

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2561 Rayburn House Office Building
Washington, DC 20515-6515

August 3, 2023

Ms. Liz Klein
Director
Bureau of Ocean Energy Management
1849 C Street NW
Washington, D.C. 20240

Dear Director Klein:

The House Committee on Small Business writes to inquire about the Bureau of Ocean Energy Management's (BOEM) recent proposed rule change to the financial requirements for Outer Continental Shelf (OCS) lease and grant holders.¹ It appears that the BOEM may not have properly considered the effects this would have on small entities during this rulemaking process.

This proposed rule would increase the number of OCS lease and grant holders that are required to have reserve product or funds for decommissioning offshore oil, gas, or sulfur wells and pipelines. It would eliminate the existing five-part analysis for determining these financial requirements, in favor of a credit rating-based system.² Given that small businesses are less likely to have a business credit score and credit ratings agencies consider an entity's size in determining its credit rating, small businesses will be disfavored by these new credit rating standards.³

It is important for agencies to properly consider small businesses, which make up 99.9 percent of all businesses in the United States, when passing any new rule. America's small businesses deserve to have their voices heard and considered. We therefore request the following information as soon as possible but no later than August 17, 2023:

1. Will this rule, by establishing tiers largely based on credit ratings, disproportionately impact small businesses?⁴
 - a. Will the BOEM's proxy credit ratings also adversely rate small entities based on their size?

¹ Risk Management and Financial Assurance for OCS Lease and Grant Obligations, 88 Fed. Reg. 42136, 42157-58 (to be codified at 30 C.F.R. 550, 556, 590).

² *Id.* at 42141-42.


³ Arsebe Lui, *Does Size Matter? Incorporating Company Size in Credit Risk Assessment*, STANDARD & POOR'S (Nov. 20, 2021).

⁴ *Id.*


2. Since this rule relies on ratings from credit ratings agencies, did the BOEM include the costs associated with a small business receiving a rating when drafting this rule?
3. Are there readily accessible resources for small entities to assist them in appealing a supplemental financial assurance demand?
4. The BOEM's analysis indicates that non-investment grade companies will pay four times more for decommissioning bonds than investment grade companies.⁵ What alternatives did BOEM consider?
 - a. This rule discusses alternative rules that are similar to this standard but are slightly more or less restrictive. Did the BOEM only consider these options, or did it consider any alternatives which were more narrowly tailored to meet the needs of small businesses?
5. Since 2009, most bankruptcy filings by OCS lease and grant holders did not result in cost to the taxpayer, for what reason does the BOEM believe there is substantial risk of needing taxpayer dollars to cover decommissioning expenses?⁶

To schedule the delivery of your response or ask any related follow-up questions, please contact Committee on Small Business Majority Staff at (202) 225-5821. The Committee on Small Business has broad authority to investigate "problems of all types of small business" under House Rule X. Thank you in advance for your cooperation with this inquiry."

In God We Trust,



Roger Williams
Chairman
Committee on Small Business



Jake Ellzey
Member of Congress
Committee on Small Business

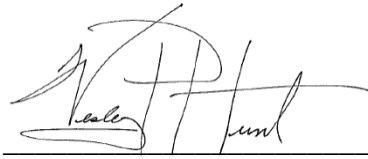
⁵ Bureau of Ocean Energy Mgmt., Risk Management Financial Assurance and Loss Prevention Initial Regulatory Impact Analysis (Jun. 29, 2023).

⁶ Risk Management and Financial Assurance for OCS Lease and Grant Obligations, 88 Fed. Reg. 42136, 42139 (to be codified at 30 C.F.R. 550, 556, 590).

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Aaron Bean
Member of Congress
Committee on Small Business



Wesley Hunt
Member of Congress
Committee on Small Business

cc: The Honorable Nydia M. Velasquez, Ranking Member
Committee on Small Business

