

## **Advocacy Comments on Bureau of Ocean Energy Management Proposed Rule for Outer Continental Shelf Oil and Gas Financial Assurance**

On June 29, 2023, the Department of Interior’s Bureau of Ocean Energy Management (BOEM) published a proposed rule entitled Risk Management and Financial Assurance for Outer Continental Shelf (OCS) Lease and Grant Obligations. This proposed rule would modify its criteria for determining when oil and gas lessees in the OCS would be required to provide bonds or other financial assurances to ensure their ability to comply with lease conditions, including decommissioning. BOEM issued this proposal in response to concerns about bankruptcies by leaseholders, exposing taxpayers to potentially significant unfunded liabilities for the decommissioning of OCS operations.

Under current regulations and by the terms of the leases, the current leaseholder and predecessor leaseholders are jointly and severally liable for compliance and decommissioning. However, BOEM has proposed that it would not consider the credit worthiness of the predecessor leaseholders in its determinations. As a result, small businesses bear almost the entire economic burden of this proposed rule, almost \$380 million per year. Large businesses are mostly excluded.

In its comment letter, Advocacy raises the following issues:

- Joint and several liability protects taxpayers by making sure large companies cannot shed liabilities to untrustworthy businesses.
- Ignoring joint and several liability harms small businesses to the benefit of large businesses.
- Small businesses are already paying to provide bonds to protect predecessor leaseholders as part of the sale of the lease, so this proposal would require small businesses to pay twice to insure against the same liability.

BOEM should narrowly tailor its proposal to protect the taxpayer from unfunded liabilities while recognizing the role joint and several liability plays in the marketplace. BOEM should include a waiver for leases with predecessor leaseholders who meet BOEM’s creditworthiness standard. Small businesses should not be required to stand alone and assume the full responsibility for making the taxpayer whole, especially where large businesses are equally liable under DOI regulations and the terms of the lease.

A complete copy of [Advocacy’s letter to BOEM](#). For more information, please contact Dave Rostker at [david.rostker@sba.gov](mailto:david.rostker@sba.gov).

