

Categorical Exclusion Review, Bureau of Ocean Energy Management

Rule Title: *Risk Management and Financial Assurance for OCS Lease and Grant Obligations* (RIN 1010 – AE14)

Federal Action: The Department of the Interior (the Department or DOI), acting through the Bureau of Ocean Energy Management (BOEM), is amending its risk management and financial assurance regulations. This final rule revises criteria for determining whether oil, gas, and sulfur lessees, right-of-use and easement (RUE) grant holders, and pipeline right-of-way (ROW) grant holders are required to provide financial assurance above the current minimum bonding levels to ensure compliance with their Outer Continental Shelf Lands Act (OCSLA) obligations. This final rule streamlines the criteria for evaluating the financial health of lessees and grantees, codifies the use of the Bureau of Safety and Environmental Enforcement's (BSEE) probabilistic estimates of decommissioning costs, removes restrictive provisions for third-party guarantees and decommissioning accounts, adds new criteria cancelling supplemental financial assurance, and clarifies bonding requirements for RUEs serving Federal leases. BOEM estimates that a total of \$6.9 billion in additional supplemental financial assurance will be required from lessees and grant holders under this final rule to cover potential costs of decommissioning activities. This final rulemaking does not apply to renewable energy activities.

1. Federal action may be categorically excluded under 43 CFR § 46.210.

Yes ☒ No ☐

If "yes", check applicable activity below.

Departmental Categorical Exclusions 43 CFR § 46.210

<input type="checkbox"/> 1	Personnel actions and investigations and personnel services contracts.	<input type="checkbox"/> 7	Management, formulation, allocation, transfer, and reprogramming of the Department's budget at all levels. (This does not exclude the preparation of environmental documents for proposals included in the budget when otherwise required.)
<input type="checkbox"/> 2	Internal organizational changes and facility and bureau reductions and closings.	<input type="checkbox"/> 8	Legislative proposals of an administrative or technical nature (including such things as changes in authorizations for appropriations and minor boundary changes and land title transactions) or having primarily economic, social, individual, or institutional effects; and comments and reports on referrals of legislative proposals.
<input type="checkbox"/> 3	Routine financial transactions including such things as salaries and expenses, procurement contracts (e.g., in accordance with applicable procedures and Executive Orders for sustainable or green procurement), guarantees, financial assistance, income transfers, audits, fees, bonds, and royalties.	<input checked="" type="checkbox"/> 9	Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case.
<input type="checkbox"/> 4	Departmental legal activities including, but not limited to, such things as arrests, investigations, patents, claims, and legal opinions. This does not include bringing judicial or administrative civil or criminal enforcement actions which are outside the scope of NEPA in accordance with 40 CFR 1508.18 (a).	<input type="checkbox"/> 10	Activities which are educational, informational, advisory, or consultative to other agencies, public and private entities, visitors, individuals, or the general public.
<input type="checkbox"/> 5	Nondestructive data collection, inventory (including field, aerial, and satellite surveying and mapping), study, research, and monitoring activities.	<input type="checkbox"/> 11	Hazardous fuels reduction activities using prescribed fire not to exceed 4,500 acres, and mechanical methods for crushing, piling, thinning, pruning, cutting, chipping, mulching, and mowing, not to exceed 1,000 acres. Such activities: (1) Shall be limited to areas— (i) In wildland-urban interface; and (ii) Condition Classes 2 or 3 in Fire Regime Groups I, II, or III, outside the wildland-urban interface; (2) Shall be identified through a collaborative framework as described in "A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy Implementation Plan;" (3) Shall be conducted consistent with bureau and Departmental procedures and applicable land and resource management plans; (4) Shall not be conducted in wilderness areas or impair the suitability of wilderness study areas for preservation as wilderness; and (5) Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure; and may include the sale of vegetative material if the primary purpose of the activity is hazardous fuels reduction.
<input type="checkbox"/> 6	Routine and continuing government business, including such things as supervision, administration, operations, maintenance, renovations, and replacement activities having limited context and intensity (e.g., limited size and magnitude or short-term effects).	<input type="checkbox"/> 12	Post-fire rehabilitation activities not to exceed 4,200 acres (such as tree planting, fence replacement, habitat restoration, heritage site restoration, repair of roads and trails, and repair of damage to minor facilities such as campgrounds) to repair or improve lands unlikely to recover to a management approved condition from wildland fire damage, or to repair or replace minor facilities damaged by fire.

2. Federal action may be categorically excluded under 516 DM 15.4.Yes ☐No ☒*If “yes”, check applicable activity below.***BOEM Categorical Exclusions 516 DM 15.4****General**

<input type="checkbox"/> 1	Inventory, data, and information collection, including the conduct of environmental monitoring and nondestructive research programs.	<input type="checkbox"/> 2	Actions for which MMS has concurrence or co-approval with another Bureau if the action is a categorical exclusion for that Bureau.
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Internal Program Initiatives

<input type="checkbox"/> 1	All resource evaluation activities including surveying, mapping, and geophysical surveying which do not use solid or liquid explosives.	<input type="checkbox"/> 5	Establishment and installation of any research/monitoring devices.
<input type="checkbox"/> 2	Collection of geologic data and samples including geologic, paleontologic, mineralogic, geochemical, and geophysical investigations which does not involve drilling beyond 50 feet of consolidated rock or beyond 300 feet of unconsolidated rock, including contracts therefor.	<input type="checkbox"/> 6	Test or exploration drilling and downhole testing included in a project previously subject to the NEPA process.
<input type="checkbox"/> 3	Acquisition of existing geological or geophysical data from otherwise private exploration ventures.	<input type="checkbox"/> 7	Insignificant revisions to the approved 5-year leasing program.
<input type="checkbox"/> 4	Well logging, digital modeling, inventory of existing wells, and installation of recording devices in wells.	<input type="checkbox"/> 8	Prelease planning steps such as the Call for Information and Area Identification.

Permit and Regulatory Functions

<input type="checkbox"/> 1	Issuance and modification of regulations, Orders, Standards, Notices to Lessees and Operators. Guidelines and field rules for which the impacts are limited to administrative, economic, or technological effects and the environmental impacts are minimal.	<input type="checkbox"/> 9	Approval of offshore geological and geophysical mineral exploration activities, except when the proposed activity includes the drilling of deep stratigraphic test holes or uses solid or liquid explosives.
<input type="checkbox"/> 2	Approval of production measurement methods, facilities, and procedures.	<input type="checkbox"/> 10	Approval of an offshore lease or unit exploration development/production plan or a Development Operation Coordination Document in the central or western Gulf of Mexico (30 CFR 250.2) except those proposing facilities: (1) In areas of high seismic risk or seismicity, relatively untested deep water, or remote areas, or (2) within the boundary of a proposed or established marine sanctuary, and/or within or near the boundary of a proposed or established wildlife refuge or areas of high biological sensitivity; or (3) in areas of hazardous natural bottom conditions; or (4) utilizing new or unusual technology.
<input type="checkbox"/> 3	Approval of off-lease storage in existing facilities.	<input type="checkbox"/> 11	Approval of minor revisions of or minor variances from activities described in an approved offshore exploration or development/production plan, including pipeline applications.
<input type="checkbox"/> 4	Approval of unitization agreements, pooling, or communitization agreements.	<input type="checkbox"/> 12	Approval of an Application for Permit to Drill (APD) an offshore oil and gas exploration or development well, when said well and appropriate mitigation measures are described in an approved exploration plan, development plan, production plan, or Development Operations Coordination Document.
<input type="checkbox"/> 5	Approval of commingling of production.	<input type="checkbox"/> 13	Preliminary activities conducted on a lease prior to approval of an exploration or development/production plan or a Development Operations Coordination Plan. These are activities such as geological, geophysical, and other surveys necessary to develop a comprehensive exploration plan, development/production plan, or Development Operations Coordination Plan.
<input type="checkbox"/> 6	Approval of suspensions of operations and suspensions of production.	<input type="checkbox"/> 14	Approval of Sundry Notices and Reports on Wells.
<input type="checkbox"/> 7	Approval of lease consolidation applications, lease assignments or transfers, operating rights, operating agreements, lease extensions, lease relinquishments, and bond terminations.	<input type="checkbox"/> 15	Rights-of-ways, easements, temporary use permits, and any revisions thereto that do not result in a new pipeline corridor to shore.
<input type="checkbox"/> 8	Administration decisions and actions and record keeping such as: (a) Approval of applications for pricing determinations under the Natural Gas Policy Act. (b) Approval of underground gas storage agreements from a presently or formerly productive reservoir. (c) Issuance of paying well determinations and participating area approvals. (d) Issuance of drainage determinations.		

3. Does an Extraordinary Circumstance (43 CFR §46.215) apply to the Federal action?Yes ☐ No ☒*If “yes”, check applicable activity below.***Extraordinary Circumstances under 43 CFR § 46.215**

<input type="checkbox"/> 1	Have significant impacts on public health or safety.	<input type="checkbox"/> 7	Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.
<input type="checkbox"/> 2	Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (EO 11990); floodplains (EO 11988); national monuments; migratory birds; and other ecologically significant or critical areas.	<input type="checkbox"/> 8	Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species or have significant impacts on designated Critical Habitat for these species.
<input type="checkbox"/> 3	Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)].	<input type="checkbox"/> 9	Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.
<input type="checkbox"/> 4	Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	<input type="checkbox"/> 10	Have a disproportionately high and adverse effect on low income or minority populations (EO 12898).
<input type="checkbox"/> 5	Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.	<input type="checkbox"/> 11	Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007).
<input type="checkbox"/> 6	Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.	<input type="checkbox"/> 12	Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and EO 13112).

Based on this review, the issuance of a final rule is determined to be categorically excluded pursuant to the National Environmental Policy Act (NEPA) and all other applicable federal environmental laws, regulations and executive orders.

BOEM has analyzed this rule and determined that:

1. The final rule meets the criteria for categorical exclusion under 43 CFR 46.210(i) of the Department of the Interior regulations implementing NEPA. The regulations set forth in this final rule are “ . . . of an administrative, financial, legal, technical, or procedural nature.”
2. The final rule does not trigger any of the extraordinary circumstances that would require an environmental assessment or an environmental impact statement as set forth under 43 CFR § 46.215.

Additional Comments:

The issuance of the final rule is administrative and procedural in nature. The changes to the regulations do not involve any new activities with the potential to disturb the physical environment nor do the provisions of the rule, or related changes to the existing rule, trigger any of the extraordinary circumstances listed in 43 CFR § 46.215. Given that the actions authorized by this rule fall under the category of actions defined at 43 CFR § 46.210(i), the publication of the final rule does not constitute a major federal action that warrants a detailed environmental analysis under the NEPA (42 USC 4321 *et seq.*).

Chief, Division of Environmental Assessment

Date: April 15, 2024