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Well Abandonment and Decommissioning Challenges
Buford Boyd Pollett
Genave King Rogers Assistant Professor of Energy Law and Commerce
Regulatory Policies in Decommissioning and Abandonment

Agenda

Photo source – The Texas Tribune - Abandoned Oil Wells Raise Fears of Pollution (June 8, 2013)

• Regulatory Timeline
• Current Decommissioning Regulatory Framework
• Revised Financial Assurance Requirements
• Takeaways
Regulatory Policies in Decommissioning and Abandonment

U.S. Offshore Regulatory Timeline
Regulatory Policies in Decommissioning and Abandonment

Regulatory Timeline

Source: https://www.boem.gov/Resource-Evaluation-Data/
U.S. Offshore Regulatory Timeline

- Federal Statutes
- Federal Regulations
Regulatory Policies in Decommissioning and Abandonment

Federal Statutes

- Submerged Lands Act (SLA) of 1953
- Outer Continental Shelf Lands Act of 1953 (OCSLA)
- Oil Pollution Act of 1990 (OPA 90)
Submerged Lands Act (SLA) of 1953

- Reiterated Federal Government’s claim to the lands of the Outer Continental Shelf (OCS) (i.e. submerged lands seaward of state jurisdiction)
- Granted most states the power to regulate the natural resources of submerged lands from the coastline up to 3 nautical miles (5.6 km) into the Atlantic, Pacific, the Arctic Oceans, and the Gulf of Mexico
- Texas and the Florida’s west coast have jurisdiction that extends from the coastline up to 3 marine leagues (16.2 km) into the Gulf of Mexico

Source: https://www.boem.gov/Governing-Statutes/
Outer Continental Shelf Lands Act of 1953 (OCSLA)

• Congress and the President have amended OCSLA since enactment in 1953. See http://www.epw.senate.gov/ocsla.pdf

• OCSLA provides the basic legal framework regarding Federal responsibility over the submerged lands of the OCS.

Source http://www.boem.gov/Governing-Statutes/
Oil Pollution Act of 1990 (OPA 90)

- Gave the Secretary of the Interior authority over offshore facilities and associated pipelines, with the exception of deepwater ports, for state and Federal offshore waters. The Secretary in turn delegated this OPA 90 authority to BOEM.
- BOEM has responsibility for the following:
  - Reviewing spill financial liability limits, and
  - Certifying spill financial responsibility.

BOEM’s Regulatory Authority - Financial Assurance

- The OCSLA grants the Secretary of Interior with the authority to require bonds or other forms of financial assurance on the OCS.
- 30 CFR § 556.900 et seq. is the primary regulatory source regarding BOEM’s financial assurance requirements.

Source: BOEM
BOEM’s Regulatory Authority - Financial Assurance

- NTL 2016-N01 *Requiring Additional Security* - issued July 14, 2016 and effective September 12, 2016 superseding and replacing NTL No. 2008 –N07
- BOEM withdraws Sole Liability Orders February 17, 2017 - Pending Review of Complex Financial Assurance Issues

*Source: BOEM*
Regulatory Policies in Decommissioning and Abandonment

Cases


• *Noble Energy, Inc. v. Jewell*, 650 Fed. Appx. 9, 2016 (D.C. Cir. 2016) Court ruled that BSEE’s determination that the regulations operated independently from any lease agreement and impose an independent obligation on Noble to permanently plug the well.

• U.S. Supreme Court - *Noble Energy, Inc. v. Haugrud* - petition for certiorari denied on March 20, 2017
Current Regulatory Framework
30 CFR 250.1702 - When do I accrue decommissioning obligations?

- (a) **Drill a well**;
- (b) Install a platform, pipeline, or other facility;
- (c) Create an obstruction to other users of the OCS;
- (d) Are or become a lessee or the owner of operating rights of a lease on which there is a well that has not been permanently plugged according to this subpart, a platform, a lease term pipeline, or other facility, or an obstruction;
- (e) Are or become the holder of a pipeline right-of-way on which there is a pipeline, platform, or other facility, or an obstruction; or
- (f) **Re-enter a well** that was previously plugged according to this subpart.
30 CFR 250.1703 What are the general requirements for decommissioning?

• When your facilities are no longer useful for operations, you must:
  • (a) Get approval from the appropriate District Manager before decommissioning wells and from the Regional Supervisor before decommissioning platforms and pipelines or other facilities;
  • (b) Permanently plug all wells. Permanently installed packers and bridge plugs must comply with API Spec. 11D1 (as incorporated by reference in § 250.198);
  • (c) Remove all platforms and other facilities, except as provided in §§ 250.1725(a) and 250.1730.
30 CFR 250.1703 What are the general requirements for decommissioning?

- (d) Decommission all pipelines;
- (e) Clear the seafloor of all obstructions created by your lease and pipeline right-of-way operations;
- (f) Follow all applicable requirements of subpart G of this part; and
- (g) Conduct all decommissioning activities in a manner that is **safe**, does **not unreasonably interfere** with other uses of the OCS, and does **not cause undue or serious harm or damage** to the human, marine, or coastal environment.
30 CFR § 250.1710 - When must I permanently plug all wells on a lease?

- You must *permanently plug all wells on a lease within 1 year after the lease terminates.*
30 CFR § 250.1711 - When will BSEE order me to permanently plug a well?

- BSEE will order you to permanently plug a well if that well:
  - (a) Poses a **hazard to safety or the environment**; or
  - (b) Is not useful for lease operations and is **not capable of oil, gas, or sulphur production in paying quantities**.
30 CFR § 250.1713 - Must I notify BSEE before I begin well plugging operations?

• You must notify the appropriate District Manager at least 48 hours before beginning operations to permanently plug a well.
30 CFR 556.807  What is the effect of an assignment of operating rights on an assignee's liability?

• As assignee, you and any subsequent assignees are liable for all obligations that accrue after the effective date of your assignment. As assignee, you must comply with all the terms and conditions of the lease and regulations issued under OCSLA. In addition, you must remedy all existing environmental and operational problems on the lease, properly abandon all wells, and reclaim the site, as required under 30 CFR part 250.
Revised Financial Assurance Requirements
BOEM’s Regulatory Authority - Financial Assurance

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Source: BOEM
BOEM’s Regulatory Authority - Financial Assurance

- NTL 2016-N01 *Requiring Additional Security* - issued July 14, 2016 and effective September 12, 2016 superseding and replacing NTL No. 2008 –N07

*Source: BOEM*
NTL No. 2016-N01 Effective 9/12/16

- Self-Insurance Letter from BOEM – self-insurance that BOEM will allow Lessee
- Proposal Letter from BOEM – additional security to be required
- Order Letter from BOEM – 60 Days for Sole Liability property, 120 days for Designated Operators to comply
- Tailored Plan – submit within 10 days after order

Source: BOEM
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BOEM’s New Financial Strength Considerations

• Financial capacity – financial criteria
• Projected financial strength – OCS production
• Business stability – 5 years of production (OCS or onshore)
• Reliability – Moody's or S&P credit rating
• Record of compliance – compliance with OCS regulations including affiliates and subsidiaries

Source: BOEM
• The Bureau of Ocean Energy Management (BOEM) withdrew the sole liability orders issued to OCS oil and gas lease and grant holders to permit the new Administration to review the complex financial assurance program.

Source: BOEM
Takeaways
Takeaways

- New policies and procedures will likely substantially **change the profile** of companies investing and operating on the OCS
- Improved policies and procedures may **enhance financial capability and reliability for decommissioning and abandonment.**
Thank You / Questions