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**Comments on the Bureau of Ocean Energy Management's Risk Management,  
Financial Assurance and Loss Prevention Advance Notice of Proposed Rulemaking**

November 17, 2014

Via e-filing on [www.regulations.gov](http://www.regulations.gov)

Janice M. Schneider  
Assistant Secretary – Land and Minerals Management  
1849 C Street, NW  
Washington, DC 20240

**RE: RIN 1010-AD83. *Risk Management, Financial Assurance and Loss Prevention*,  
Advance Notice of Proposed Rulemaking published in the federal Register on  
August 19, 2014 (79 Fed. Reg. 49,027 (comment period extend to November  
17, 2014))**

Dear Assistant Secretary Schneider:

The National Ocean Industries Association (NOIA) is a trade association representing over 325 members and individuals actively involved in the offshore energy industry. Our broad spectrum of members and energy sources give us a unique universal perspective. While not all of our members are operators or exploration and production companies, all are affected by the ability to develop offshore energy resources, in this case, oil and natural gas. The ability to explore, develop and produce oil and natural gas has a direct impact upon energy supplies and the cost of energy. Simply put, the ability to safely develop oil and natural gas in a cost efficient manner provides reliable and affordable energy every day to the consumers of the United States and the world. This proposed rulemaking has the potential to unnecessarily increase the costs of production and arbitrarily alter the flow of capital in the marketplace. On the other hand, the rulemaking process also provides an opportunity to improve the way the Bureau of Ocean Energy Management (BOEM), determines the necessity of bonding and the amounts of such bonds. We offer our comments in support of the latter.

Thank you for the opportunity to comment on this important issue and granting the extension of time requested by NOIA and others representing the oil and natural gas industry. The overall subject of risk management, financial assurance and loss prevention is a complex issue and certainly no single financial formula or rigid method is going to fit every company and every situation that can arise in offshore oil and natural gas development. The extension of time allowed our member companies to more fully vet the 54 questions asked by the BOEM, and offered a good start to continued dialogue between the regulator and the regulated. We suggest BOEM establish a series of workshops or listening sessions throughout the rulemaking process to develop a greater understanding of the issues and to establish an open and sharing relationship to avoid ambiguity, uncertainty and any misunderstanding in the final regulation that might be proposed.

As you review the various trade associations' comments and those of the individual companies, you will no doubt see some areas of general concurrence, but also note that companies come at this issue from different positions and there are various ways to determine financial status and liability. Flexibility and a better understanding of how financial worth is determined through private markets, coupled with disclosure requirements for publically traded companies, will all be useful to BOEM as they weigh the options.

NOIA is aware of many of the specific and detailed comments submitted by our members and those of other trade associations. We believe that it is unnecessary to repeat those recommendations in this letter. Therefore, we will emphasize some broad strands of areas for your consideration.

We remain concerned that BOEM, at least in part, is in search of a problem. To date, the Federal government has not used tax payer money to plug and abandon no longer used wells and platforms. However, the current process, in many cases, results in bonding amounts far in excess of what is the reasonable liability.

We understand the need and concern that there be sufficient bonding amounts to guarantee the safe removal of platforms and structures in the Outer Continental Shelf, but the current method of over bonding is simply overkill. Several companies have offered suggestions and modifications to the current bonding system to assure the correct amount is determined.

We recognize that recent events have raised concerns over bankruptcies; however, no BOEM related process can eliminate bankruptcies or natural events such as hurricanes and mudslides. We suggest that BOEM consider carefully examining the various risk factors and eliminate those that are merely speculative.

When assessing financial strength, BOEM should consider changes to their determination of factors to increase accuracy and efficiency. There are several methods and formulas used by banks and other financial entities to determine financial strength, and we recommend that BOEM investigate the use of similar formulas in determining financial assurance requirements.

The calculation of cumulative net decommission liability could be improved. For example, some companies have recommended that net liability is a more accurate measure than 100% liability. In addition, liabilities do not occur until they are created. Commenters have recommended that BOEM not include the cost estimates of decommissioning until such time as the well is actually drilled and the production platform and system is installed. While wells are similar and, in general, production facilities are similar, technology is continually changing and estimated costs should reflect the actual structure and well at a specific site.

BOEM should also recognize that companies have skin in the game and should be able to question the cost estimates established by the agency. In fact, actions by BOEM, such as blanket deadlines for removal of structures, can manipulate the costs of decommissioning and removal. BOEM makes the final determination of such costs, but the agency should also provide a process in which to make sure those estimates are accurate through the ability of a company to question those costs. Likewise, BOEM should give credit for monies held in escrow, provided the escrow funds can be tapped for decommissioning costs.

Commenters have also recommended that BOEM establish a formal process through rule making for the administration of bonds provided to them.

In summary, companies and associations representing most aspects of the offshore oil and natural gas industry fully recognize the significance of this rulemaking process. When plans for this rulemaking were revealed, industry experts recognized there would be diverse and seemingly conflicting views on what to do and how to do it. This first round of questions and comments underscores the need for continued dialogue and communication. We urge thorough consideration of the extensive comments that are being submitted in response to the ANPR. NOIA and its members stand ready to assist you in this process.

With best regards,

A handwritten signature in cursive script, appearing to read "Nicolette Nye".

Nicolette Nye  
Vice President Communications and External Relations  
National Ocean Industries Association