



November 7, 2016

Via Email (OS\_FOIA@ios.doi.gov)

Office of the Secretary (OS)  
Department of Interior  
Mail Stop: 7328, MIB  
1849 C Street, NW  
Washington, DC 20240  
Telephone: 202-513-0765  
Fax: 202-219-2374  
Email: OS\_FOIA@ios.doi.gov

Re: Freedom of Information Act Request

Dear OS FOIA Officer:

The following Freedom of Information Act (“**FOIA**”) request is directed to the United States Department of the Interior, Office of the Secretary (“**OS**”). It is made pursuant to 5 U.S.C. § 552, and the Department of the Interior’s implementing regulations under 43 C.F.R. Part 2.

The National Ocean Industries Association (“**NOIA**”), the Independent Petroleum Association of America (“**IPAA**”), the Louisiana Mid-Continent Oil and Gas Association (“**LMOGA**”), and the Gulf Economic Survival Team (“**GEST**”) (collectively, the “Parties”) submit this request for any and all records relating to the Notice to Lessees No. 2016-N01, Requiring Additional Security, issued by the Bureau of Ocean Energy Management (“**BOEM**”) with an effective date of September 12, 2016 (the “**NTL**”), including any and all documents generated or relied upon in the development of the NTL and related to the development of BOEM’s associated Financial Discussion webpages. The date range for this request is January 1, 2014 through the present. Specifically, the Parties ask that you please provide copies of the following information:

1. Documents showing the basis for the conclusion that BOEM’s “previously utilized formulas for determining financial strength and reliability are outdated and no longer provide sufficient protection for liabilities incurred during OCS operations.” NTL at 1.
2. All correspondence, emails, and other communications between any official or employee of the Department of Interior, BOEM, or the Bureau of Safety and Environmental Enforcement (BSEE”) and any employee or official of the Executive Office of the President of the United States concerning whether additional financial security is needed or advisable to secure decommissioning liability associated with wells, pipelines and other facilities located on the Outer Continental Shelf (“OCS”).

3. All correspondence, emails and other communications between any official or employee of the Department of Interior, BOEM, BSEE and any other governmental agency concerning whether additional financial security is needed or advisable to secure decommissioning of platforms, pipelines or wells situated in the OCS.
4. All correspondence, emails and other communications between any official or employee of the Department of Interior, BOEM, BSEE or any other governmental agency concerning whether the financial criteria and financial security requirements imposed by NTL 2008-N07 are adequate or inadequate to secure decommissioning of platforms, pipelines or wells situated in the OCS.
5. All correspondence, emails and other communications between any official or employee of the Department of Interior, BOEM, BSEE and any Member of Congress or Congressional staff, including committee staff, concerning the development of the NTL and/or whether additional financial security is needed or advisable to secure decommissioning of platforms, pipelines or wells situated in the OCS.
6. Documents identifying what additional “applicable financial criteria” other than the 9 categories specifically identified in the NTL, that BOEM will consider in analyzing an operator’s or lessee’s financial capacity. NTL at 3, § 1.
7. Documents showing the basis for and reasoning behind the determination that use of self-insurance will not be permitted in an amount in excess of 10% of an operator’s or lessee’s tangible net worth. NTL at 4, § 5.
8. Documents relied on or used by BOEM or the Department of Interior as industry standards to conclude that 10% of an operator’s or lessee’s tangible net worth is the maximum credit that should be allowed before additional financial security should be required from the operator or lessees of a lease.
9. Documents indicating that the BOEM considered any other percentage (other than 10%) of an operator’s tangible net worth as a maximum credit against any required financial security.
10. Documents to and from the Office of Management and Budget in connection with BOEM’s request for approval of the information collection. NTL at 8.
11. Documents showing the basis for and reasoning behind BOEM’s determination that “[i]f a company passes at least 5 out of 9 ratios, self-insurance, expressed as a percentage of the company’s tangible net worth, may be granted, up to a maximum of 10%, depending on consideration of the other four criteria,” including all documents that explain why five is the number of benchmarks a company must satisfy to be eligible for self-insurance. *See* Bureau of Ocean Energy Management webpage, “Benchmark for Each Ratio”, *available at* <http://www.boem.gov/Benchmark-for-Each-Ratio/>.
12. Documents showing the basis for and reasoning behind BOEM’s determination that only 25% of proven reserves may be used to augment the lessee’s tangible net worth. *See*

Bureau of Ocean Energy Management webpage, “Projected Strength,” *available at* <http://www.boem.gov/Projected-Strength/>.

13. Documents explaining how BOEM will “adjust the percentage of self-insurance allowed for any lessee based upon its credit rating,” and documents explaining how “BOEM will set a minimum credit rating below which BOEM would not allow the use of self-insurance on “sole liability properties” as defined in the NTL.” *See* Bureau of Ocean Energy Management webpage, “Reliability,” *available at* <http://www.boem.gov/Reliability/>.
14. Documents showing the criteria by which BOEM will evaluate trade references for determining the percentage of self-insurance allowed. *See* Bureau of Ocean Energy Management webpage, “Reliability,” *available at* <http://www.boem.gov/Reliability/>.
15. All correspondence, emails, analyses, and other communications showing the basis for BOEM’s determination that a rulemaking was not necessary to implement the changes addressed by NTL.
16. Documents showing any economic impact or cost-benefit analysis of the NTL performed by or on behalf of BOEM.
17. To the extent BOEM retained third-parties to assist in developing financial criteria, documents regarding the process used to select such third-parties and the qualifications of such third-parties.
18. To the extent BOEM retained third-parties to assist in developing financial criteria, documents in BOEM’s care, custody, or control that were generated by these third-parties in developing financial criteria.
19. To the extent BOEM retained third-parties to assist in developing BSEE’s decommissioning estimates, documents identifying the names of such third-parties and the fees paid to such third-parties for their work in assisting BOEM to develop financial criteria.
20. All correspondence, emails, and other communications between any BOEM official or employee and any BSEE or Department of Interior or employee concerning the NTL and/or BOEM’s financial criteria.
21. All correspondence, emails, and other communications between any BOEM official or employee and any BSEE or Department of Interior official or employee concerning the Government Accountability Office (“GAO”) report number GAO-16-40 published December 18, 2015, and entitled “Actions Needed to Protect Against Billions of Dollars in Federal Exposure to Decommissioning Liabilities.”
22. All documents indicating that taxpayer dollars have ever been used or expended to perform decommissioning of platforms, pipelines, wells, or other facilities situated on the OCS.

23. All correspondence, emails and other communications between any official or employee of the Department of Interior, BOEM, BSEE or any other governmental agency considering whether prior owners of oil and gas leases provide protection for the government, or remain liable to the government, for the decommissioning of platforms, pipelines or wells situated on the OCS.
24. All documents indicating that the Department of Interior, BOEM, BSEE or any other governmental agency considered other sources of funds, including Oil Spill Liability Trust funds available under the Oil Pollution Act (“OPA”) that could be used to perform decommissioning of platforms, wells, pipelines and other facilities situated on the OCS in the event of a default by current lease owners.
25. All documents indicating the amount of taxpayer dollars spent and expected to be spent in developing, issuing and implementing the NTL, including monies paid to third-parties and to government employees directly or indirectly involved in such efforts.
26. 30 C.F.R. § 556.901(d)(1) states that BOEM will evaluate a lessee’s ability to carry out present and future financial obligations, and further that one of the factors BOEM will consider is “financial capacity substantially in excess of existing and anticipated lease and other obligations, as evidenced by audited financial statements[.]” 30 C.F.R. §556.901(d)(1)(i). Please provide documents, including internal correspondence or guidance documents, discussing how BOEM considers or intends to consider “asset retirement obligations” that are valued within audited financial statements and whether BOEM’s methodologies take into account that a lessee’s “Tangible Net Worth” is already reduced by the cost of asset retirement obligations, such that comparing Tangible Net Worth against BSEE-calculated decommissioning costs results in a double-counting of liability for decommissioning costs.

For the avoidance of doubt, throughout this letter, the term “documents” shall include all writings, both textual and electronic, and shall include all writings in draft and final form. In this request, the term “documents” refers to all e-mails, letters, memoranda, notes, telephone records, visitor sign-in log books, lists and all other writings that record visits to a BOEM or BSEE office, applications, maps, photographs, reports, studies, data compilations, spreadsheets, notices, meeting logs, meeting minutes, analyses, algorithms, formulas, methodologies, test results, orders, decisions, transcripts, newspaper and magazine articles, electronic media articles, electronic transmissions, including any material responsive to this request that has been memorialized in writing or other means of data recordation, including all cover letters or transmittal notes attached to such documents (including all internal correspondence, notes, memoranda, electronic transmissions or other records).

We have attempted to provide sufficient identifying information concerning the documents covered by this FOIA Request. If you determine that any portion of this FOIA Request does not reasonably describe the records sought, please notify us of that determination, so that we may attempt to restate the request in a manner that will rectify any ambiguity or deficiency you believe may exist.

For this FOIA Request, we will be pleased to pay all reasonable reproduction and search fees provided by regulation. We request that you notify us before proceeding, however, if you anticipate that such expenses will exceed \$2,000.00. Please contact the undersigned by telephone or e-mail if you have any questions about the scope of this request. For purposes of fees, we are in the category of “commercial-use requester.”

In the event that you determine some of the requested documents may be withheld pursuant to 5 U.S.C. § 522(b), we request that you exercise your discretion to release these documents. Should you elect not to disclose documents determined to be exempt, please delete or redact such allegedly exempt portions of the documents and identify in your response the nature of the deleted or redacted information. Also, in the event that we are denied any document in its entirety or any portion of any requested document, please identify each entire document and each portion of any requested document with particularity and specify the statutory basis for the denial and the sound ground for invoking that basis. This consent to accept documents with deletions or redactions is intended to facilitate your prompt response and in no way waives our entitlement to the complete documents.

In accordance with 43 C.F.R. § 2.16, we look forward to receiving your response within 20 working days. To the extent that any of the requested documents or records cannot be released within the requisite twenty working days, we ask that you not delay the release of those documents or records that can be located, reviewed, and released. Your response to this FOIA Request should be directed to the undersigned. We would be happy to accept the documents in electronic form (Microsoft Word or Adobe pdf) or in hard copy. Thank you for your prompt attention to this request.

Sincerely,

A handwritten signature in blue ink that reads "Randall Luthi".

Randall Luthi  
President  
National Ocean Industries Association (NOIA)

A handwritten signature in black ink that reads "Dan Naatz".

Dan Naatz  
Senior Vice President of Government Relations & Political Affairs  
Independent Petroleum Association of America (IPAA)



Chris John  
President  
Louisiana Mid-Continent Oil & Gas Association (LMOGA)



Lori LeBlanc  
Executive Director  
Gulf Economic Survival Team (GEST)