



Downey Magallanes

Vice President and Head of Policy Advocacy and Federal Government Affairs, US

September 7, 2023

US Department of the Interior
Bureau of Ocean Energy Management
Attn: Kelley Spence
Office of Regulations
45600 Woodland Road
Sterling, VA 20166

BP America, Inc.
80 M Street, SE
Washington, DC 20003
USA
downey.magallanes@bp.com

Submitted via [regulations.gov](https://www.regulations.gov) Docket ID: BOEM-2023-0027

RE: bp America Inc. Comments on BOEM Proposed Rule on Risk Management and Financial Assurance for OCS Lease and Grant Obligations, 88 Fed. Reg. 42,136 (June 29, 2023)

Dear Ms. Spence,

Thank you for the opportunity to comment on the Proposed Rule on Risk Management and Financial Assurance for OCS Lease and Grant Obligations ("The Proposed Rule").

bp is transforming into an integrated energy company with a significant footprint in the US. Across nearly every state, bp employs more than 30,000 people and supports more than 275,000 American jobs. Since 2005, bp has invested more than \$145 billion in the US; and in 2022 alone, our operations contributed more than \$70 billion to the US economy. We have a larger economic footprint in the US than anywhere else in the world.

We're transforming bp so we can deliver the secure, affordable, lower carbon energy the world increasingly wants and needs. bp's purpose is to reimagine energy for people and our planet. Our ambition is to become a net-zero company by 2050 or sooner; and to help the world get there, too. We will aim to dramatically reduce carbon in our operations and in our production, and grow new low carbon businesses, products and services.

bp has a long and material leasehold position across the Gulf of Mexico (GoM). We currently operate five hubs in this region: Atlantic, Mad Dog, Na Kika, Thunder Horse and Argos. We expect that these hubs combined will ultimately contribute approximately 400,000 barrels of oil equivalent per day (boe/d) by the mid-2020's.

We also have a significant non-operated footprint in four hubs: Mars, Olympus, Great White and Ursa.

bp comments on the Proposed Rule

bp commends the Bureau of Ocean Energy Management (BOEM) for advancing a reasoned and well-designed proposal. We believe the general framework of the proposal can help achieve BOEM's goal of protecting the federal government, and ultimately the US taxpayer, from incurring costs to perform the contractual and regulatory obligations, including decommissioning obligations, of lease holders in the Outer Continental Shelf (OCS).

As BOEM works to finalize the Proposed Rule, bp appreciates your consideration of the following recommendations and requested clarifications.

- 1. The final rule should remove ambiguity and uncertainty in the financial assurance process and provide clear rules that promote transparency for the taxpayer and certainty for businesses operating in the Gulf of Mexico.**

Clarity and certainty are key to business planning, risk management and ultimately benefit the US taxpayer by ensuring transparent and robust accountabilities for financial assurance.

With these goals in mind, bp supports the use of credit ratings issued by a major nationally recognized agency. This approach is well understood by key stakeholders, thus helping to ensure the transparency and quality of information.

bp does not believe that setting assurance requirements based on different liability levels, for different circumstances, aids in process transparency. Further, this approach may not ultimately maximize benefit to the US taxpayer as it could result in less financially secure lessees being held to a less stringent standard – potentially redirecting their long-term decommissioning liability onto others, including but not limited to taxpayers. bp believes the most efficient, effective and transparent approach would be to hold all current and potential lessees to the same requirements.

- 2. bp supports BOEM's recommended approach to use a lessee's issuer credit rating as the primary consideration to determine the need for supplemental financial assurance and believes the "investment grade" credit rating BBB- is the appropriate threshold.**

It is important that the ratings test apply to the party in the chain of title (not an affiliate or parent) while making the affiliate or parent's credit rating applicable to forms of supplemental financial assurance.

We believe a single financial test, using a company issuer credit rating from a major, nationally recognized agency, is the right approach to achieve BOEM's goals and protect the taxpayer. bp does not support the use of a "proxy credit rating." Our experience with proxy credit ratings is that there is a variable component driven by the person responsible for inputting the data, which can heavily influence the outcome. The process by which an entity obtains an officially backed credit rating by a nationally recognized agency is well understood and

should be the single measure of financial strength. The use of credit ratings is consistent with how global financial markets analyze default risk and avoids defining new evaluation methodologies, thus achieving the intended goals in an efficient way.

We believe BBB- is an appropriate threshold as this is standard cutoff for “investment grade” within the financial industry and does not artificially define a different standard for owners and operators in the Gulf of Mexico. If BOEM were to consider additional financial tests, bp could be supportive of a “Net Worth Test” for lessees who provide audited financials that support Assets minus Liabilities of greater than \$5bn.

- 3. bp welcomes the inclusion of dual-obligee bonds as another type of financial assurance and requests BOEM provide clarification in the final rule regarding how such bonds could be utilized by affected parties.**

bp sees BOEM’s acceptance of dual obligee bonds as a promising way to mitigate the risks that a current lease owner will become unable to perform its contractual and regulatory obligations, including decommissioning obligations. These risks are currently shared by the federal government (thus, US taxpayers) and, under the principles of joint and several liability reflected in current regulations, lease owners, including predecessors in the chain of title. For dual obligee bonds to meaningfully protect these parties, bp supports BOEM’s acceptance of bonds that, to the extent possible, would allow each predecessor in title to immediately access the full amount of security for use in meeting the defaulting party’s regulatory obligations.

- 4. The final rule should utilize at a minimum the p70 decommissioning liability level for current lessees in determining the level of required supplemental financial assurance and should not take into account predecessor lessees or grantees.**

bp believes that BOEM should finalize a rule that protects taxpayers by ensuring strong, independent companies are financially capable of owning interests and operating in the Gulf of Mexico. To this end, bp does not support reliance on predecessors in the chain of title as an exemption rationale to this principle nor one to justify a lower level of decommissioning security (ie. P50).

We believe reliance on predecessors will result in weaker transferees and may incentivize less financially stable companies to pursue ownership of assets they would otherwise not qualify for. This has the potential to negatively impact both the US taxpayer and the environment and is inconsistent with principles of responsible stewardship that underpin the Outer Continental Shelf Lands Act. It also increases the risk profile for larger companies when they assess activity in the Gulf of Mexico and may affect their level of participation in GOM.

- 5. bp is generally supportive of the framework of the 3:1 proved reserves to decommissioning cost ratio, but suggests BOEM consider alternative approaches.**

bp has 90 Development and Production leases in the Gulf of Mexico. As such, for bp and similarly situated companies, the process of evaluating the need for additional financial assurance on a lease-by-lease basis may be inefficient. bp

encourages BOEM to consider alternatives such as evaluating on a unit-by-unit, or even lease holder-by-lease holder basis.

Additionally, the granularity of providing SEC reserves for each lease is both financially and commercially sensitive and leaves questions on how this data may be used, as well as general data security. If a lease-by-lease approach is ultimately adopted, bp would urge BOEM to provide clear and actionable guidance to protect the confidentiality of such information.

Conclusion

bp believes that strong financial standing – including the ability to manage long-term liability risk, such as decommissioning – is a fundamental principle of responsible resource stewardship in the Gulf of Mexico. We encourage BOEM to expediently finalize this rule with clear and transparent guidance as to how lessees will be assessed and the processes which they are required to follow. BOEM has an important opportunity through this rulemaking to further establish a strong standard for financially responsible operatorship in the Gulf of Mexico.

We look forward to constructively engaging with BOEM as it works to finalize this rule. If there are any questions, please reach out to myself or Isabel Mogstad (isabel.mogstad@bp.com).

Sincerely,

/s/ Downey Magallanes

Downey Magallanes
Vice President and Head of Policy Advocacy and
Federal Government Affairs, US