



**2008 AAPL OCS ADVISORY  
COMMITTEE WORKSHOP**

**January 16, 2008**

**The Woodlands, Texas**

# OCS ABANDONMENT AND SITE CLEARANCE RULES AND PROCEDURES

**Anthony C. Marino**

Schully, Roberts, Slattery & Marino

1100 Poydras Street

Suite 1800

New Orleans, Louisiana 70163

Phone: (504) 585-7800; Fax: (504) 585-7890

Website: [www.schullyroberts.com](http://www.schullyroberts.com)

Email: [amarino@schullyroberts.com](mailto:amarino@schullyroberts.com)

\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$

SHOW ME THE MONEY

\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$

OCSLA declares the subsoil and seabed of the Outer Continental Shelf to appertain to the USA and to be subject to its jurisdiction, control and power of disposition.

43 USC §1332(1)

OCSLA embraces the exploration, development and production of the minerals of the Outer Continental Shelf, says what laws and regulations are to govern and delegates to the Department of the Interior primary agency responsibility for this vast resource.

43 USC §1332, *et seq.*

# **Preliminary Review of Assignments** **for Approval Purposes**

- Assignment must be accompanied by cover letter submitted by a party in interest (or authorized consultant)
- Signatures from authorized assignor and assignee officials according to qualification card
- Processing fee – Pay.Gov receipt to be attached
  - \$170 per lease for record title or operating rights
  - \$170 per right-of-way for pipeline

- Bond requirements satisfied
- Appropriate DOOs and OSFR forms included, completed, signed
- Assignment must be filed within 90 days following latest executed signature date

- The regulations further provide that “the Regional Director’s approval of the assignment does not relieve [the assignor] of accrued lease obligations that [the] assignee, or subsequent assignee, fails to perform.” 30 CFR §256.62(d)
- The assignee, and each subsequent assignee, is “liable for all obligations that accrue under the lease after the date that the Regional Director approves the governing assignment. 30 CFR §256.62(e)



- The regulations specify when an OCS interest owner's responsibility for satisfying associated residual liabilities "accrues":
  - The lessee, operating rights owner or right-of-way holder "accrues" decommissioning obligations when such party
    - (a) Drills a well;
    - (b) Installs a platform, pipeline or other facility;

# **Allocation of Responsibility for Residual Liabilities**

## **Law versus Contract**

**Federal Regulations  
Allocating Responsibility  
for Non-Monetary Lease  
Obligations  
such as  
Decommissioning  
Obligations**

- The general rule is that co-lessees are jointly and severally responsible for fulfilling leasehold obligations, unless the regulations otherwise provide. Similarly, if the regulations require a lessee to meet a requirement or perform an action, the lessee, operator (if one has been designated) and the person actually performing the activity to which the requirement applies shall be jointly and severally responsible for complying with the regulation.

- Lessees and owners of operating rights are jointly and severally responsible for meeting decommissioning obligations for facilities on leases, including the obligations related to lease-term pipelines, as the obligations accrue and until each obligations is met.

30 CFR §250.1701

- All holders of a right-of-way are jointly and severally liable for meeting decommissioning obligations for facilities on their right-of-way, including right-of-way pipelines, as the obligations accrue and until each obligation is met.

30 CFR §250.1701

(as of October 2002, 30 CFR §250.170, *et seq.*, replaces 30 CFR §250.700, *et seq.*)

- Upon approval by the MMS of a transfer of record title interest in an OCS lease, the residual liabilities are allocated between the assignor and assignee depending upon when they “accrued.” 30 CFR §256.62
- Under the regulations, the assignor is “liable for all obligations that accrue under [the] lease before the date that the Regional Director approves [the] request for assignment of the record title interest in the lease.” 30 CFR §256.62(d)

# **Determination of the Lease Abandonment Liability**

1. MMS will estimate the cost to plug and abandon wells, remove platforms and other facilities, and restore the lease to its original condition by clearing the obstructions from wells, platform sites, and pipeline ROW's. MMS assumes that the lessee will remove all facilities and abandon them onshore.

2. Costs will be estimated using available historical costs.



D. other items that indicate financial strength or reliability;

and, the lessee either:

3. Produces an average of 20,000 barrels of oil equivalent (BOE) per day from the OCS leases.

4. Has stockholders' equity or net worth of at least \$50 million and meets stated debt to equity (total liabilities/net worth) ratios based upon the ratio lessee's cumulative lease abandonment liability bears to stockholders' equity or net worth.

- 5. The lessee may request that the MMS consider the value of proved producing reserves in the calculation of the lessee's net worth. The MMS will include up to 50% value in MMS's calculation of lessee's net worth.
- 6. The determination of the lessee's financial strength is valid for 1 year. MMS will extend the determination for 1 year at a time if:
  - A. an independent accountant submits verification of the lessee's current financial capacity at least 60 days prior to the expiration of the determination; and
  - B. the lessee continues to meet the established criteria.

- A. Plugging and abandoning a wellbore will cost \$100,000 per wellbore for all water depths.
- B. Dismantling and abandoning a platform will vary with water depth as follows:

Estimated Costs of Removing a Platform and Scrapping it Onshore  
(According to Water Depth)

Water depths of 150 feet or less	Water depths between 151 and 200 feet	Water depths between 201 and 299 feet	Water depths of 300 feet or more
\$400,000	\$600,000	\$1,250,000	\$2,000,000+

C. Site clearance will vary with water depth as follows:

Estimated Cost of Site Clearance (According to Water Depth)		
Water depths of 150 feet or less	Water depths between 151 and 249 feet	Water depths of 250 feet and greater
\$300,000	\$400,000	\$500,000+

# **Acceptable Forms of Supplemental Bonds**

- Within 45 days following MMS written notification, the lessee must submit one of the following:
  1. A lease-specific supplemental bond, United States Treasury Securities, or an alternate form approved by the MMS, in the full amount required.

2. A plan to MMS whereby lessee commits to fully fund a lease-specific abandonment escrow account. Generally, the lessee must fully fund a lease-specific abandonment account within four (4) years or by the beginning of the year in which it is projected that 80 percent of the originally recoverable reserves have been produced, whichever is earlier.

3. May Use a Third-Party Guarantee in Lieu of a Supplemental Bond

- Pledged U.S. Treasury Securities may be substituted for corporate security bonds
  - Alternative Security Instruments



- Replacement of Existing Bonds
- Termination of Period of Liability

- Avoiding Residual Liability in the Transfer of OCS Properties
  - Obtain Security for Contractual Obligations
  - Allocate Risk Under Joint Operating Agreement Provisions
  - Know your Buyer/Seller



**2008 AAPL OCS ADVISORY  
COMMITTEE WORKSHOP**

**January 16, 2008**

**The Woodlands, Texas**