

Latest Development on BOEM's Program for Financial Assurance Under NTL 2016-N01

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On June 22, 2017, BOEM announced that, in light of the recent order of the Secretary of the Interior concerning its recent NTL 2016-N01 establishing a new program for financial assurance for decommissioning liabilities on the Outer Continental Shelf (OCS), it will extend the NTL implementation timeline beyond June 30, except in circumstances where there is a substantial risk of nonperformance of the interest holder's decommissioning liabilities. Specifically, BOEM's announcement reiterated that Secretary's Order 3350, issued on May 1, 2017, directed BOEM to promptly complete a review of Notice to Lessees (NTL) No. 2016-N01, "Notice to Lessees and Operators of Federal Oil and Gas, and Sulfur Leases, and Holders of Pipeline Right-of-Way and Right-of Use and Easement Grants in the Outer Continental Shelf" (September 12, 2016), and provide our recommendation on whether to implement this NTL to the Assistant Secretary – Land and Minerals Management (ASLM), Deputy Secretary, and the Counselor to the Secretary for Energy Policy.

BOEM's new announcement stated that BOEM is in the final stages of its review, that it has obtained significant industry feedback and that it has determined that more time is necessary to work with industry and other interested parties. As a result, the NTL implementation timeline will be extended beyond June 30, except in circumstances where there is a substantial risk of nonperformance of the interest holder's decommissioning liabilities. BOEM reiterated that it will continue to gather input from all interested parties in light of its previously stated goal to ensure industry's continued engagement in developing and implementing a risk management program that enables industry to meet its legal obligations and protects the American taxpayers from shouldering any liability for decommissioning existing or future facilities on the OCS, while recognizing the industry's current economic realities and concerns. While a significant signal of its continued interest in working with industry participants, BOEM's announcement also indicates continued slippage in issuing its program for financial assurance with certainty for the industry.

For more information please contact one of the lawyers listed below.