The Surety Association of America

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Mr. John Mirabella
Engineering and Operations Division
Minerals Management Service
Mail Stop 4024
381 Eldon Street
Herndon, VA 20170-4817

**Re: Proposed Rule
Revision of Requirements Governing
Surety Bonds for Outer Continental Shelf Leases
RIN 1010-AC-68**

Dear Mr. Mirabella:

The Surety Association of America ("SAA") is a trade association consisting of over 650 companies that write the majority of surety bonds in the United States. We appreciate the opportunity to submit comments regarding the proposed amendment to 30 CFR 256.58 regarding the release of surety bonds securing Outer Continental Shelf leases.

Currently, 30 CFR 256.58 states that when a surety requests termination of the period of liability under the bond, the Regional Director of the Minerals Management Service ("MMS") will terminate the period of liability. However, the surety remains liable for obligations that accrued before the effective date of termination until:

a. The Regional Director determines that there are no outstanding obligations; or
b. The lessee furnishes a replacement bond which covers the obligations that accrued prior to the effective date of termination.

Upon the occurrence of either of the two events noted above, the Regional Director may cancel and release the bond. However, the existing regulation does not set forth a time limit that the Regional Director may hold the bond after the termination of the period of liability.

The proposed amendment revises §256.56 to include a time limit. The "Supplementary Information" section of the Notice of Proposed Rule appears to indicate that under the amended regulation, the Regional Director may hold the bond for a period of seven years after the period of liability has ended (assuming no replacement bond has been furnished). Such a regulation would provide certainty regarding the surety's duration of liability and may shorten the time that a bond is held. However, the language of the proposed amended regulation is unclear and could be interpreted actually to lengthen the period that a bond is held, compared to the requirements of the existing regulation. As drafted, the amended regulation does not provide the certainty that the MMS intended.

As proposed, §256.58 would state that the surety remains liable for accrued obligations until "the obligations are satisfied and for additional periods of time according to paragraph (d) of this section." The table in paragraph (d) states that the bond is cancelled "seven years *after* the completion of all bonded obligations" (emphasis added). Section 256.58(b)(1) of the existing regulation states that the bond is released when the Regional Director determines that there are no outstanding obligations. Therefore, the amended regulation seems to add seven years to the period set forth in the existing regulation. As drafted, the proposed amendment actually may increase the uncertainty regarding the duration of the surety's liability and may make a difficult, long-term obligation even more challenging.

In addition, §256.58(a)(1) of the proposed regulation states that MMS will terminate the period of liability within 90 days of receiving the surety's request. However, the table in §256.68(d) does not reflect this provision. The table states that the period of liability ends when the Regional Director determines that the lessee has met all of its obligations in the lease. Further, the bond form does not allow for a termination that is initiated by the surety.

Lastly, the table suggests that the Regional Director has some discretion in determining whether the penalty of a bond held after the date of the termination of the period of liability may be reduced. We understand that MMS should have coverage sufficient to meet obligations that accrued prior to the termination date. However, in some cases, a reduction of the bond penalty may be justified. We recommend that the regulation should require, rather than simply permit, the Regional Director to establish a bond amount less than the full amount if a reduced penalty would be sufficient to secure prior obligations.

In light of our concerns, we make the following recommendations:

1. The table in §256.68(d) should be amended so that it indicates clearly that the surety is released seven years after the date of termination.
2. The table should be revised to indicate that the period of liability will end 90 days after MMS receives the request to terminate from the surety or at the end of the

lease term, instead of when the Regional Director determines that the lessee has met all of its obligations under the lease.

3. The regulation should require that, after the termination of the period of the liability, the Regional Director must reduce the bond amount to an amount necessary to secure obligations that accrued prior to the termination date.
4. The bond form should be revised to accommodate the 90-day termination notice provision set forth in the amended regulation.

For your review, we enclose a revised table for §256.68(d). Thank your for your consideration. Please contact me if you have any questions.

Sincerely,

Robert J. Duke, AFSB
Director of Underwriting

Enclosure

For the type of bond below	The period of liability will end	Your bond will be cancelled
(1) Base Bonds submitted under §256.52(a), §256.53(a) or §256.53(b)	At expiration of lease or leases secured.by the bond, or ninety days after the Regional Director receives the request to terminate the period of liability from the surety, whichever occurs first.	Seven years after the effective date of the termination of the period of liability. The Regional Director shall establish a bond amount that is less than the full amount of the base bond if a reduced amount is sufficient to secure obligations that accrued prior to the termination of the period of liability.
(2) Supplemental bonds submitted under §256.53(d).	At expiration of lease or leases secured by the bond, or ninety days after the Regional Director receives the request to terminate the period of liability from the surety.	On the date the period of liability ends or, in the event the Regional Director determines that future potential liability may be greater than the base bond amount, up to seven years after the effective date of the termination of the period of liability.