



United States Department of the Interior
BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT

Bureau of Safety and Environmental Enforcement
Categorical Exclusion Review
June 5, 2024

OCS Civil Penalty Surety Bond Requirements When Filing an Appeal

(RIN 1014-AA57)

Final Action

The Bureau of Safety and Environmental Enforcement (BSEE) is issuing a final rule to amend regulations for surety bond requirements when a BSEE civil penalty decision is appealed to the Interior Board of Land Appeals. The final rule would amend the surety bond regulations in 30 CFR 250.1409 to clarify that a penalized party must post a surety bond in the same amount as the civil penalty before they may file an appeal pursuant to 30 CFR Part 290. The purpose of this bond requirement is to ensure that funds will be available to cover the final civil penalty assessment if the appeal is denied in the future. The bond requirement will also discourage the practice of filing frivolous appeals for the sole purpose of delaying penalty payments. Satisfaction of the bond requirement will operate as a condition precedent to a party's right to pursue an appeal.

Rationale for Determination

The Department is proposing to amend regulations administered by the Bureau of Safety and Environmental Enforcement (BSEE) to clarify that the surety bond requirements in BSEE's regulations. The regulations require that parties appealing a BSEE civil penalty to the Interior Board of Land Appeals (IBLA) have a bond in place to secure the penalty. This final rule will clarify the surety bond requirements when filing an appeal and help ensure proper procedures are followed for certain appeals. Accordingly, pursuant to 43 C.F.R. § 46.210(i) and 516 Departmental Manual 15.4 (C)(1), the final action is categorically excluded from detailed review under the National Environmental Policy Act (NEPA) (42 U.S.C. §§ 4321 *et seq.*).

Conclusion

Based on the information above, and the absence of any extraordinary circumstances, the rulemaking can proceed without preparation of an environmental assessment or environmental impact statement, in full compliance with NEPA.

David Fish
Chief, Environmental Compliance Division

Date

Extraordinary Circumstances (43 C.F.R. § 46.215)

Actions that fall within the scope of a categorical exclusion normally do not have a significant effect on the environment, and therefore do not require preparation of an environmental assessment or environmental impact statement. 40 C.F.R. § 1501.4; 43 C.F.R. § 46.215. When a categorical exclusion covers a final action, an agency shall evaluate the action for extraordinary circumstances in which a normally excluded action may nonetheless have a significant effect. The below analysis evaluates the final rule for potential extraordinary circumstances:

Could the action:	Answer:
(a)...have significant impacts on public health or safety?	<p>No. This final rulemaking is procedural and financial. The bond requirement was designed to ensure that funds will be available to cover the final civil penalty assessment if the appeal is denied, and to discourage any frivolous appeals filed for the sole purpose of delaying payment of that assessment. Satisfaction of the bond requirement will operate as a condition precedent to a party’s right to pursue an appeal. This rule does not authorize any activities on the OCS.</p> <p>Therefore, this final rulemaking will not have any significant impacts on public health or safety.</p> <p>Resources will not be impacted because the regulatory purpose of the bond is to ensure that funds are available at the conclusion of the appeal proceedings. As a result, it has no on- the-ground impact and does not direct any particular action.</p>
(b)...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?	<p>No. This final rulemaking is procedural and financial. The bond requirement was designed to ensure that funds will be available to cover the final civil penalty assessment if the appeal is denied, and to discourage any frivolous appeals filed for the sole purpose of delaying payment of that assessment. Satisfaction of the bond requirement will operate as a condition precedent to a party’s right to pursue an appeal. This rule does not authorize any activities on the OCS.</p>

	<p>Therefore, this final rulemaking will not have significant impacts on natural resources or unique geographic characteristics.</p> <p>Resources will not be impacted because the regulatory purpose of the bond is to ensure that funds are available at the conclusion of the appeal proceedings. As a result, it has no on- the-ground impact and does not direct any particular action.</p>
<p>(c)...have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)]?</p>	<p>No. This final rulemaking is procedural and financial. The bond requirement was designed to ensure that funds will be available to cover the final civil penalty assessment if the appeal is denied, and to discourage any frivolous appeals filed for the sole purpose of delaying payment of that assessment. Satisfaction of the bond requirement will operate as a condition precedent to a party’s right to pursue an appeal. This rule does not authorize any activities on the OCS.</p> <p>Therefore, this final rulemaking will not have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.</p> <p>Resources will not be impacted because the regulatory purpose of the bond is to ensure that funds are available at the conclusion of the appeal proceedings. As a result, it has no on- the-ground impact and does not direct any particular action.</p>
<p>(d)...have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?</p>	<p>No. This final rulemaking is procedural and financial. The bond requirement was designed to ensure that funds will be available to cover the final civil penalty assessment if the appeal is denied, and to discourage any frivolous appeals filed for the sole purpose of delaying payment of that assessment. Satisfaction the bond</p>

	<p>requirement will operate as a condition precedent to a party’s right to pursue an appeal. This rule does not authorize any activities on the OCS.</p> <p>Therefore, this final rulemaking will not have any significant environmental effects, including unique or unknown environmental risks.</p> <p>Resources will not be impacted because the regulatory purpose of the bond is to ensure that funds are available at the conclusion of the appeal proceedings. As a result, it has no on- the-ground impact and does not direct any particular action.</p>
<p>(e)...establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?</p>	<p>No. This final rulemaking is procedural and financial. The bond requirement was designed to ensure that funds will be available to cover the final civil penalty assessment if the appeal is denied, and to discourage any frivolous appeals filed for the sole purpose of delaying payment of that assessment. Satisfaction of the bond requirement will operate as a condition precedent to a party’s right to pursue an appeal. This rule does not authorize any activities on the OCS.</p> <p>Therefore, it will not establish a precedent for future actions or a decision in principle about future actions with potentially significant environmental effects.</p> <p>Resources will not be impacted because the regulatory purpose of the bond is to ensure that funds are available at the conclusion of the appeal proceedings. As a result, it has no on- the-ground impact and does not direct any particular action.</p>
<p>(f)...have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects?</p>	<p>No. This final rulemaking is procedural and financial. The bond requirement was designed to ensure that funds will be available to cover the</p>

	<p>final civil penalty assessment if the appeal is denied, and to discourage any frivolous appeals filed for the sole purpose of delaying payment of that assessment. Satisfaction of the bond requirement will operate as a condition precedent to a party’s right to pursue an appeal. This rule does not authorize any activities on the OCS.</p> <p>Therefore, this final rulemaking does not create new or different obligations for additional activities with potential environmental effects, either individually or cumulatively.</p> <p>Resources will not be impacted because the regulatory purpose of the bond is to ensure that funds are available at the conclusion of the appeal proceedings. As a result, it has no on- the-ground impact and does not direct any particular action.</p>
<p>(g)...have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau?</p>	<p>No. This final rulemaking is procedural and financial. The bond requirement was designed to ensure that funds will be available to cover the final civil penalty assessment if the appeal is denied, and to discourage any frivolous appeals filed for the sole purpose of delaying payment of that assessment. Satisfaction of the bond requirement is intended and understood to operate as a condition precedent to a party’s right to pursue an appeal.</p> <p>Therefore, this final rulemaking will not have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.</p> <p>Resources will not be impacted because the regulatory purpose of the bond is to ensure that funds are available at the conclusion of the appeal proceedings. As a result, it has no on- the-ground impact and does not direct any particular action.</p>

<p>(h)...have significant impacts on species listed, or final to be listed, on the List of Endangered or Threatened Species or have significant impacts on designated Critical Habitat for these species?</p>	<p>No. This final rulemaking is procedural and financial. The bond requirement was designed to ensure that funds will be available to cover the final civil penalty assessment if the appeal is denied, and to discourage any appeals filed for the sole purpose of delaying payment of that assessment. In addition, the bond requirement is designed to discourage any frivolous appeals filed solely to delay payment of the penalties. Satisfaction of the bond requirement will operate as a condition precedent to a party's right to pursue an appeal. This rule does not authorize any activities on the OCS. All civil penalties actions subject to these newly incorporated regulations processed by BSEE after this rulemaking will be subject to site-specific NEPA review and ESA compliance review at that time. These reviews may result in project-specific protective measures, including Project Design Criteria /effects minimization measures, Reasonable and Prudent Measures, or Terms and Conditions.</p> <p>Therefore, this final rulemaking will not have any significant impacts on species listed, or those final to be listed, on the List of Endangered or Threatened Species, or to designated Critical Habitat for these species.</p> <p>Resources will not be impacted because the regulatory purpose of the bond is to ensure that funds are available at the conclusion of the appeal proceedings. As a result, it has no on- the-ground impact and does not direct any particular action.</p>
<p>(i)...violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment?</p>	<p>No. This final rulemaking is procedural and financial. The bond requirement was designed to ensure that funds will be available to cover the final civil penalty assessment if the appeal is denied, and to discourage any frivolous appeals filed for the sole purpose of delaying payment of</p>

	<p>that assessment. Satisfaction of the bond requirement will operate as a condition precedent to a party’s right to pursue an appeal. This rule does not authorize any activities on the OCS.</p> <p>All civil penalties actions subject to these newly incorporated regulations processed by BSEE after this rulemaking will be reviewed for compliance with all applicable laws at that time, including any Federal, State, local, or Tribal laws.</p> <p>Resources will not be impacted because the regulatory purpose of the bond is to ensure that funds are available at the conclusion of the appeal proceedings. As a result, it has no on- the-ground impact and does not direct any particular action.</p>
<p>(j)...have a disproportionately high and adverse effect on low income or minority populations (EO 12898)?</p>	<p>No. This final rulemaking is procedural and financial. The bond requirement was designed to ensure that funds will be available to cover the final civil penalty assessment if the appeal is denied, and to discourage any frivolous appeals filed for the sole purpose of delaying payment of that assessment. Satisfaction of the bond requirement will operate as a condition precedent to a party’s right to pursue an appeal. This rule does not authorize any activities on the OCS.</p> <p>Therefore, this rulemaking will not have any disproportionately high and adverse effect on low income or minority populations (EO 12898).</p> <p>Resources will not be impacted because the regulatory purpose of the bond is to ensure that funds are available at the conclusion of the appeal proceedings. As a result, it has no on- the-ground impact and does not direct any particular action.</p>
<p>(k)...limit access to and ceremonial use of Indian sacred sites on federal lands by Indian religious</p>	<p>No. This final rulemaking is procedural and financial. The bond requirement was designed to</p>

<p>practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007)?</p>	<p>ensure that funds will be available to cover the final civil penalty assessment if the appeal is denied, and to discourage any frivolous appeals filed for the sole purpose of delaying payment of that assessment. Satisfaction of the bond requirement will operate as a condition precedent to a party’s right to pursue an appeal. This rule does not authorize any activities on the OCS.</p> <p>The final rulemaking will not limit access to, or 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).</p> <p>Resources will not be impacted because the regulatory purpose of the bond is to ensure that funds are available at the conclusion of the appeal proceedings. As a result, it has no on- the-ground impact and does not direct any particular action.</p>
<p>(1)...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 (FNWCA) and EO 13122)?</p>	<p>No. This final rulemaking is procedural and financial. The bond requirement was designed to ensure that funds will be available to cover the final civil penalty assessment if the appeal is denied, and to discourage any frivolous appeals filed for the sole purpose of delaying payment of that assessment. Satisfaction of their bond requirement will operate as a condition precedent to a party’s right to pursue an appeal. This rule does not authorize any activities on the OCS.</p> <p>Therefore, this final rulemaking will not 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 (FNWCA) and EO 13122).</p>

Resources will not be impacted because the regulatory purpose of the bond is to ensure that funds are available at the conclusion of the appeal proceedings. As a result, it has no on- the-ground impact and does not direct any particular action.