

Bureau of Ocean Energy Management (BOEM)

Gulf of Mexico OCS Region

Rocky Mountain Mineral Law Foundation
Oil Spill Financial Responsibility

April 10-12, 2018
New Orleans, Louisiana



OSFR

Oil Spill Financial Responsibility for Offshore Facilities

Purpose: to ensure that the “designated applicant” for a “covered offshore facility” has the financial resources necessary to pay for cleanup and damages that could be caused by oil discharges

Federal Guidelines

Codified in the Code of Federal Regulations

- 30 CFR 553
- NTL No. 2008-N05, effective August 26, 2008
- Online resources:
<https://www.boem.gov/Oil-Spill-Financial-Responsibility-OSFR/>

Terminology

- Covered Offshore Facility (COF) - (1) any structure, equipment, pipeline, or device used for oil exploration, drilling, production, or transportation (2) > 1,000 bbl discharge potential, (3) seaward of coastline or in a bay
- Designated Applicant - the entity that (1) provides financial coverage and (2) the responsible party(s) designates to demonstrate OSFR for a COF
- Responsible Party - owner/operator of a pipeline, lessee/permittee, holder of a right-of-use and easement (RUE), operating rights holder

Terminology

- U.S. Agent for Service of Process –
 - an agent of the company (Designated Applicant, Responsible Party, Indemnitor) who ensures that all potential claimants have a readily available contact to whom they can submit legal paperwork for claims for oil-spill cleanup and damages specified in Oil Pollution Act of 1990 (OPA 90)
 - a company officer whose primary business office is located within the confines of the United States or a person or company whose function is to accept and process claims paperwork for the company

Who must demonstrate OSFR?

30 CFR 553.11

A designated applicant (DA) must demonstrate OSFR. It may be a responsible party (owner, operator) or a parent company, authorized under the regulation

How much OSFR must I demonstrate?

30 CFR 553.13

- For a COF located wholly or partially in OCS waters:

• 1,001 bbl > 35,000 bbl	=	\$ 35 million
• 35,001 bbl > 70,000 bbl	=	\$ 70 million
• 70,001 bbl > 105,000 bbl	=	\$105 million
• > 105,000 bbl	=	\$150 million

- For a COF not located in OCS waters:

• 1,001 bbl > 10,000 bbl	=	\$ 10 million
• 10,001 bbl > 35,000 bbl	=	\$ 35 million
• 35,001 bbl > 70,000 bbl	=	\$ 70 million
• 70,001 bbl > 105,000 bbl	=	\$105 million
• > 105,000 bbl	=	\$150 million

How to determine worst case oil spill volume

30 CFR 553.14

30 CFR 254 – Part of your Response Plan

or

40 CFR 112 - Oil Pollution Prevention

or

49 CFR 194 - Oil Pipeline Response Plan

or

\$150 Million – Maximum Amount

What methods may I use to demonstrate OSFR ?

30 CFR 553.20

- Self-Insurance
- Insurance (commercial)
- Indemnification (3rd party)
- Surety Bonds
- Alternative Methods (BOEM Director's approval)

Alternative Methods

30 CFR 553.32

- BOEM Director's approval
 - Pooling
 - Letters of Credit
 - Pledges of Treasury Notes
 - Trust Agreements
 - Other comparable methods

What OSFR evidence must I submit?

30 CFR 553.40

- Designated Applicant - Form 1016
 - Single demonstration for all COF
- Designation of Applicant by Responsible Parties - Form 1017
- Financial evidence
 - Form 1018 – Self Insurance
 - Form 1019 – Insurance
 - Form 1020 – Surety Bonds
- Identification of COF's – BOEM Form 1021 or 1022
 - Form 1021 - Covered Offshore Facilities
 - Form 1022 - Covered Offshore Facility Changes
- Treasurer's Letter and Financial Statements

Self-Insurance

30 CFR 553.21 - 553.24

Complete Form BOEM-1018, Self-Insurance or Indemnity Information

- Pass Net Worth or Unencumbered Assets test
- Submit financial supporting data
 - Independently audited financial statement
 - Treasurer's letter
- Renew by 1st calendar day of 5th month after close of fiscal year

Insurance (commercial)

30 CFR 553.29

Complete Form BOEM-1019, Insurance Certificate

- One Certificate per layer (no horizontal layers)
 - OCS (4) State waters (5)
- Insurance Options
 - Full
 - Deductible
 - Excess
- General Option (all facilities)
- Schedule Option (all facilities on dated attachment)
- Each Insurer's Name, Quota Share & Signature
- Rating - Secure, Rating Service, Date
- Fax Binder (90 days)

Indemnification

30 CFR 553.30

- Complete Form BOEM-1018, Self-Insurance or Indemnity Information
 - One indemnity issued by one indemnitor
 - Indemnitor must be corporate parent or affiliate
- Pass Net Worth or Unencumbered Assets Test
- Submit Financial Supporting Data

Surety Bonds

30 CFR 553.31

Complete Form BOEM-1020, Surety Bond

- Licensed in State where bond is executed
- Listed on U.S. Treasury Circular No. 570

OSFR Statistics

- Total Number of Designated Applicants providing OSFR: 105
- Total Number of COFs: 4,544
OCS (3,779) St (765) AK(164), AL(27), CA(3), LA(533), MS(1), TX(88)
- Total Coverage by Type:
 - Self-Insurance \$ 1,393,000,000 (18.2%)
 - Insurance \$ 4,106,159,000 (54%)
 - Indemnification \$ 2,135,641,000 (27.8%)
 - Bonds \$ 200,000 (0.00%)
 - Other - 0 -
 - Total \$7,635,000,000
- Company Coverage by Amount:
 - \$ 10 M: 8 \$ 35 M: 52 (Self-Insurance 3, Indemnified 8, Insurance 41)
 - \$ 70 M: 10 \$ 105 M: 4
 - \$ 150 M: 31

OSFR Contact

Gulf of Mexico Region

- boemosfr@boem.gov
- Leasing and Financial Responsibility Program Support Assistant will route your call 504-736-2465