

Oil & Gas Alert

New financial assurance rules for Outer Continental Shelf

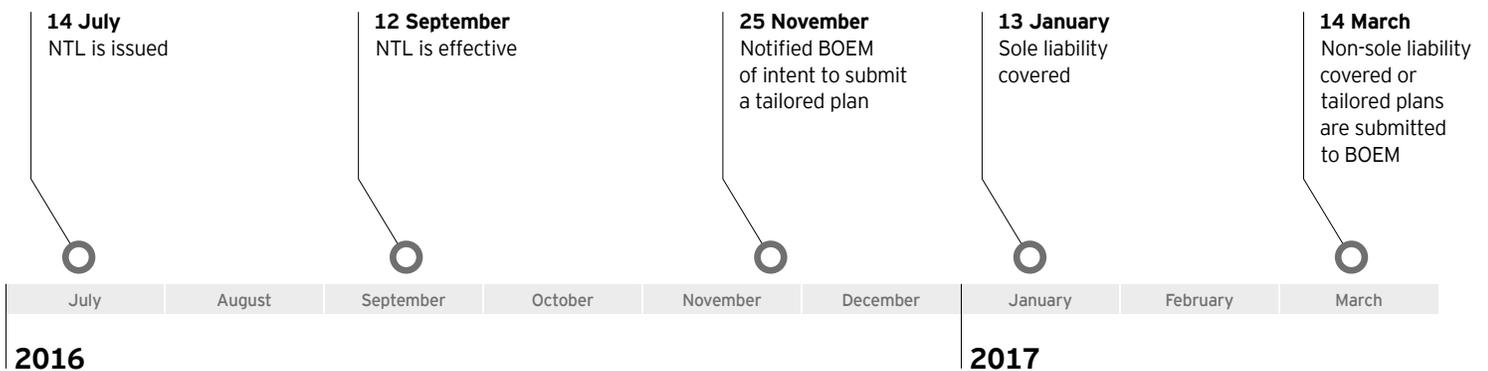
August 2016

On 14 July 2016, the Bureau of Ocean Energy Management (BOEM) issued Notice to Lessees and Operators (NTL) No. 2016-NO1, which updates its financial assurance criteria for leaseholders and operators in the Outer Continental Shelf (OCS). This new guidance changes the BOEM's calculation of financial strength and reliability, especially as it relates to decommissioning and abandonment. In most cases, it will require lessees, operators and right-of-way (ROW) and right-of-use and easement (RUE) holders to allocate a great

deal more capital to confirm that future financial obligations related to their holdings in the OCS are covered. In total, the BOEM is seeking an additional US\$36 billion in additional security from industry.

To achieve that goal, the BOEM will soon issue new determinations of liability on the basis of estimations performed by Bureau of Safety and Environmental Enforcement (BSEE) to all designated operators and grant holders in the OCS. These calculations will take into account 100% of the operators' or grant holders' expected decommissioning

costs for every lease, ROW and RUE in which the company holds an ownership interest or provides a guarantee, as well as the financial strength and reliability of the company itself. Unlike in the past, companies will not be able to rely on the financial strength and reliability of co-lessees or co-owners to reduce their own financial security requirements. The NTL also calls for future evaluations to be conducted annually or whenever there is a material change in the lessee's or grant holder's financial strength or performance.



Effective date and orders

The NTL takes effect 12 September 2016, and proposal letters of determination will be sent beginning 12 October 2016, followed by orders on 14 November 2016. The liability calculations are being conducted by the BSEE, on the basis of issues such as well depth and whether a well is wet or dry. The BSEE has encouraged companies involved in the OCS to submit materials and/or data that may produce a more accurate calculation of their estimated liability. The BSEE is also open to meeting with the companies prior to the issuance of proposal letters to reconcile potential differences.

In some cases, the BOEM regional director may allow companies to self-insure all or a portion of their additional liabilities, on the basis of the company's financial strength and record of business stability. The regional director may also allow companies to use a tailored plan that includes financial assurance instruments other than surety bonds or Treasury securities to meet their new obligations, and that allows for a phased-in compliance of up to 360 days, with prior approval. The BOEM is open to meeting with companies to develop tailored plans.

The new NTL will likely have a major impact on all companies that are involved in the OCS, and the issue should be followed closely. In late August, the BSEE is expected to release its formula for calculating decommissioning costs. Companies should begin working now to better understand the implications of the NTL.

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