INDEPENDENT PETROLEUM
ASSOCIATION OF AMERICA

November 16, 2015

Department of the Interior
Bureau of Ocean Energy Management

Submitted via **Risk.Management@BOEM.gov**

Re: Advanced Notice of Proposed Rulemaking Risk Management, Financial Assurance and Loss Prevention

To Whom It May Concern:

On behalf of our members, the Independent Petroleum Association of America (IPAA) would like to provide additional comments on the Bureau of Ocean Energy Management's (BOEM) proposed guidance on the agency's supplemental bonding requirements. IPAA submitted detailed comments to the Department of the Interior in response to the Advanced Notice of Proposed Rulemaking (ANPR) on this matter last year and is disappointed that the agency decided to forgo a formal rulemaking process. We are greatly concerned that new regulations will be issued through a revised Notice to Lessee (NTL) without any corresponding changes to the Code of Federal Regulations, thus creating new binding requirements outside the rulemaking procedures of the Administrative Procedures Act (APA). The BOEM contemplates significant changes to the regulations governing offshore activities and such changes should be promulgated as rules through the APA, not through a guidance document such as an NTL. Attached is a copy of the extensive comments IPAA filed on this matter with the Department last November.

IPAA represents nearly 10,000 independent oil and natural gas explorers and producers, as well as the service and supply industries that support their efforts. Independent producers drill roughly 95 percent of American oil and natural gas wells, and produce about 54 percent of American oil and more than 85 percent of American natural gas.

Although we ask BOEM to further review the detailed comments IPAA submitted last year on bonding requirements, we specifically wanted to raise a number of concerns related to this issue. The current bonding process for assuring that companies have adequate capital to remove offshore production facilities is broken. Unfortunately, the NTL does little to address this concern. When determining whether a company is financially strong enough not to have to post a supplemental bond for production facility removal, BOEM should not treat the company as if it owes 100% of the cost to clear a site when it owns only 20% of the lease.

We are also concerned that the NTL does not rationally address questions regarding supplemental bond limits. Currently, BOEM might exempt from bonding a company with a net worth of $100 million. However, if the same company has a net worth of only $95 million, BOEM requires the company to provide supplemental bonds to cover production facility removal liabilities. The NTL needs to further clarify this entire matter and provide certainty to our members.

It also appears that the agency ignored a number of important issues raised in IPAA's formal comments. Currently, BOEM requires supplemental bonds prematurely. Rather than BOEM's current inefficient system, where bonds are required to be posted years before any well might be drilled, the agency should require a bond only when the lessee is ready to drill a given well and limit the bond to the costs of plugging that well. The agency should also release the bond within an agreed timeframe when the lessee proves the well has been properly plugged.

Finally, it appears the NTL also does not address the need for the BOEM to follow accounting standards outlined by the Financial Accounting Standards Board. If a lessee proposes to install production facilities which are expected to produce for 15 years, BOEM should not calculate the full cost of the removal 15 years in the future, without discounting that costs to its present value. We believe BOEM would be much better served by only bonding the present value of the future cost and meet with the lessee annually to adjust bond amounts for all the lessee's removal liabilities. This would eliminate the cost of those removals already performed and increase the amounts as future removals become more imminent.

Thank you for your attention regarding these important issues. These are just a few of the concerns our members have about this entire process and we again urge the BOEM to fully review IPAA's attached comments from last year. Our member companies will also be submitting their own comments that will address company specific concerns and how this guidance will impact their operations. Should you have any questions on these comments, please contact me at 202-857-4722 or at dnaatz@ipaa.org.

Thanks,

Daniel Naatz
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Independent Petroleum Association of America