OMB/OIRA Discussion Materials

February 13, 2024

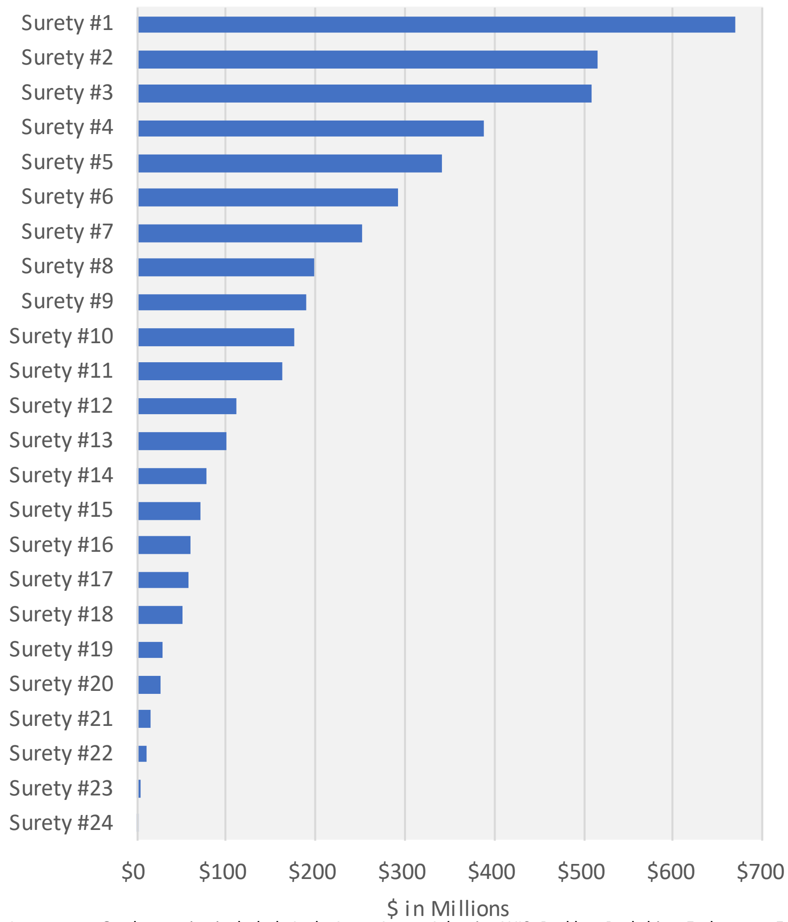
ARENA ENERGY

BOEM Rule is Unworkable

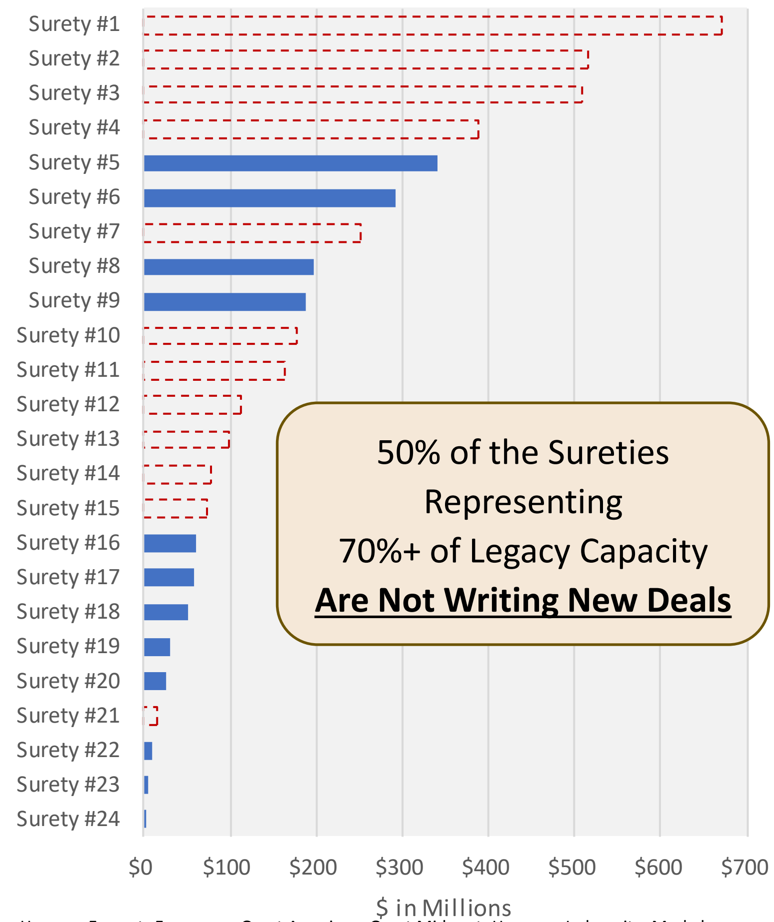
1. **BOEM Rule's Surety Solution Does Not Exist**
   - Surety Capacity is Already Shrinking
2. **BOEM Relied on Flawed Assumptions**
   - Cost of the Rule is **<u>Materially Understated</u>**
3. **BOEM Solution is Not Calibrated to Actual Taxpayer Risk**
   - < $60 Million Accrued Taxpayer Losses
   - $9.2 Billion BOEM "Solution"
4. **BOEM Did Not Consider Less Burdensome Approaches**
   - Bonds Should Benefit Taxpayers, Not Large Oil Companies

#1 BOEM Rule's Surety Solution Does Not Exist

Pre-Fieldwood / Cox Bankruptcies
24 Sureties
Treasury Listing of $4.3 Billion



Today
12 Sureties
Treasury Listing of $1.3 Billion



Non-Investment Grade sureties included: Arch, Argo, Ascot, Atlantic, AXIS, Berkley, Berkshire, Endurance, Euler Hermes, Everest, Evergreen, Great American, Great Midwest, Hanover, Indemnity, Markel, Pennsylvania, Philadelphia, RLI, SiriusPoint, US Fire, US Specialty, XL Re, Zurich

Source: GOM Energy Surety Brokers

#1 BOEM Rule's Surety Solution Does Not Exist

~$2 Billion of Surety Losses in Recent Bankruptcies

CAC is a specialty broker that places in excess of $1 billion of sub-investment grade Gulf of Mexico bonds

- BOEM cites surety as the source for the $9.2 billion increase to financial assurance, however, sureties are not obligated to commit funds
- The bond increase comes on the heels of some of the largest related surety losses in history (~$2 billion)
- **"Like a Greek Tragedy, the BOEM's actions could expedite the outcomes it wished to avoid"**

THE SURETY & FIDELITY ASSOCIATION OF AMERICA

Higher Pricing **<u>Will Not</u>** Increase Surety Capacity

SFAA represents 98% of available surety bond market capacity

- BOEM estimates surety pricing to range from 2% to 12%, ***<u>but sureties do not price based on pooled expected loss levels</u>***
- Unlike insurance, where risk is pooled and premium calculated to cover the anticipated losses from the risk profile of the policyholders in the pool, ***<u>surety companies underwrite risks based on a single credit with an expectation of zero losses</u>***

#2 BOEM Relied On Flawed Assumptions

OPPORTUNE

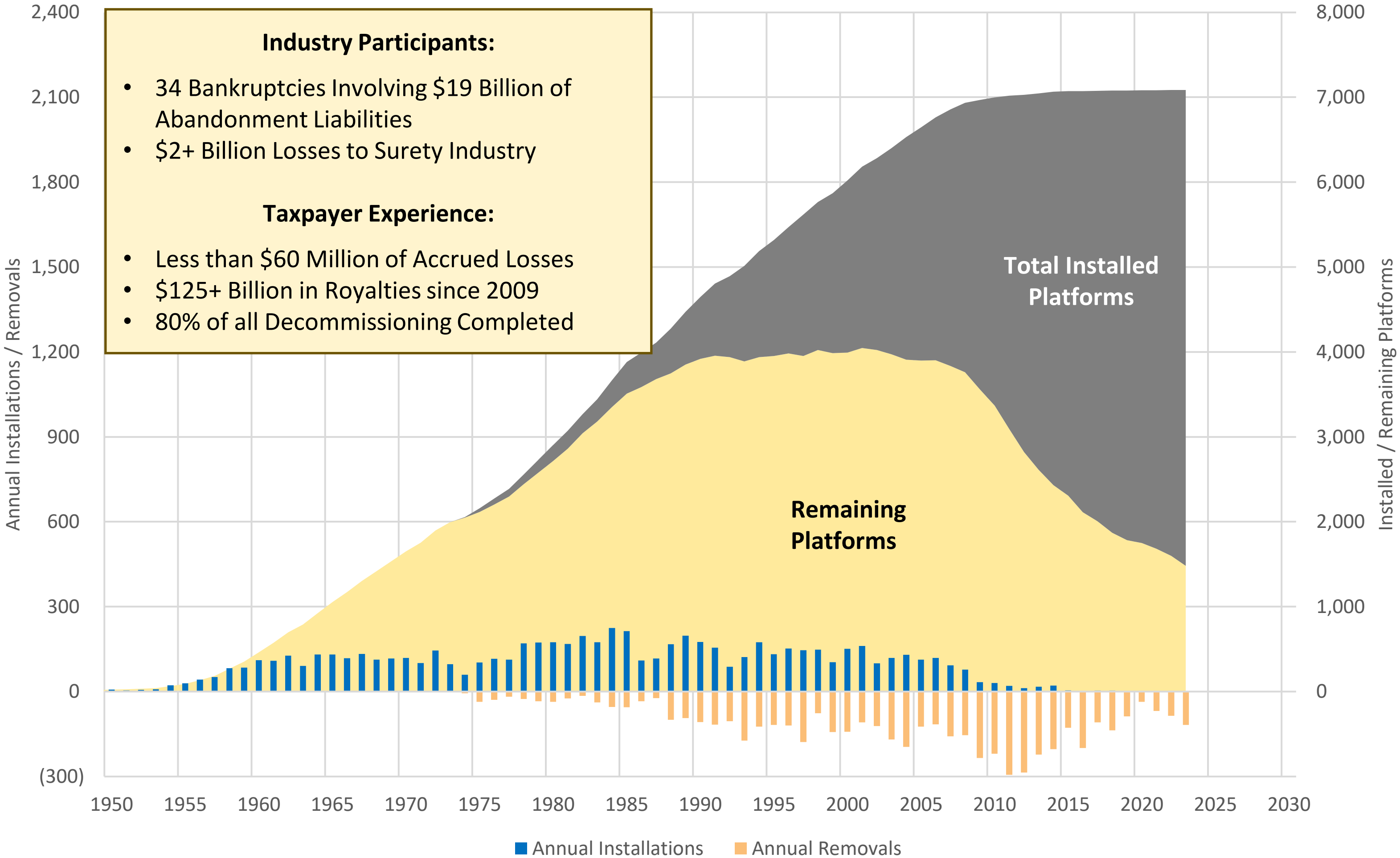
Opportune is a leading global business advisory firm for the energy industry

- **Taxpayer Risks are Overstated**
  - Taxpayer Historical Accrued Losses: < $60 MM
  - BOEM Potential Taxpayer Losses: $750 Million (Sole Liability Properties)
  - BOEM "Taxpayer" Solution: $9.2 Billion of New Bonds
- **Compliance Costs are Understated**
  - BOEM's Compliance Costs: $5.7 Billion
  - Opportune' s Calculated Compliance: $11.2 Billion
    - Opportune used market cost of capital, rather than assume 1.75% was universally available

Credit Rating	BOEM: Assumed Collateral Cost	Opportune: Assumed Collateral Cost	Opportune Notes:
US Treasuries		4.1% - 5.4%	3-mo to 10-yr
AAA to A-	1.75%	5.0%	Debt
BBB+ to BBB-	1.75%	6.2%	Debt
BB+ to BB-	1.75%	7.7%	Debt
B+ to B-	1.75%	11.1%	Debt
CCC+ and below	1.75%	25.0%	Largely equity

#3 BOEM Solution is Not Calibrated to Actual Taxpayer Risk

GOM Platforms (All Water Depths)



Install / Removal data through Jul-23

#4 BOEM Did Not Consider Less Burdensome Approaches

BOEM Estimate
$42.9 Billion

Less:

Investment Grade: Current Owners
$22.6 Billion

Less:

Investment Grade: Previous Owners
$19.5 Billion

"This proposed rule would retain the authority to pursue predecessor lessees for the performance of decommissioning" - BOEM

Results In:

Non-Investment Grade: Current & Prior Owners
$0.75 Billion

Existing Supplemental Bonds:
Some Portion of $3.3 Billion

Potential Taxpayer Exposure

BOEM Goal:
Protection of the US Taxpayer

BOEM Solution:
New Bonds at Cost of
$5.7 Billion to Small Business

State of Louisiana Perspective

- **BOEM Stated Objective**
  - BOEM recites a salutary objective: **<u>protecting the American taxpayer</u>** from having to maintain and decommission orphan wells on the OCS
- **Spending a Dollar to Save a Dime**
  - BOEM has committed the cardinal error of regulators, spending a dollar to save a dime
  - BOEM must know that the costs and benefits of its Proposed Rule are blatantly lopsided
- **The Proposed Rule Ignores Joint and Several Liability**

> "Indeed, it is Louisiana's view that supplemental bonding is unnecessary. So long as a creditworthy party exists in the chain of title—there exists no meaningful decommissioning burden on the federal government."

Small Business Administration Perspective

U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF ADVOCACY
REGULATION • RESEARCH • OUTREACH

1. **Proposed rule protects large companies at expense of small companies**
   – Small, independent operators are unable to supply duplicative collateral

2. **BOEM should narrowly tailor its rule to the …liability of actual concern**
   – i.e., "Sole Liability Properties"

3. **Joint and several liability protects taxpayers**
   – Ensures predecessors cannot shed liability and will engage in due diligence

"BOEM's analysis intentionally ignores joint and several liability as the way that the taxpayers are protected from these unfunded liabilities. It presumes that these small businesses impose a significant risk to the taxpayer despite the full backing of companies that BOEM has exempted. As a result, small businesses are not only disproportionately harmed by the proposal, ***but only small businesses are harmed by the proposal.***"

"It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the Arena....."

Theodore Roosevelt

Paris, 1910