronger financial position of companies in the BB rating category, the odds of a successful Chapter 11 reorganization with no financial impact on decommissioning liability is high enough to outweigh the relatively small increase in credit default risk.

In the case of a split-rating circumstance (e.g., if S&P and Moody's credit ratings are different), BOEM will continue to consider the higher credit rating in making any financial assurance determination, as provided by 30 CFR 556.901(d)(1). This provision only impacts companies with split ratings at the credit risk threshold (i.e., S&P BB-/B+ and Moody's Baa3/Ba1), thereby posing minimal additional risk and minimizing the possibility of requiring / releasing financial assurance unnecessarily due to split rating

upgrades or downgrades along the credit risk threshold.

2. Proxy Credit Ratings

In the 2024 Final Rule, at 30 CFR 556.901(d), the Department allowed entities that do not have a NRSRO-issued credit rating to request that the Regional Director determine a proxy credit rating based on audited financial information for the most recent fiscal year, including an income statement, a balance sheet, a statement of cash flows, and the auditor's certificate. The Department intended the "most recent fiscal year" to mean a continuous 12-month period within the 24 months prior to the Regional Director's determination that supplemental financial assurance is required. BOEM has evaluated the 2024 Final Rule amendment to allow the use of a proxy credit rating in instances where an issuer credit rating is unavailable and is proposing that this requirement is still appropriate as it allows small entities that may not have an issuer credit rating to demonstrate that they are financially stable. The Department is therefore not proposing any amendments to the use of proxy credit ratings under these circumstances.

3. Proved Oil and Gas Reserves

a. Use of a Minimum Ratio

The 2024 Final Rule included 30 CFR 556.901(d) to allow BOEM to consider the proved reserves on a particular lease when determining whether supplemental financial assurance is required. To be exempted, BOEM requires the lessee to submit a reserve report for the proved oil and gas reserves (as defined by the SEC regulations at 17 CFR 210.4-10(a)(22)) located on a given lease. The 2024 Final Rule provides that companies should report the value of their reserves using the methodology pursuant to the SEC's regulations on reserve reporting, and the presentation should be by the lease, or leases, for which the exemption is being requested. These regulations are commonly used and understood by offshore oil and gas companies and such reserve reports are already produced by publicly traded companies. This also allows BOEM to rely on the

established SEC regulations on the definitions, qualifications, and requirements for proved reserves, rather than attempting to recreate these regulations. BOEM has evaluated the 2024 Final Rule amendment to allow the use of the minimum ratio for companies without a credit rating meeting the threshold and is proposing that this alternative is still appropriate. BOEM continues to believe that a property with a high enough ratio would likely be purchased by another lessee if a current lessee defaults on its obligations, thereby reducing the risk that decommissioning costs would be borne by the government, consequently reducing the need for supplemental financial assurance. The Department is therefore not proposing any amendments to this provision.

b. Minimum Ratio Value

Additionally, the Department finalized the use of a ratio of the value of proved reserves to decommissioning liability associated with those reserves that meets or exceeds a value of 3-to-1 in the 2024 Final Rule. Establishing an appropriate reserves-to-decommissioning cost ratio is one approach toward protecting the taxpayer during periods of commodity price volatility. While generally stable, oil and gas commodity markets can enter into periods of high price volatility. From an oil and gas financial risk perspective, this is only of concern when the volatility results in dramatic price decreases. Should commodity prices decline in a manner similar to late 2014 through early 2016, BOEM believes a 3-to-1 ratio means the property would most likely retain its economic viability, protect the taxpayer, and financial attractiveness to potential buyers. BOEM is soliciting comments on whether the 3-to-1 ratio remains the appropriate threshold.

E. Phased Compliance with Supplemental Financial Assurance Orders

In the preamble to the 2024 Final Rule, BOEM acknowledged that the new regulations could have a significant financial impact (over $6 billion of additional financial assurance would be required) on affected companies, reducing their financial capacity to produce oil and gas (89 FR 31560). For that reason, BOEM finalized a

provision to phase in the new supplemental financial assurance requirements over a 3-year period for existing leaseholders in 30 CFR 556.901(h). As finalized, BOEM would allow any company receiving a supplemental financial assurance demand (within 3 years of the rule becoming effective) to request the phase-in option and post one-third of the total amount by the deadline listed on the demand letter. A second one-third would be required within 24 months of receipt of the demand letter. The final one-third payment would be due within 36 months of receipt of the demand letter.

While this proposed rulemaking reduces the amount of supplemental financial assurance required by lessees, the Department continues to acknowledge that providing the supplemental financial assurance could have a significant financial impact on affected companies because BOEM has not yet required them to provide the supplemental financial assurance as dictated by the 2024 Final Rule. As such, the Department is proposing to retain the available 3-year phase-in period for implementation of new requirements in 30 CFR 556.901(h), but starting on the date this rulemaking is finalized. BOEM specifically solicits comments regarding this approach from potentially affected parties, and requests comments on how the new supplemental financial assurance demands could be most effectively implemented to minimize any unnecessarily adverse effects.

Additionally, the Department is proposing to allow entities to provide the Regional Director with a proposed payment schedule for their potential supplemental financial assurance demands prior to receipt of an official demand letter. If the proposed payment schedule is accepted by the Regional Director, BOEM will forgo an official demand letter. Companies may be interested in resolving financial assurance before receiving an official demand letter, as the letter may trigger, unknown to BOEM, debt/surety/other financial covenants that may have financial implications on the companies.

F. Short-Term Decommissioning Obligations

In instances where decommissioning will be completed within a short period of time (i.e., within 1 year) from the date of a new supplemental financial assurance demand, lessees and grant holders may have difficulty obtaining financial instruments to cover their decommissioning obligations. The Department is proposing a new section in 30 CFR 556.908 to allow the Regional Director's discretion to accept a third-party decommissioning contract or a decommissioning schedule in lieu of supplemental financial assurance.

The third-party decommissioning contract provided to BOEM for review and approval to be used in lieu of supplemental financial assurance should clearly define the responsibilities, expectations, and protections for all parties involved in the plugging, abandonment, and site restoration of oil and gas infrastructure. The decommissioning schedule provided to BOEM for review and approval to be used in lieu of supplemental financial assurance must include a detailed timeline that outlines the sequence, duration, and key milestones for decommissioning oil and gas infrastructure such as wells, facilities, and pipelines. Additionally, the decommissioning schedule must be signed by an officer of the company as designated in the BOEM qualification card.

To ensure that the decommissioning can and will be undertaken and completed, evidence of sufficient funding set aside for the decommissioning contract or schedule must also be provided to BOEM. If decommissioning is not complete within one year from the date of the original supplemental financial assurance demand, the entity must meet the original supplemental financial assurance demand within 10-calendar days of receipt of notification by the Regional Director.

BOEM's review and approval of the decommissioning contracts and schedules for use in lieu of supplemental financial assurance is not an approval for decommissioning

activities, which remains in BSEE's purview; BOEM's approval is only an acceptance of those documents in lieu of an entity providing supplemental financial assurance.

G. Appeal Bonds

In the 2024 Final Rule, the Department added a new requirement at 30 CFR 556.902(h) and 590.4(c) whereby any company seeking to stay a supplemental financial assurance demand pending appeal at the IBLA must, as a condition of obtaining a stay of the order, post an appeal bond in the amount of supplemental financial assurance required. If the appeal is successful, the appeal bond would be returned to the appropriate party, and any remaining required supplemental financial assurance would need to be posted in the form of bonds or other financial instruments. If the appeal is unsuccessful, the appeal bond could be replaced with, or converted into, bonds or other forms of financial assurance to cover the supplemental financial assurance demand.

During the public comment period for the 2024 rulemaking, multiple commenters expressed opposition to this proposal, asserting that it raises due process concerns, specifically because the requirement would inhibit the recipient's first opportunity to have an adjudication of BOEM's determination. The commenters asserted that the requirement of posting an appeal bond is disproportionate to the perceived risk because a lessee could be forced into posting a bond that could be held for years, depriving them of the operating capital diverted to the bonds, even if the appeal succeeds. Commenters highlighted that the process without the appeals bond requirement provides an opportunity for the parties to negotiate. Other commenters equated the requirement to "an automatic denial of stays" which, they asserted, could render most supplemental financial assurance demands subject to immediate judicial review, citing 5 U.S.C. 704 and 43 CFR 4.21(c). See 89 FR 31560; see also section 9 of the *Response to Public Comments Received on the June 29, 2023, Notice of Proposed Rulemaking* memorandum for detailed comment summaries at Docket ID: BOEM-2023-0027-2187. Even though the

Department disagreed with the commenters that the appeal bond provision raised due process concerns and finalized the provision in the 2024 Final Rule, the Department has reviewed the provision in light of E.O. 14154 and is proposing in this action to remove the requirement in 30 CFR 556.902(h) and 590.4(c) that a company must provide an appeal bond in order to seek a stay of a supplemental financial assurance decision while an appeal of that decision is pending at the IBLA.

Removing this requirement allows offshore entities to retain the capital that they would have otherwise posted during an appeal to continue exploration and production on the OCS while posing minimal risk to the taxpayer and meeting the goals of E.O. 14154.

Similarly, the Department is retaining the provision in 30 CFR 556.902(g) that allows offshore lessees and grant holders to request an informal resolution if they believe that BOEM's supplemental financial assurance demand is unjustified, without losing the ability to provide supplemental financial assurance in a phased-in manner. The informal resolution provides an opportunity for all parties to achieve a successful financial assurance outcome before resorting to the longer IBLA process.

H. Other Amendments

1. Revisions to Definitions

a. Delete Term: "Investment grade credit rating"

The Department is proposing to delete the term and associated definition for "Investment grade credit rating" in 30 CFR 556.105(b). The associated definition is currently the following: "*Investment grade credit rating* means an issuer credit rating of BBB- or higher (S&P Global Ratings and Fitch Ratings, Inc.), Baa3 or higher (Moody's Investors Service Inc.), or its equivalent, assigned to an issuer of corporate debt by a nationally recognized statistical rating organization as that term is defined in section 3(a)(62) of the Securities Exchange Act of 1934." This definition is currently the threshold above which BOEM would typically not require supplemental financial

assurance per the financial assurance regulations. This proposed rule deletes the term and associated definition because it is no longer referenced in part 556, and the proposed threshold is specified in part 556, subpart I.

b. Add Term: "Issuer credit rating"

The Department is proposing to add the term and associated definition for "Issuer credit rating" in 30 CFR 550.105 because it is proposed to be used in 550.166. The associated definition is proposed as the following: "*Issuer credit rating* means a credit rating assigned to an issuer of corporate debt by a nationally recognized statistical rating organization as that term is defined in section 3(a)(62) of the Securities Exchange Act of 1934." This definition is consistent with the same term and definition in 30 CFR 556.105(b).

c. Add Term: "Predecessor"

The Department is proposing to add the term and associated definition for "Predecessor" in 30 CFR 550.105. The associated definition is proposed as the following: "*Predecessor* means a prior lessee or owner of operating rights, or a prior holder of a right-of-use and easement grant or pipeline right-of-way grant, that is liable for accrued obligations on that lease or grant." This definition is consistent with the existing term and definition in 30 CFR 556.105(b).

d. Add Term: "Dual-obligee financial assurance instrument"

The Department is proposing to add the term and associated definition for "*Dual-obligee financial assurance instrument"* in 30 CFR 556.105. The associated definition is proposed as the following: "*Dual-obligee financial assurance instrument* means a type of financial instrument that names a second obligee in addition to the original obligee."

2. Clarification on the Use of Dual-Obligee Financial Assurance Instrument

While always available for use as an "other approved form of supplemental financial assurance," the Department is proposing to explicitly include dual-obligee

financial assurance instruments as an acceptable financial instrument for financial assurance in 30 CFR 556.902(e).

IV. Summary of Cost, Economic Impacts, and Additional Analyses Conducted

A. What are the Affected Entities?

This proposed rule will affect current and future lessees, sublessees, RUE grant holders, and pipeline ROW grant holders. BOEM's analysis shows that this includes approximately 185 companies with record title ownership or operating rights in leases, and with interests in RUE grants and pipeline ROW grants. These lessees and grant holders are responsible for complying with the regulations and therefore would bear the compliance costs and realize the cost savings associated with the provisions in this proposed rule, if finalized.

B. What are the Economic Impacts?

BOEM estimates the overall decommissioning costs for OCS facilities to be between $35 billion and $41 billion as of May 2025 using the P50 and P70 estimates, respectively. This decommissioning cost estimate represents the full cost of decommissioning all facilities on the OCS, including those facilities that are currently operating. It is noted that these costs would occur over many decades as the facilities reach the end of their useful life.

In the absence of this proposed rulemaking, BOEM assumes the 2024 Final Rule would be fully implemented as published. Pursuant to this baseline and given current decommissioning estimates, BOEM identified $9.67 billion in total liabilities that do not meet the current credit rating threshold of BBB- and above. Additionally, the 2024 Final Rule included a provision at 30 CFR 556.901(d) to allow BOEM to consider the proved reserves on a particular lease when determining whether supplemental financial assurance is required. BOEM estimates that $2.66 billion in additional liabilities would meet the 3-to-1 value of proved reserves to liabilities associated with those reserves. Therefore,

BOEM estimates that, given the full implementation of the current regulations, it would expect to hold $7.02 billion in its financial assurance portfolio, costing approximately $566.65 million in estimated annual premiums associated with that financial assurance.

As discussed earlier in this preamble, the Department is proposing three major deregulatory changes that would have impacts on this regulatory baseline. These three major amendments are: (1) lowering the credit rating threshold; (2) consideration of predecessor strength; and (3) use of the P50 decommissioning estimate instead of P70. The proposed amendments are generally independent, allowing for individual or combined implementation, however the impacts of each provision are interrelated, with the effect of any single provision depending on the others that are present. The Department is not proposing any amendments to the provision allowing the use of the 3-to-1 minimum ratio of value of proved reserves to liabilities associated with those reserves provision, and thus does not by itself, have any impacts on the costs and benefits of this proposed rule; however, it is highlighted that changing the P-value from P50 to P70 impacts the calculation of the ratio.

For the first major amendment, lowering the credit rating threshold from BBB- to BB-, BOEM estimates the financial liabilities that would be held by companies with BB+, BB, and BB- credit ratings for full implementation of the 2024 Final Rule at $54.2, $205.4, and $67.4 million, respectively. The average one-year default rate for companies in these categories are 0.27 percent, 0.44 percent, and 0.87 percent respectively using the S&P default statistics. For this analysis, BOEM evaluated the S&P data, but notes that performance may vary across NRSROs. Using these values, BOEM estimates that the increased risk of default from this group of lessees is approximately $1.6 million. This increased risk of default is offset by an annual decrease of $13.7 million in supplemental financial assurance premiums, an unjustifiable burden on offshore energy development for a limited reduction in the risk of default.

For the second major amendment, consideration of predecessor strength when determining if the current lessee must provide supplemental financial assurance, BOEM evaluated the credit rating of predecessor lessees. If BOEM were to implement this proposed amendment independently of the other amendments, this provision would result in a reduction of $5.8 billion in BOEM's financial assurance portfolio and an annual premium savings for lessees of $483.6 million. Though predecessor companies have always been held responsible for decommissioning liabilities if the current owner is incapable of meeting those obligations, the proposed rule explicitly incorporates predecessor companies' financial strength when determining supplemental financial assurance requirements for current lessees. This proposed change reduces the need for additional bonding or other forms of supplemental financial assurance on properties while only minimally increasing risk to the taxpayers.

The final major amendment, use of P50 instead of P70 when determining decommissioning liability cost estimates, impacts both the amount of liability that needs to be covered through financial assurance and the calculation of the 3-to-1 reserves ratio. If BOEM were to implement this amendment independently of the other amendments, this provision would result in a reduction of BOEM's financial assurance portfolio by $2.1 billion and would provide an annual regulatory compliance savings of $175.2 million. This proposed change reduces the amount of supplemental financial assurance required to cover decommissioning obligations by a lessee without a significant increase in risk to the taxpayers because many companies asserted that P50 was the closest to their own internal asset retirement obligation estimates during the 2024 rulemaking.

As discussed in the RIA, this proposed rule includes changes that cannot be quantitatively modeled in this analysis. BOEM makes clarifications regarding its acceptance of dual-obligee financial assurance instruments, removes the requirement for an appeals bond, and makes changes for short-term decommissioning obligations and

pipeline ROW Grants. Given the uncertainty in the frequency and the scale of impacts resulting from these changes, compared to the remaining proposed changes, BOEM does not quantitatively analyze these changes, but does not anticipate the impacts to be of any significance.

When considering all three amendments jointly, BOEM estimates a reduction of $6.2 billion of the $7.0 billion in baseline financial assurance, leaving $798 million in remaining financial assurance requirements. BOEM estimated that in the baseline, lessees would face annual premiums of $567 million, but with the reduction in financial assurance requirements per the proposed rule, that estimate is reduced to $59 million, for a savings of $508 million annually. The 20-year discounted and annualized values at 3 percent are $7.21 billion and $484.46 million, respectively. The 20-year discounted and annualized values at 7 percent are $5.16 billion and $498.21 million, respectively.

C. What are the Benefits?

Of the $7 billion in baseline required supplemental financial assurance, 89 percent ($6.2 billion) would no longer be required under the proposed rule, if finalized. Of the baseline financial assurance requirements, 81 percent would no longer be required given the predecessor consideration, 5 percent would no longer be required given the change in credit rating, and 3 percent would no longer be required given the change in P-value. The proposed rule, if finalized, achieves significant cost savings from the consideration of predecessors in determining supplemental financial assurance requirements. The risk that the government would be responsible for the costs associated with decommissioning is minimal because financially viable co-lessees and predecessors remain jointly and severally liable for accrued decommissioning obligations. The proposed rule results in a 20-year annualized savings of more than $480 million in financial assurance premiums. The majority of these savings originate from BOEM's consideration of predecessors when evaluating whether a company needs to provide supplemental financial assurance.

In this way, predecessor lessees serve the same purpose as surety companies as new lessees are not required to post financial assurance.

BOEM is not quantifying benefits other than the cost savings for this rule. However, BOEM expects that less capital will be tied up in financial assurance and that could lead to more development on the OCS, which could lead to more job creation, and higher production of oil and gas from the OCS. BOEM will work to estimate the risk change in the final rule and welcomes public comments on methods to quantify benefits, costs, cost savings, and other methods of quantification beyond bond premium cost savings.

D. What Tribal Outreach Did BOEM Conduct?

On September 4, 2025, BOEM sent letters to all federally recognized Tribal Nations and Alaska Native Claims Settlement Act (ANCSA) Corporations to ensure they are aware of the proposed rulemaking, to answer any immediate questions they may have had, and to invite formal consultation if desired.

V. Section-by-Section Analysis

The Department is proposing to amend the regulations as follows:

PART 550 – OIL AND GAS AND SULFUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

Subpart A – General

Section 550.105: Definitions.

As discussed in section III.H of this preamble, the Department is proposing to add the terms “Issuer credit rating” and “Predecessor” to 30 CFR 550.105. The proposed definitions are consistent with the existing definition in 30 CFR 556.105(b).

Section 550.166: If BOEM grants me a RUE, what financial assurance must I provide?

While reviewing this section for potential revisions, a grammatical error was found in paragraph (a)(3). The Department is proposing to revise paragraph (a)(3) to clarify that it should reference sections 556.900(d) through (g) and section 556.902. The paragraph is currently missing the "and" between the 556.900(g) and 556.902 references. This proposed amendment does not change the intent of paragraph (a)(3).

As discussed in section III.A.1.a of this preamble, the Department is proposing to consider predecessors when determining if supplemental financial assurance is required from a RUE grant holder. Specifically, the Department is revising paragraph (b) to include the consideration of predecessors' issuer credit rating or proxy credit rating when determining if the current RUE grant holder must provide supplemental financial assurance. The predecessor must meet the criteria in 30 CFR 556.901(d)(1) through (d)(3) (i.e., the predecessor must have a minimum issuer credit rating or proxy credit rating of BB- (S&P) or its equivalent). The predecessor interest may have been that of a predecessor lessee, if the entity was responsible for decommissioning the facility now associated with an RUE. The Department is also including in paragraph (b) that the BOEM Regional Director can require supplemental financial assurance for decommissioning obligations for which there is not a liable predecessor.

Subpart J – Pipelines and Pipeline Rights-of-Way

Section 550.1011: Financial assurance requirements for pipeline right-of-way (ROW) grant holders.

As discussed in section III.A.1.a of this preamble, the Department is proposing to consider predecessors when determining if supplemental financial assurance is required from a ROW grant holder. Specifically, the Department is revising paragraph (d) to include the consideration of predecessors' issuer credit ratings or proxy credit ratings when determining if the current ROW grant holder must provide supplemental financial assurance. The predecessor must meet the criteria in 30 CFR 556.901(d)(1) through

(d)(3) (i.e., the predecessor must have a minimum issuer credit rating or proxy credit rating of BB- (S&P) or its equivalent). The Department is also including in paragraph (d) that the BOEM Regional Director can require supplemental financial assurance for decommissioning obligations for which there is not a liable predecessor.

Additionally, as discussed in section III.A.2 of this preamble, the Department is proposing to allow the Regional Director to consider a ROW grant holder's OCS leases that they may hold, if any, to evaluate whether the value of proved reserves for such leases exceed 3 times the combined decommissioning liability for those leases and ROWs when determining if a ROW grant holder must provide supplemental financial assurance.

PART 556 – LEASING OF SULFUR OR OIL AND GAS AND FINANCIAL ASSURANCE REQUIREMENTS IN THE OUTER CONTINENTAL SHELF

Subpart A – General Provisions

Section 556.105: Acronyms and definitions.

The Department is proposing, and as discussed in section III.G of this preamble, to remove the term "Investment Grade Credit Rating" and the associated definition as it is no longer the threshold used to determine if supplemental financial assurance is required. The Department is also proposing, as discussed in section III.G of this preamble, to add the new term and associated definition of "Dual-obligee financial assurance instrument."

Subpart I – Financial Assurance

Section 556.901: Base and supplemental financial assurance.

The Department is proposing, as discussed in section III.A.1.b of this preamble, to consider predecessors when determining if supplemental financial assurance is required. The Department is proposing to renumber existing paragraph (d)(4) as (d)(5) and create a new paragraph (d)(4) that states if a predecessor has an issuer credit rating or proxy credit rating meeting the threshold, you may not have to provide supplemental financial assurance. Additionally, it acknowledges that the Regional Director may require

additional security for those decommissioning obligations for which there is no predecessor meeting the criteria of paragraphs (d)(1) or (2).

The Department is proposing to revise the BSEE probabilistic estimate value used when determining the amount of supplemental financial assurance required, as discussed in section III.C of this preamble. Specifically, the Department is proposing to replace the references to the P70 value with reference to the P50. These references are found in newly designated paragraph (d)(5)(i) and paragraph (f).

As discussed in section III.E of this preamble, the Department continues to acknowledge that providing the supplemental financial assurance could have a significant financial impact on affected companies and, as such, is retaining the option in 30 CFR 556.901(h) to phase in the new requirements over a 3-year period, but amended to start with the effective date of the new final rule. Specifically, the Department is proposing to replace "June 24, 2024" with the effective date of the new final rule which effectively starts a new timeline for impacted entities to provide supplemental financial assurance in phases.

Also as discussed in section III.E. of this preamble, the Department is proposing in new paragraph (i) to allow entities to provide the Regional Director with a proposed schedule for fulfilling their potential supplemental financial assurance demands. If the proposed installment schedule is accepted by the Regional Director, BOEM will forgo an official demand letter.

Section 556.902: General requirements for bonds or other financial assurance.

As discussed in section III.H.2 of this preamble, the Department is proposing to explicitly include dual-obligee financial assurance instruments as an acceptable financial instrument for financial assurance in paragraph 556.902(e).

As discussed in section III.G of this preamble, the Department is proposing to remove the portion of the provision in 556.902(h) that requires a company seeking a stay

of a supplemental financial assurance demand to provide an appeal bond (i.e., "However, if you request that the IBLA stay the demand pending a final ruling on your appeal, you must post an appeal surety bond equal to the amount of the demand that you seek to stay before any such stay is effective.").

Section 556.908: Short-term decommissioning obligations.

As discussed in section III.F of this preamble, the Department is proposing this new section at 30 CFR 556.908 to allow the Regional Director discretion to accept a third-party decommissioning contract or a decommissioning schedule in lieu of supplemental financial assurance in cases where decommissioning will occur within 1-year of receiving the supplemental financial assurance demand. The third-party decommissioning contract provided to BOEM for review and approval for use in lieu of supplemental financial assurance should clearly define the responsibilities, expectations, and protections for all parties involved in the plugging, abandonment, and site restoration of oil and gas infrastructure. The decommissioning schedule provided to BOEM for review and approval for use in lieu of supplemental financial assurance must include a detailed timeline that outlines the sequence, duration, and key milestones for decommissioning oil and gas infrastructure such as wells, facilities, and pipelines. Additionally, the decommissioning schedule must be signed by an officer of the company as designated in the BOEM qualification card. To ensure that the decommissioning can and will be undertaken and completed, evidence of sufficient funding set aside for the decommissioning contract or schedule must be also provided to BOEM per this section.

PART 590 – APPEAL PROCEDURES

Subpart A – Bureau of Ocean Energy Management Appeal Procedures

Section 590.4: How do I file an appeal?

As discussed in section III.F of this preamble, the Department is proposing to completely remove the provision in subsection 590.4(c) that requires a company seeking

a stay of a supplemental financial assurance demand to provide an appeal bond when appealing the demand to the IBLA.

Severability

BOEM proposes to include in the final rule that, should any court hold unlawful and/or set aside portions of this rulemaking, the remaining portions are severable and therefore should not be remanded to the agency. The proposed rule contains four major components: (1) return to the previous BOEM practice of considering the financial strength of jointly and severally liable predecessor lessees and grant holders; (2) revising the credit rating threshold when determining whether oil, gas, and sulfur lessees, RUE grant holders, and pipeline ROW grant holders on the OCS are required to provide supplemental financial assurance above the required general financial assurance amount to ensure compliance with their OCSLA obligations; (3) revising the decommissioning estimate used to determine the amount of supplemental financial assurance required; and (4) revising the appeals bond provision related to the IBLA appeal procedures.

These four major components operate largely independent of each other; the Department believes they are sufficiently distinct and that their severability does not depend on the specifics of this proposed rule. For example, BOEM is amending the regulations to consider the financial strength of predecessors when determining if financial assurance is required from a current OCS lessee if that lessee does not have a credit rating above BB- (S&P); BOEM is also amending to the regulations to change the BSEE decommissioning estimate used to determine the amount of supplemental financial assurance a current OCS lessee must provide. Whether or not a lessee or grant holder must provide supplemental financial assurance is largely independent of the amount they are required to provide.

VI. Request for Comments

BOEM invites public comments on all aspects of this proposed rule using the procedures described earlier in this preamble. In summary, BOEM specifically requests comments on the following provisions:

- consideration of the financial strength of predecessors when determining if a current lessee or grant holder must provide supplemental financial assurance;
- allowing the Regional Director's discretion to consider the combined decommissioning liability of the ROW and the lease or leases that the ROW grant holder holds to determine if the total decommissioning liability meets the minimum ratio to waive supplemental financial assurance;
- revising the credit rating threshold from BBB- to BB- (S&P) when determining the financial strength of current lessees and grant holders, and predecessor lessees and grant holders;
- appropriateness of utilizing the 3-to-1 minimum ratio of the value of proved reserves to the decommissioning liabilities associated with those reserves;
- including a 3-year phased approach to providing new supplemental financial assurance in response to a demand;
- allowing entities to provide a proposed payment schedule for their potential supplemental financial assurance demands prior to receipt of an official demand letter and BOEM forgoing the official demand letter;
- allowing the Regional Director discretion to accept a third-party decommissioning contract or a decommissioning schedule in lieu of supplemental financial assurance for short-term decommissioning obligations;

- removal of the appeal bond requirement;
- alternatives in a regulatory design where BOEM could incorporate a risk-diversified total portfolio approach or other innovative de-regulatory approaches; and
- explicitly allowing dual-obligee financial assurance instruments.

Additionally, BOEM requests comments on the following topics associated with regulatory impacts:

- if the reliance of Tier 1 predecessors increases the moral hazard risk of current Tier 2 lessees and grant holders diverting capital to activities other than pending decommissioning obligations;
- methods to quantify benefits other than bon premium cost savings;
- how companies would deploy capital that would have previously been spent on financial assurance premiums that may become available as a result of the rule, if finalized;
- additional impacts and unintended consequences BOEM did not consider, including any impacts to existing predecessors who may be in strong financial positions;
- potential deregulatory cost savings not quantified under E.O. 14154 and E.O. 14192;
- analytical assumptions underlying the regulatory impact analysis, and we request that entities provide relevant data that BOEM could use to improve our analysis;
- potential impacts to the energy supply (both positive and negative) in light of E.O. 13211; and
- small business or small operator impacts.

VII. Statutory Order Review

A. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612, requires agencies to analyze the economic impact of regulations when a significant economic impact on a substantial number of small entities is likely and to consider regulatory alternatives that will achieve the agency's goals while minimizing the burden on small entities. Pursuant to sections 603 and 609(b) of the RFA, BOEM has prepared an initial regulatory flexibility analysis (IRFA) for this proposed rule that examines the impacts of the rule on small entities, along with regulatory alternatives that could minimize that impact. The complete analysis is available for review in the docket, *Risk Management and Financial Assurance for OCS Lease and Grant Obligations Regulatory Impact Analysis*, Docket ID No. BOEM-2025-0042, and is summarized here.

This proposed rule would apply to all OCS lessees and right-of-use and easement and pipeline right-of-way grant holders and affect many predecessor lessees or grant holders with accrued decommissioning liabilities. Most entities would fall primarily under the following Small Business Administration's (SBA) North American Industry Classification System (NAICS) codes: 211120 (Crude Petroleum Extraction), 211130 (Natural Gas Extraction), and 486110 (Pipeline Transportation of Crude Oil and Natural Gas). For NAICS classifications 211120 and 211130, SBA defines a small business as one with fewer than 1,251 employees. For NAICS code 486110, it is a business with fewer than 1,501 employees. Of the 185 companies with active facility, well, or pipeline ownership, BOEM estimates that approximately 92 (49.7 percent) of the businesses operating on the OCS are considered small.

BOEM reviewed its current financial assurance portfolio and considered the difference in required financial assurance amounts from small and large companies. The 2024 Rule baseline financial assurance portfolio is $7.0 billion, and the breakdown by small and large entities is approximately $6.7 billion and $301 million, respectively.

BOEM estimates that small companies are responsible for approximately 96 percent of the total financial assurance required by the 2024 Rule. As this proposed rule would apply to all OCS lessees and grant holders and given the correlation between small entities and those required to provide supplemental financial assurance under the existing regulations, BOEM finds that it will affect a substantial number of small entities.

As discussed in section IV of this preamble, the Department is proposing three major deregulatory changes that would impact the regulatory baseline. These three major amendments are: (1) lowering the credit rating threshold; (2) consideration of predecessor strength; and (3) use of the P50 decommissioning estimates instead of P70. The proposed amendments are generally independent, allowing for individual or combined implementation, however the impacts of each provision are interrelated, with the effect of any single provision depending on what others are present.

For the first major amendment, lowering the credit rating threshold from BBB- to BB-, results in 15 companies that would meet the credit rating threshold and would not be required to provide supplemental financial assurance as compared to the baseline. Of these 15 companies, 12 are small companies and 3 are large companies. This change in credit rating threshold impacts more than 23 percent of the baseline small companies that do not meet the existing threshold of BBB-. These 15 companies would not be required to provide supplemental financial assurance under the proposed rule and would realize savings by avoiding the associated premiums. Small entities would largely be beneficiaries of this proposed rule provision, if finalized.

For the second major amendment, consideration of predecessor strength when determining if the current lessee or grant holder must provide supplemental financial assurance, BOEM, where information was available, evaluated the credit rating of predecessor lessees and grant holders. BOEM estimated that 88 percent of the proposed Tier 2 liabilities held by small entities have a financially strong predecessor that would

allow them to be exempt from the supplemental financial assurance requirements, for a total savings of $5.6 billion. In comparison, there is only $93.5 million in similar predecessor-backed liability held by large companies with credit ratings below the BBB- threshold, demonstrating that the bulk of the regulatory benefits of this provision would be realized by small entities.

While small entities will generally benefit from this proposed rulemaking, BOEM acknowledges that higher credit rated-small entities holding joint and several liabilities with other lower credit-rated small entities may realize increased compliance burdens. BOEM estimates that there is approximately $259 million of OCS liability at the P50 level that is currently held by Tier 2 lessees that would be exempt from supplemental financial assurance based on the strength of Tier 1 small entities. These Tier 1 small entities could face increased risk of being called on to perform decommissioning obligations if the current lessee fails to perform.

The final major amendment, use of P50 instead of P70 when determining decommissioning liability cost estimates, impacts the amount of liability that needs to be covered through supplemental financial assurance. When financial assurance is required, or when entities are seeking forbearance based on their reserves value, the rulemaking proposes to use decommissioning cost estimates using BSEE's P50 values, rather than the higher P70 estimates. This would reduce the amount of supplemental financial assurance small entities are required to provide and would lead to reduced premiums.

When considering all three major proposed provisions collectively, the proposed rule reduces the amount of supplemental financial assurance by 90 percent for small businesses, from $6.7 billion in the baseline to $699 million in liabilities that require supplemental financial assurance. Additionally, BOEM estimated that under the liabilities requiring financial assurance in the baseline, small entities would face annual premiums of $546.9 million. With the reduction in financial assurance requirements, BOEM

estimates that the proposed rule would result in annual premiums of $48.9 million, yielding savings of $498 million annually.

B. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This proposed rule, if finalized, would revise the financial assurance requirements for OCS lessees and grant holders and would require supplemental financial assurance where the risk of default is the highest. For more information on the small business impacts, see the IRFA analysis in *Risk Management and Financial Assurance for OCS Lease and Grant Obligations Regulatory Impact Analysis*, Docket ID No. BOEM-2025-0042.

BOEM did not propose to categorically exempt or provide differing compliance requirements for small entities; however, given that approximately half of OCS operators are small entities, the proposed provisions provide disproportionate benefits to small businesses. Small entities are welcome to provide comments on the NPRM. Additionally, small entities may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman, and to the Regional Small Business Regulatory Fairness Board. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of BSEE or BOEM, call 1-888-REG-FAIR (1-888-734-3247).

C. Unfunded Mandates Reform Act (UMRA)

The UMRA, 2 U.S.C. 1531–1538, requires BOEM, unless otherwise prohibited by law, to assess the effects of regulatory actions on State, local, and Tribal governments, and the private sector. Section 202 of UMRA generally requires BOEM to prepare a written statement, including a cost-benefit analysis, for each proposed and final rule with "federal mandates" that may result in expenditures by State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any

one year. This proposed action does not impose an unfunded Federal mandate or have a significant or unique effect on State, local, or Tribal governments. Therefore, the proposed rule does not have disproportionate budgetary effects on these governments. BOEM has determined that this rule would not impose costs on the private sector of more than $100 million in a single year. As such, the rule does not trigger the requirement to prepare a written statement under UMRA, and BOEM has chosen not to prepare such a written statement.

D. Paperwork Reduction Act (PRA)

The PRA of 1995 (44 U.S.C. 3501–3521) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a "collection of information" unless it displays a currently valid OMB control number. Collections of information include requests and requirements that an individual, partnership, or corporation obtain information and report it to a Federal agency (44 U.S.C. 3502(3); 5 CFR 1320.3(c) and (k)). This proposed rule references existing ICs previously approved by OMB and revises IC requirements for BOEM regulations that require OMB review and approval under the PRA. As such, an information collection request for BOEM is being submitted to OMB for review and approval. The ICs related to this rulemaking concern certain requirements under 30 CFR parts 550 and 556.

The updates associated with this proposed risk management and financial assurance for OCS lease and grant obligations rule are in the ICs under OMB control number 1010-0006, *Leasing of Sulfur or Oil and Gas in the Outer Continental Shelf (30 CFR parts 550, 556, and 560)* (expires 07/31/2027).

This proposed rule would modify collections of information under 30 CFR part 550, subparts A and J, and 30 CFR part 556, subpart I, concerning financial assurance requirements (such as bonding) for leases, pipeline ROW grants, and RUE grants. OMB has reviewed and approved the existing information collection requirements associated

with financial assurance regulations for leases (30 CFR 556.900–556.907), pipeline ROW grants (30 CFR 550.1011), and RUE grants (30 CFR 550.166).

BOEM estimates that the number of information collection burden hours for the proposed rule overall is close to the same as that for the existing regulatory framework. The existing approved annual burden hours of OMB Control Number 1010-0006 are 22,012 hours and 22,090 annual responses. If this proposed rule becomes final and effective, the new and changed provisions will increase the overall annual burden hours for OMB Control Number 1010-0006 by 21 hours (totaling 22,033 annual burden hours) and 22 responses (totaling 22,112 responses) as justified below.

When needed, BOEM would submit future burden changes (either increases or decreases) of the OMB control number with reasoning to OMB for review and approval. Every 3 years, BOEM will also review the burden numbers for changes, seek public comment, and submit any request for changes to OMB for approval.

Title of Collection: 30 CFR part 550, 556, and 560, "Leasing of Sulfur or Oil and Gas in the Outer Continental Shelf."

OMB Control Numbers: 1010-0006.

Form Number: No new forms.

Type of Review: Revision of currently approved collection.

Respondents/Affected Public: Federal OCS oil, gas, and sulfur operators and lessees, and RUE grant and pipeline ROW grant holders.

Total Estimated Number of Annual Responses: 22,112 responses (+ 22 responses).

Total Estimated Number of Annual Burden Hours: 22,033 hours (+ 21 hours).

Respondent's Obligation: Responses to these collections of information are mandatory or are required to obtain or retain a benefit.

Frequency of Collection: The frequency of response varies but is primarily on the occasion or as per the requirement.

Total Estimated Annual Non-hour Burden Cost: No additional non-hour costs. Non-hour costs remain at $766,053.

The following is a brief explanation of how the regulatory changes in this rulemaking affect the various subparts' hour and non-hour cost burdens for OMB Control Number 1010-0006:

Right-of-Use and Easement

BOEM's existing regulations concerning RUE grants supporting an OCS lease and a State lease are found at 30 CFR 550.160–550.166.

BOEM is proposing to revise the 30 CFR 550.166 to add the consideration of the issuer credit rating or proxy credit rating of a predecessor RUE grant holder and a predecessor lessee (i.e., a lessee that held interests in the lease on which the RUE is now located and is liable for accrued obligations for the facilities thereon), when determining if supplemental financial assurance is required. This new provision will not increase annual burden hours since BOEM would utilize credit ratings from nationally recognized statistical rating organizations or would itself generate a proxy credit rating based on existing audited financial statements.

Pipelines and Pipeline Right-of-Way Grants

Section 550.1011(d) relates to BOEM's determination of whether supplemental financial assurance is necessary to ensure compliance with the obligations under a pipeline ROW grant. This determination will be based on whether pipeline ROW grant holders have the ability to carry out present and future obligations. Currently, the criterion for the determination is an issuer credit rating or a proxy credit rating. The Department is proposing to add the consideration of a predecessor lessee liable for decommissioning and the consideration of the total decommissioning liabilities of a ROW grant and a lease when determining if supplemental financial assurance is required. The issuer credit rating and the audited financial information on which BOEM

determines a proxy credit rating for the current ROW grant holder and the predecessors already exist. The burden of determining a proxy credit rating, based on the submitted audited financial information, falls on BOEM.

This new provision will not increase annual burden hours since BOEM would utilize credit ratings from nationally recognized statistical rating organizations or would generate a proxy credit rating based on audited financial statements.

Base and Supplemental Financial Assurance

Section 556.901(d) relates to BOEM's determination of whether supplemental financial assurance is necessary to ensure compliance with the obligations under a lease. The lessee is required to provide supplemental financial assurance if it does not meet at least one of the criteria outlined in the proposed regulations in this section if finalized. The proposed requirement has the following proposed changes:

- Section 556.901(d)(1) proposes to base this determination on an issuer credit rating of greater than or equal to either BB- from S&P Global Ratings or Ba3 from Moody's Investor Service or equivalent.
- Section 556.901(d)(2) provides that, alternatively, BOEM will consider a proxy credit rating, which must be based on audited financial information for the most recent fiscal year. The Department is proposing that the proxy credit rating must reflect a creditworthiness equivalent to an issuer credit rating greater than or equal to either BB- from S&P Global Ratings or Ba3 from Moody's Investor Service or other equivalent rating from an NRSRO.
- The Department is proposing a new section 556.901(d)(4) to consider the credit rating of predecessor lessees liable for decommissioning obligations on a lease when determining if supplemental financial assurance is required.
- The Department is proposing to redesignate existing section 556.901(d)(4) to 556.901(d)(5). This section provides that BOEM will also consider the net present

value of proved oil and gas reserves on the lease. Lessees' submission of information on proved reserves is accounted for in the OMB approved annual burden hours. The Department is proposing to change the decommissioning estimate used to determine the net present value of the decommissioning obligations from P70 to P50. The lessee would not need to submit proved reserve information if supplemental financial assurance is not required based on its issuer credit rating or proxy credit rating, or those of its co-lessees or predecessors. This change will not impact the information collection burdens.

In this proposed rule, the revision of the criteria thresholds does not change for the time required for the respondents to prepare and submit the information.

The Department is proposing to update paragraph (h) in section 556.901 to establish the limited opportunity to provide the required supplemental financial assurance in installments during the first 3 years after the effective date of the final regulation. Currently, the provision establishes a timeline from June 24, 2024. The proposed update to the provision changes the start date for the 3-year installment period. Because this provision is not being changed other than the date on which the provision starts, BOEM is retaining the current burden estimate.

The Department is proposing to add a new paragraph (i) in section 556.901 to allow a lessee to provide a proposed installment schedule for supplemental financial assurance prior to the receipt of an official demand letter. BOEM is adding additional burden for the submission of this installment schedule. BOEM estimates an increase of 20 annual burden hours (20 responses x 1 hour burden).

<u>General Requirements for Bonds and Other Financial Assurance</u>

The Department is proposing in section 556.902(e) to explicitly allow the use of a dual-obligee financial assurance instruments as a type of financial assurance. Because dual-obligee financial assurance instruments have been allowed as "another form of

security approved by the Regional Director," BOEM proposes to keep the burdens the same as the existing approved OMB burdens.

Short-term Decommissioning Obligations

The Department is proposing a new section 556.908 to address instances where decommissioning will occur within 1 year of a new supplemental financial assurance demand. This provision will allow the Regional Director the discretion to accept third-party decommissioning contracts and/or decommissioning schedules from those entities in lieu of supplemental financial assurance. This is a new provision that may slightly increase annual burden hours. BOEM estimates an increase of 1 annual burden hours (2 responses x ½ hour burden).

The following is the revised burden table and a brief explanation of how the regulatory changes affect the various subparts' hour and non-hour cost burdens for OMB Control Number 1010-0006:

Burden Table
[**Bold indicates new requirements**;
regular font shows current requirements. Where applicable, updated estimates from the current collection are being used.]

30 CFR part 550, Subpart J	**Reporting Requirement***	**Hour Burden**	**Average No. of Annual Responses**	**Annual Burden Hours**
1011(a)	Provide area-wide financial assurance (form BOEM-2030) and if required, supplemental financial assurance, and required information.	GOA 0.25	52	13
		Pacific 3.5	3	11
		Alaska	1	1
1011(d)	Demonstrate financial worth/ability to carry out present and future financial obligations, request approval of another form of financial assurance, request reduction in amount of supplemental financial assurance required on BOEM-approved forms, or request phased financial assurance. Submit required information.	Burden included in 30 CFR 556.901(d).		
30 CFR 550, Subpart J, TOTAL			**56 Responses**	**25 Hours**
30 CFR part 556 and NTLs	**Reporting Requirement***	**Hour Burden**	**Average No. of Annual Responses**	**Annual Burden Hours**
		Non-Hour Cost Burdens		
Subpart A				
104(b)	Submit confidentiality agreement.	0.25	500	125
106	Cost recovery/service fees; confirmation receipt.	Cost recovery/service fees and associated documentation are covered under individual reqts. throughout this part.		0

107	Submit required documentation electronically through BOEM-approved system; comply with filing specifications, as directed by notice in the *Federal Register* in accordance with section 560.500.	Burden covered in section 560.500.		0
107	File seals, documents, statements, signatures, etc., to establish legal status of all future submissions (paper and/or electronic).	0.17 (10 min.)	400	67
Subtotal			**900**	**192**
Subpart B				
201-204	Submit nominations, suggestions, comments, and information in response to Request for Information/Comments, draft and/or proposed 5-year leasing program, etc., including information from States/local governments, Federal agencies, industry, and others.	Not considered IC as defined in 5 CFR 1320.3(h)(4).		0
201-204	Submit nominations & specific information requested in draft proposed 5-year leasing program, from States/local governments.	4	69	276
Subtotal			**69**	**276**
Subpart C				
301; 302	Submit response & specific information requested in Requests for Industry Interest and Calls for Information and Nominations, etc., on areas proposed for leasing; including information from States/local governments.	Not considered IC as defined in 5 CFR 1320.3(h)(4)		0
302(d)	Request summary of interest (non-proprietary information) for Calls for Information/Requests for Interest, etc.	1	5	5
305; 306	States or local governments submit comments, recommendations, other responses on size, timing, or location of proposed lease sale. Request extension; enter agreement.	4	25	100
Subtotal			**30**	**105**
Subpart D				
400-402; 405	Establish file for qualification; submit evidence/certification for lessee/bidder qualifications. Provide updates; obtain BOEM approval & qualification number.	2	107	214
403(c)	Request hearing on disqualification.	Requirement not considered IC under 5 CFR 1320.3(h)(8).		0
403; 404	Notify BOEM if you or your principals are excluded, disqualified, or convicted of a crime—Federal non-procurement debarment and suspension requirements; request exception; enter transaction.	1.5	50	75
405	Notify BOEM of all mergers, name changes, or change of business.	Requirement not considered IC under 5 CFR 1320.3(h)(1).		0
Subtotal			**157**	**289**
Subpart E				
500; 501	Submit bids, deposits, and required information, including GDIS & maps; in manner specified. Make data available to BOEM.	5	2,000	10,000
500(e); 517	Request reconsideration of bid decision.	Requirement not considered IC under 5 CFR 1320.3(h)(9).		0
501(e)	Apply for reimbursement.	Burden covered in 1010-0048, 30 CFR part 551.		0
511(b); 517	Submit appeal due to restricted joint bidders list; request reconsideration of bid decision.	Requirement not considered IC under 5 CFR 1320.3(h)(9).		0
513; 514	File statement and detailed report of production. Make documents available to BOEM.	2	100	200
515	Request exemption from bidding restrictions; submit appropriate information.	Requirement not considered IC under 5 CFR 1320.3(h)(9).		0
516	Notify BOEM of tie bid agreement; file agreement on determination of lessee.	3.5	2	7
520; 521; 600(c)	Execute lease (includes submission of evidence of authorized agent/completion and request effective date of lease); submit required data and rental.	1	852	852
520(b)	Provide acceptable bond for payment of a deferred bonus.	0.25	1	1
Subtotal			**2,955**	**11,060**
Subparts F, G, H				
Subparts F, G, H	Requests of approval for various operations or submit plans or applications. Burden included with other approved collections for BOEM 30 CFR part 550 (subpart A 1010-0114; subpart B 1010-0151) and for BSEE 30 CFR part 250 (subpart A 1014-0022; subpart D 1014-0018).			0
701(c); 716(b); 801(b); 810(b)	Submit new designation of operator (BOEM-1123).	Burden covered in 1010-0114.		0

700-716	File application and required information for assignment/transfer of record title/lease interest (form BOEM-0150; form is 30 min.) (includes sell, exchange, transfer); request effective date/confidentiality; provide notifications.	1	1,414	1,414
		$198 fee x 1,414 forms = $279,972		
800-810	File application and required information for assignment/transfer of operating interest (Form BOEM-0151) (includes sale, sublease, segregation exchange, severance, transfer); request effective date; provide notifications.	1	421	421
		$198 fee x 421 forms = $83,358		
715(a); 808(a)	File required instruments creating or transferring economic interests, etc., for record purposes.	1	2,369	2,369
		$29 fee x 2,369 filings = $68,701		
715(b); 808(b)	Submit "non-required" documents, for record purposes that respondents want BOEM to file with the lease document. (Accepted on behalf of lessees as a service; BOEM does not require or need them.)	.25	11,518	2,880
		$29 fee x 11,518 filings = $334,022		
Subtotal			**15,722**	**7,084**
			$766,053	
Subpart I				
900(a)-(e); 901; 902; 903(a); 905	Submit OCS Mineral Lessee's and Operator's Bond (Form BOEM-2028) or other financial assurance and, if required, provide supplemental financial assurance; execute forms.	0.33	405	135
900(c), (d), (f), (g); 901(c), (h), 901(d), (f); 902; 904	Demonstrate financial ability to carry out present and future financial obligations, request approval of another form of financial assurance, request reduction in amount of supplemental financial assurance required on BOEM-approved forms, or request phased provision of financial assurance. Monitor and submit required information.	3.5	160	560
900(e); 901; 902; 903(a)	Submit OCS Mineral Lessee's and Operator's Supplemental Plugging & Abandonment Bond (Form BOEM-2028A)*;* execute bond.	0.25	141	35
900(f), (g), (i)	Submit authority for Regional Director to sell Treasury or alternate type of financial assurance.	2	12	24
901	Submit EP, DPP, DOCDs.	IC burden covered in 1010-0151, 30 CFR part 550, subpart B.		0
901(g)	Submit oral/written comment on adjusted financial assurance amount and information.	Requirement not considered IC under 5 CFR 1320.3(h)(9).		0
901(i)	**Submit proposed installment schedule to BOEM.**	**1**	**20**	**20**
902 (g), (h)	Request informal resolution or file an appeal of supplemental financial assurance demand.	Requirement not considered IC under 5 CFR 1320.3(h)(9).		0
903 (a), (b); 905 (c)	Notify BOEM of any lapse in financial assurance coverage/action filed alleging lessee, surety, guarantor, or financial institution is insolvent or bankrupt or had its charter or license suspended or revoked.	3	4	12
904	Establish decommissioning account for estimated decommissioning obligation.	12	2	24
905	Provide third-party guarantee, agreement, financial and required information, related notices, reports, and annual update; notify BOEM if guarantor becomes unqualified.	19	46	874
905(d); 906	Provide notice of and request approval to terminate period of liability, cancel financial assurance; provide required information.	0.5	378	189
907(c)(2)	Provide information to demonstrate lease will be brought into compliance.	16	5	80
908 NEW	**Submit decommissioning contract and/or decommissioning schedule to BOEM.**	**.5**	**2**	**1**
Subtotal			**1,175**	**1,954**
Subpart K				
1101	Request relinquishment of lease (form BOEM-0152); submit required information.	1	247	247
1102	Request additional time to bring lease into compliance.	1	1	1
1102(c)	Comment on cancellation.	Requirement not considered IC under 5 CFR 1320.3(h)(9).		0
Subtotal			**248**	**248**
30 CFR part 556 TOTAL			**21,256 Responses**	**21,208 Hours**

			$766,053 Non-Hour Cost Burdens	
30 CFR part 560	**Reporting Requirement***	**Hour Burden**	**Average No. of Annual Responses**	**Annual Burden Hours**
560.224(a)	Request BOEM to reconsider field assignment of a lease.	Requirement not considered IC under 5 CFR 1320.3(h)(9)		0
560.500	Submit required documentation electronically through BOEM-approved system; comply with filing specifications, as directed by notice in the *Federal Register* (e.g., financial assurance info.).	1	800	800
30 CFR part 560 TOTAL			**800 Responses**	**800 Hours**
TOTAL REPORTING FOR COLLECTION			**22,112 Responses**	**22,033 Hours**
			$766,053 Non-Hour Cost Burdens	

If this proposed rule becomes effective and OMB approves the information collection requests, BOEM would revise the existing OMB control numbers to reflect the changes. The IC does not include questions of a sensitive nature. BOEM will protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and DOI implementing regulations (43 CFR part 2), 30 CFR 556.104, *Information collection and proprietary information*, and 30 CFR 550.197, *Data and information to be made available to the public or for limited inspection*.

The PRA requires agencies to estimate the total annual reporting and recordkeeping non-hour cost burden resulting from the collection of information, and we solicit your comments on this item. For reporting and recordkeeping only, your response should split the cost estimate into two components: (1) total capital and startup cost component; and (2) annual operation, maintenance, and purchase of service component. Your estimates should consider the cost to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Generally, your estimates should not include equipment or services purchased: (1) before October 1, 1995; (2) to comply with requirements not associated with the information collection; (3) for reasons other than to provide information or keep records for the Government; or (4) as part of

customary and usual business or private practices.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of this information collection, including:

(1) Is the proposed information collection necessary or useful for BOEM to properly perform its functions?

(2) Are the estimated annual burden hour increases and decreases resulting from the proposed rule reasonable?

(3) Is the estimated annual non-hour cost burden resulting from this information collection reasonable?

(4) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(5) Is there a way to minimize the information collection burden on those who must respond, such as by using appropriate automated digital, electronic, mechanical, or other forms of information technology?

Send your comments and suggestions on this information collection by the date indicated in the DATES section to the Desk Officer for the Department of the Interior at OMB – OIRA at (202) 395-5806 (fax) or via the online portal at https://www.reginfo.gov. You may view the information collection request(s) at https://www.reginfo.gov/public/do/PRAMain. Please provide a copy of your comments to the BOEM Information Collection Clearance Officer (see the ADDRESSES section). You may contact Anna Atkinson, BOEM Information Collection Clearance Officer at (703) 787-1025 with any questions. Please reference Risk Management and Financial Assurance for OCS Lease and Grant Obligations (OMB Control No. 1010-0006), in your comments.

E. National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed environmental analysis under NEPA is not required because this proposed rule is covered by a categorical exclusion (see 43 CFR 46.205). This proposed rule meets the criteria set forth at 43 CFR 46.210(i) for a Departmental categorical exclusion in that this action is "of an administrative, financial, legal, technical, or procedural nature." BOEM has also determined that the proposed rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

VIII. Executive Order Review

A. Executive Order 12630: Governmental Actions and Interference with Constitutionally Protected Property Rights

E.O. 12630 ensures that government actions affecting the use of private property are undertaken on a well-reasoned basis with due regard for the potential financial impacts imposed by the government. This action does not effect a taking of private property or otherwise have taking implications under E.O. 12630, and therefore, a takings implication assessment is not required.

B. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the OMB will review all significant rules. This rulemaking will result in an annual effect on the economy of $100 million or more, therefore OIRA has determined that this rule is a significant action under E.O. 12866. As such, this action was submitted to OMB for interagency review.

E.O. 13563 reaffirms the principles of E.O. 12866, while calling for improvements in the Nation's regulatory system to promote predictability and reduce uncertainty, and to use the best, most innovative, and least burdensome tools for

achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. BOEM has developed this rule in a manner consistent with these requirements.

The amendments proposed in this action are expected to significantly decrease the private costs to lessees in the form of bonding or other financial assurance premiums. BOEM prepared an analysis of the potential costs and benefits associated with this action, which are described in the following OMB Circular A-4 Accounting Statement. For further discussion, this analysis, *Risk Management and Financial Assurance for OCS Lease and Grant Obligations Regulatory Impact Analysis,* is available in the docket (BOEM-2025-0042) and is summarized in sections IV.B and IV.C of this preamble.

OMB Circular A-4 Accounting Statement; Estimates, Annualized over 2026-2045 ($2025)

Category	Primary Estimate		Minimum Estimate	Maximum Estimate	Source Citation
	Annualized at 3% discount rate	Annualized at 7% discount rate			
Net Regulatory Benefits ($ millions)					
Annualized monetized benefits (discount rate in parentheses)	N/A	N/A	N/A	N/A	RIA
Qualitative benefits (non-quantified)	This proposed rule is a modification of the current financial regulations finalized in 2024. The proposed rule is designed to minimize the amount of supplemental financial assurance required for financially strong companies while protecting the taxpayer from assuming responsibility for defaulted decommissioning liabilities. The regulatory changes would help to reduce compliance burdens on the oil and gas industry that may hinder the continued development or use of domestically produced energy resources.				RIA
Regulatory Costs ($ millions)					
20-year annualized monetized costs	-$484.46	-$487.21	N/A	N/A	RIA – **Table 1** (20 year)

Annualized quantified, but unmonetized, costs	N/A	N/A	N/A	N/A	N/A
Qualitative costs (non-quantified)	BOEM is proposing to allow Tier 2 lessees and grant holders to forgo providing supplemental financial assurance if there are Tier 1 predecessor companies in the chain of title. These Tier 1 companies, which would see an increased risk of being called upon to perform, would theoretically internalize this risk into their decision-making processes and may set aside or otherwise idle capital to prepare for their contingent liabilities.				Section VIII. Statement of Energy Effects
Net Monetized Benefits ($ millions)					
20-year annualized monetized benefits	N/A	N/A	N/A	N/A	
Transfers ($ millions)					
Annualized monetized transfers: "on budget"	$0	$0	$0	$0	RIA
Annualized monetized transfers: "off budget"	$0	$0	$0	$0	RIA
From whom to whom?	BOEM does not monetize or quantify potential transfers under the proposed rule. However, in the event of a lessee or grantee default, there is an increased likelihood that a predecessor lessee or the Federal Government would assume decommissioning liability.				RIA
Effects on State, local, and/or tribal governments	No material adverse effects.				RIA E.O. 12866
Effects on small businesses	Although small entities are responsible for most of the Tier 2 liability, BOEM estimates the proposed rule results in in annual premiums of $48.9 million, yielding a savings of $498 million.				RFA (Section VII)
Effects on wages	None				None
Effects on growth	OCS investment may be deterred by discouraging Tier 1 companies from farm-in/out deals with Tier 2 companies or prompting earlier infrastructure decommissioning when project economics fall below their NPV thresholds. Tier 1 predecessors may be required to set aside additional capital for decommissioning obligations.				E.O. 13211 (Section VIII)

C. Executive Order 12988: Civil Justice Reform

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

(1) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(2) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear

language and contain clear legal standards.

D. Executive Order 13132: Federalism

Regulatory actions that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government are subject to E.O. 13132. Under the criteria in section 1 of E.O. 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

E. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

BOEM strives to strengthen its government-to-government relationships with Tribal Nations through a commitment to consultation with Tribes, recognition of their right to self-governance and Tribal sovereignty, and honoring BOEM's trust responsibilities for Tribal Nations. Executive Order 13175 defines polices that have Tribal implications as regulations, legislative comments or proposed legislation, and other policy statements or actions that will or may have a substantial direct effect on one or more Indian Tribes, or on the relationship between the Federal Government and one or more Indian Tribes. Additionally, the DOI's consultation policy for Tribal Nations and ANCSA Corporations, as described in Departmental Manual part 512 chapter 4, expands on the above definition from E.O. 13175 and requires that BOEM invite Indian Tribes and ANCSA Corporations "early in the planning process to consult whenever a Departmental plan or action with Tribal Implications arises."

BOEM has evaluated the proposed rule under DOI's consultation policy and under the criteria in E.O. 13175 and determined that, while the proposed rule would likely not cause any substantial direct effects on environmental or cultural resources, there may be resource or economic impacts to one or more federally recognized Indian

Tribes or ANCSA Corporations as a result of the proposed rule. BOEM is notifying tribes and ANCSA Corporations with current and/or historical connections to the Gulf of America and offshore Alaska to ensure they were aware of the proposed rulemaking, to answer any immediate questions they may have, and to invite formal consultation if they would like to consult. See section IV.D of this preamble for details on consultations held for this proposed rule. BOEM can consult at any time with federally recognized Tribes as sovereign nations.

F. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use

Under E.O. 13211, BOEM is required to prepare and submit to OMB a "Statement of Energy Effects" for "significant energy actions." This should include a detailed statement of any adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increased use of foreign supplies) expected to result from the action and a discussion of reasonable alternatives and their effects. The OMB provides guidance for implementing this E.O., outlining outcomes that may constitute "a significant adverse effect" when compared with the regulatory action under consideration:

- Reductions in crude oil supply in excess of 10,000 barrels per day (bbls);
- Reductions in fuel production in excess of 4,000 bbls;
- Reductions in coal production in excess of five million tons per year;
- Reductions in natural gas production in excess of 25 million Mcf per year;
- Reductions in electricity production in excess of one billion kilowatt-hours per year or in excess of 500 megawatts of installed capacity;
- Increases in energy use required by the regulatory action that exceed the thresholds above;
- Increases in the cost of energy production in excess of one percent;

- Increases in the cost of energy distribution in excess of one percent; or
- Other similarly adverse outcomes.

In addition, a regulation may have "significant adverse effects" if it:

- Adversely affects, in a material way, the productivity, competition, or prices in the energy sector;
- Adversely affects, in a material way, productivity, competition or prices within a region;
- Creates a serious inconsistency or otherwise interferes with an action taken or planned by another agency regarding energy; or
- Raises novel legal or policy issues adversely affecting the supply, distribution or use of energy arising out of legal mandates, the President's priorities, or the principles set forth in E.O.s 12866 and 13211.

The proposed rule is a deregulatory action and does not directly add new regulatory compliance requirements that would lead to significant adverse effects on the nation's energy supply, distribution, or use. Rather, the regulatory changes would help to reduce compliance burdens on the oil and gas industry that may hinder the continued development or use of domestically produced energy resources.

The proposed financial assurance changes could yield unintended consequences to OCS asset investments, particularly in their later years of viability. The proposed rule may deter OCS investment by discouraging Tier 1 companies from pursuing farm-in or farm-out deals with Tier 2 companies or prompting companies to decommission infrastructure when project economics fall below their IRR or NPV thresholds. Smaller Tier 2 companies, with lower operating costs and return thresholds, may recover additional late-life OCS hydrocarbon resources. While contractual financial security agreements could mitigate these risks, net adverse effects on OCS energy production remain possible. These Tier 1 predecessors may also decide they need to set aside

additional contingency funds should they be required to cover potential decommissioning obligations from successor lessees exempted from providing supplemental financial assurance. These are funds that could otherwise be invested in new energy projects. BOEM does not anticipate these effects will exceed the OMB E.O. 13211 guidance but welcomes comments on additional potential impacts.

G. Executive Order 14154: Unleashing American Energy

Section 3 of E.O. 14154 requires immediate review of all agency actions that potentially burden the development of domestic energy resources. Secretary's Order 3418 directed BOEM to determine if the *Risk Management and Financial Assurance for OCS Lease and Grant Obligations* (89 FR 31544; April 24, 2024) should be suspended, revised, or rescinded. With this rulemaking, DOI is proposing to revise the regulations associated with the 2024 Final Rule as it potentially burdens the development of domestic energy resources.

H. Executive Order 14156: Declaring a National Energy Emergency

Section 1 of E.O. 14156 declares a national emergency because "[o]ur Nation's current inadequate development of domestic energy resources leaves us vulnerable to hostile foreign actors and poses an imminent and growing threat to the United States' prosperity and national security." Section 2 instructs the heads of executive departments and agencies to identify and exercise any lawful emergency authorities available to them to facilitate the identification, leasing, siting, production, transportation, refining, and generation of domestic energy resources. This proposed rule does not address any emergency actions related to facilitating the identification, leasing, siting, production, transportation, refining, and generation of domestic energy resources.

I. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 requires that for each new regulation issued, at least 10 prior regulations be identified for elimination. Section 3(c) requires that any incremental

costs associated with new regulations shall be offset by the elimination of existing costs associated with at least 10 prior regulations. This action proposes to reduce existing regulatory burden to offshore oil and gas companies by $6.2 billion. Therefore, there are no incremental costs to be offset. Moreover, the proposal is not a “new regulation” but itself is the elimination of burdensome features of existing regulations.

List of Subjects

30 CFR part 550

Administrative practice and procedure, Oil and gas exploration, Outer continental shelf, Pipelines, Reporting and recordkeeping requirements, Rights-of-way, Sulfur.

30 CFR part 556

Administrative practice and procedure, Oil and gas exploration, Outer continental shelf, Reporting and recordkeeping requirements, Rights-of-way.

30 CFR part 590

Administrative practice and procedure.

This action by the Assistant Secretary for Land and Minerals Management is taken herein pursuant to an existing delegation of authority.

Lanny E. Erdos,
Director, Office of Surface Mining, Reclamation, and Enforcement
Exercising Authority of the Assistant Secretary -- Land and Mineral Management

For the reasons stated in the preamble, BOEM proposes to amend 30 CFR chapter V as follows:

PART 550—OIL AND GAS AND SULFUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 550 continues to read as follows:

Authority: 30 U.S.C. 1751; 31 U.S.C. 9701; 43 U.S.C. 1334.

Subpart A—General

2. Amend § 550.105 by adding the terms and corresponding definitions for "Issuer credit rating" and "Predecessor" in alphabetical order as follows:

§ 550.105 Definitions.

* * * * *

Issuer credit rating means a credit rating assigned to an issuer of corporate debt by a nationally recognized statistical rating organization as that term is defined in section 3(a)(62) of the Securities Exchange Act of 1934.

* * * * *

Predecessor means a prior lessee or owner of operating rights, or a prior holder of a right-of-use and easement grant or pipeline right-of-way grant, that is liable for accrued obligations on that lease or grant.

* * * * *

3. Amend § 550.166 by revising subparagraph (a)(3) and paragraph (b) to read as follows:

§ 550.166 If BOEM grants me a RUE, what financial assurance must I provide?

(a) * * *

(3) The requirements for financial assurance in §§ 556.900(d) through (g) and 556.902 of this subchapter apply to the financial assurance required under paragraph (a) of this section.

(b) If BOEM grants you a RUE that serves either an OCS lease or a State lease, the Regional Director may require supplemental financial assurance above the amount required by paragraph (a) of this section, to ensure compliance with the obligations under your RUE grant, based on an evaluation of your ability to carry out present and future obligations on the RUE using the criteria set forth in § 556.901(d)(1) through (4) of this subchapter. If supplemental financial assurance is required by the Regional Director, it must meet the requirements of §§ 556.900(d) through (g) and 556.902 of this subchapter and cover costs and liabilities for compliance with obligations of your RUE grants and applicable BOEM and BSEE orders.

* * * * *

Subpart J—Pipelines and Pipeline Rights-of-Way

4. Amend § 550.1011 by removing existing paragraph (e), redesignating existing paragraph (f) to new paragraph (e), and revising paragraph (d) to read as follows:

§ 550.1011 Financial assurance requirements for pipeline right-of-way (ROW) grant holders.

* * * * *

(d) The Regional Director, using the criteria set forth in § 556.901(d)(1) through (3) of this subchapter, will evaluate your financial ability to carry out present and future obligations and, as a result, may require supplemental financial assurance (i.e., above the amount required by paragraph (a) of this section) to ensure compliance with the obligations under your pipeline right-of-way grant. The Regional Director may require you to provide additional supplemental financial assurance if you do not meet at least one of the criteria in subparagraphs (d)(1) and (2) of this section. If supplemental financial assurance is required by the Regional Director, it must meet the requirements of §§ 556.900(d) through (g) and 556.902 of this subchapter and cover costs and liabilities for compliance with obligations of your ROW grants and applicable BOEM and BSEE

orders.

(1) A predecessor lessee liable for decommissioning any facilities on the ROW meets the issuer credit rating or proxy credit rating criteria in § 556.901(d)(1) or (d)(2), respectively; or

(2) The value of proved reserves of OCS lease(s) held by the ROW grant holder servicing the ROW compared to the combined decommissioning liability of those leases and ROWs meets the requirements of § 556.901(d)(5).

* * * * *

PART 556—LEASING OF SULFUR OR OIL AND GAS AND FINANCIAL ASSURANCE REQUIREMENTS IN THE OUTER CONTINENTAL SHELF

5. The authority citation for part 556 continues to read as follows:

Authority: 31 U.S.C. 9701; 42 U.S.C. 6213; 43 U.S.C. 1334.

Subpart A—General Provisions

6. Amend § 556.105 by revising paragraph (b) to remove the term and associated definition of "Investment grade credit rating" and to add the term "Dual-obligee financial assurance instrument" and associated definition to read as follows:

§ 556.105 Acronyms and definitions.

* * * * *

(b) * * *

Dual-obligee financial assurance instrument means a type of financial instrument that names a second obligee in addition to the original obligee.

* * * * *

Subpart I—Financial Assurance

7. Revise the table of contents for subpart I to part 556 to read as follows:

Subpart I—Financial Assurance

Sec.
556.900 Bond requirements for an oil and gas or sulfur lease.

556.901 Additional bonds.
556.902 General requirements for bonds.
556.903 Lapse of bond.
556.904 Lease-specific abandonment accounts.
556.905 Using a third-party guarantee instead of a bond.
556.906 Termination of the period of liability and cancellation of a bond.
556.907 Forfeiture of bonds and/or other securities.
556.908 Short-term decommissioning obligations.

8. Amend § 556.901 by:

a. Revising existing paragraphs (d)(1) and (d)(2);

b. Redesignating existing paragraph (d)(4) as new paragraph (d)(5);

c. Adding new paragraph (d)(4);

d. Revising new paragraph (d)(5);

e. Revising paragraphs (f) and (h); and

f. Adding new paragraph (i).

The revisions and additions read as follows:

§ 556.901 Base and supplemental financial assurance.

* * * * *

(d) * * *

(1) You have an issuer credit rating from a nationally recognized statistical rating organization, as that term is defined in section 3(a)(62) of the Securities Exchange Act of 1934, greater than or equal to either BB- from S&P Global Ratings, Ba3 from Moody's Investor Service, or the equivalent rating from another nationally recognized statistical rating organization. If any nationally rated statistical rating organization provides a credit rating for you that differs from that of any other nationally recognized statistical rating organization, BOEM will apply the highest rating for purposes of determining your financial assurance requirements.

(2) You have a proxy credit rating determined by the Regional Director that they determine reflects creditworthiness equivalent to an issuer credit rating greater than or equal to either BB- from S&P Global Ratings, Ba3 from Moody's Investor Service, or the

equivalent rating from another nationally recognized statistical rating organization, which must be based on audited financial information for the most recent fiscal year (which must include an income statement, balance sheet, statement of cash flows, and the auditor's certificate).

(i) * * *

* * * * *

(4) A predecessor lessee liable for decommissioning any facility on your lease has an issuer credit rating or proxy credit rating that meets the criteria set forth in paragraph (d)(1) or (d)(2) of this section. The Regional Director may require you to provide supplemental financial assurance for decommissioning obligations for which such a predecessor is not liable.

(5) There are proved oil and gas reserves on the lease, unit, or field, as defined by the SEC Regulation S-X at 17 CFR 210.4-10 and SEC Regulation S-K at 17 CFR 229.1200, the discounted value of which exceeds three times the estimated undiscounted cost of the decommissioning associated with the production of those reserves, and that value must be based on proved reserve reports submitted to the Regional Director and reported on a per-lease, unit, or field basis. BOEM will determine the decommissioning costs associated with the production of your reserves, and will use the following undiscounted decommissioning cost estimates:

(i) Where BSEE-generated probabilistic estimates are available, BOEM will use the estimate at the level at which there is a 50 percent probability that the actual cost of decommissioning will be less than the estimate (P50).

(ii) If there is no BSEE probabilistic estimate available, BOEM will use the BSEE-generated deterministic estimate.

* * * * *

(f) The Regional Director will use the BSEE P50 decommissioning probabilistic

estimate to determine the amount of supplemental financial assurance required to guarantee compliance when there is no lessee or co-lessee that meets the criterion in § 556.901(d)(1) or (2). Note that BOEM will use these P-values only in the context of determining how much financial assurance is required, and not in the context of bond forfeiture. Regardless of whether you are required to provide supplemental financial assurance at the P50 level, you remain liable for the full costs of decommissioning, and your surety remains liable for the full cost of decommissioning up to the limit of assurance provided. In determining the total amount of the supplemental financial assurance demand, the Regional Director will also consider your potential underpayment of royalty and cumulative decommissioning obligations.

* * * * *

(h) During the first 3 years from **[INSERT DATE 60 DAYS AFTER DATE OF FINAL RULE PUBLICATION IN THE *FEDERAL REGISTER*]**, you may, upon receipt of a demand letter for supplemental financial assurance under this section, request that the Regional Director allow you to provide, in three equal installments payable according to the schedule provided under this paragraph (h), the full amount of supplemental financial assurance required.

(1) * * *

* * * * *

(i) Prior to receiving a demand for supplemental financial assurance, you may provide the Regional Director with a proposed schedule for providing potential supplemental financial assurance. If accepted, BOEM will forgo an official demand letter. Failure to provide the required supplemental financial assurance on the approved schedule will result in an official demand letter for the remaining decommissioning liability due within 10-calendar days after receipt.

9. Amend § 556.902 by revising paragraphs (e) and (h) to read as follows:

§ 556.902 General requirements for bonds or other financial assurance.

* * * * *

(e) Lease financial assurance must be:

(1) A surety bond;

(2) A pledge of Treasury securities, as provided in § 556.900(f);

(3) A dual-obligee financial assurance instrument;

(4) Another form of security approved by the Regional Director; or

(5) A combination of these security methods.

* * * * *

(h) You may file an appeal of a supplemental financial assurance demand with the Interior Board of Land Appeals (IBLA) pursuant to the regulations in part 590 of this chapter.

10. Add new section 556.908 to read as follows:

§ 556.908 Short-term decommissioning obligations.

(a) In instances where decommissioning is scheduled to occur within one year of a new supplemental financial assurance demand, the Regional Director has the discretion to accept a third-party decommissioning contract and/or a decommissioning schedule from those entities in lieu of supplemental financial assurance.

(b) The third-party decommissioning contract provided to BOEM for review and approval for use as an alternative to providing supplemental financial assurance should clearly define the responsibilities, expectations, and protections for all parties involved in the plugging, abandonment, and site restoration of oil and gas infrastructure.

(c) The decommissioning schedule provided to BOEM for review and approval for use as an alternative to providing supplemental financial assurance must include a detailed timeline that outlines the sequence, duration, and key milestones for decommissioning oil and gas infrastructure such as wells, facilities, and pipelines. The

decommissioning schedule must be signed by an officer of the company as designated in the BOEM qualification card.

(d) When submitting the third-party decommissioning contract or decommissioning schedule for BOEM approval for use in lieu of providing supplemental financial assurance, you must provide evidence of sufficient funding resources to complete the decommissioning within the time specified in the contract or schedule.

(e) If you fail to comply with the third-party decommissioning contract which was accepted by BOEM in lieu of supplemental financial assurance, you must:

(1) Notify the Regional Director within 7-calendar days of discovering the failure to comply with the contract or of the contract being canceled; and

(2) Provide proof that you are taking corrective action to obtain a new third-party decommissioning contract or revise the existing third-party decommissioning contract within 15 days after notification to the Regional Director.

(f) If you fail to comply with the decommissioning schedule, which was accepted by BOEM in lieu of supplemental financial assurance, you must:

(1) Notify the Regional Director within 7-calendar days of discovering that any of the milestones in the schedule have been missed or have become an impossibility; and

(2) Take corrective action to revise the schedule and provide a revised schedule for review and approval for use in lieu of providing supplemental financial assurance to the Regional Director within 15 days after notification to the Regional Director.

(g) If you fail to comply with paragraphs (e) and/or (f) of this section, whichever was approved for use by BOEM as an alternative to providing supplemental financial assurance, you must provide the original supplemental financial assurance demand in full within 10-calendar days of receiving notification from the Regional Director that you have failed to meet your obligations and that you will be no longer be eligible to meet your supplemental financial assurance requirement in the manner prescribed in this

section.

(h) If your decommissioning activities are not complete within one-year from the date of the original supplemental financial assurance demand, you must pay the original supplemental financial assurance demand amount within 10-calendar days of receiving notification from the Regional Director that you have failed to meet your obligations and that you will be no longer be eligible to meet your supplemental financial assurance requirement in the manner prescribed in this section.

Subchapter C—Appeals

PART 590—APPEAL PROCEDURES

11. The authority citation for part 590 continues to read as follows:

Authority: 5 U.S.C. 301 *et seq*.; 31 U.S.C. 9701; 43 U.S.C. 1334.

Subpart A—Bureau of Ocean Energy Management Appeal Procedures

§ 590.4 [Amended]

12. Amend § 590.4 by removing and reserving paragraph (c).

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