

Post-Macondo reforms: The new regime in US waters



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In June 2010, President Barack Obama and Secretary of the Interior Ken Salazar asked me to serve as director of the US Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), the agency responsible for regulating offshore drilling and production in US waters, and the successor to the Minerals Management service (MMS), which had been responsible for those functions since the early 1980s. Our mandate was challenging, ambitious and above all urgent – to reform offshore energy development and the agency responsible for overseeing it.

Two months earlier, the *Deepwater Horizon* drilling rig had exploded, taking the lives of 11 workers and unleashing nearly 5 million barrels of oil into the Gulf of Mexico. The tragic loss of life and the enormous environment damage resulting from the *Deepwater Horizon* tragedy transformed the unthinkable into the actual; it served as a wake-up call for industry and government alike.

Since that time, we have been working diligently and aggressively to make the changes necessary to restore confidence that offshore oil and gas drilling and production are being conducted safely and with appropriate protections for marine and coastal environments.

Strengthening regulations

One of the first challenges was to strengthen the rules and regulations governing offshore drilling in US waters. Those rules and regulations had not been adequately revised and updated to address some of the challenges of offshore drilling, especially in deep water. We promptly recognised the need to identify and examine improvements to drilling and workplace safety and to enhance protection of the marine environment.

BOEMRE swiftly developed and implemented a number of new rules to improve the effectiveness of government oversight of offshore energy drilling and production. The first rule, the Drilling Safety Rule, created tough new standards for well design, casing and cementing, and well control procedures and equipment, including blowout preventers. For the first time, operators are now required to obtain certification by a qualified engineer of their proposed drilling process. In addition, an engineer must certify that blowout preventers meet tough new standards for testing and maintenance and are capable of severing the drill pipe under anticipated well pressures.

A second rule, known as the Safety and Environmental Management Systems (SEMS) Rule, requires operators

to systematically identify risks and establish barriers to those risks. It seeks to fundamentally reduce the human and organisational errors that lie at the heart of many accidents and oil spills. The SEMS Rule, sometimes referred to as the Workplace Safety Rule, introduced, for the first time in the US regulatory regime, performance-based standards similar to those used by regulators in the North Sea. US operators are now required to develop a comprehensive safety and environmental management programme that identifies the potential hazards and risk-reduction strategies for all phases of activity, from well design and construction, to operation and maintenance, and finally to the decommissioning of platforms.

A second proposed SEMS Rule will require third-party audits of operators' mandatory SEMS programmes and addresses additional safety concerns that were not covered by the initial SEMS rule. The proposed rule will enhance safety for offshore workers and provide greater protection of the marine environment through additional safety procedures, training programmes, notification obligations and strengthened auditing procedures.

In addition to these important new rules, we have issued Notices to Lessees (or NTLs) that provide additional guidance to operators on how to comply with existing regulations. In June 2010, we issued NTL-06, which requires that operator's oil spill response plans include a well-specific blowout and worst-case discharge scenario – and that operators provide the assumptions and calculations behind these scenarios. Our engineers and geologists then independently verify these worst case discharge calculations to ensure that we have an accurate picture of the spill potential of each well.

Following the lifting of the deepwater drilling moratorium in October 2010, we issued NTL-10, a document that establishes informational requirements, including a mandatory corporate statement from the operator that it will conduct drilling operations in compliance with all applicable agency regulations, including the new Drilling Safety Rule. For the first time, this includes a review of an operator's subsea blowout containment resources for deepwater drilling,

We have also identified the need for the thoughtful consideration, development and implementation of additional rules designed to further enhance offshore drilling safety. This process will be broad and inclusive, with the goal of increasing drilling safety and diminishing the



risks of a major blowout. It will address improvements to blowout preventers, as well as many other issues.

By the time the World Petroleum Congress meets in Doha, we will have completed a top-to-bottom, comprehensive reorganisation of MMS, or Minerals Management Service which was the predecessor to BOEMRE. The reorganisation and internal reforms that we have implemented were designed to recognise the diverse and sometimes conflicting responsibilities of the former MMS by thoughtfully separating these missions into three new agencies and providing each of the new agencies with clear definitions of their respective missions and – for the first time – needed new resources to adequately fulfil those missions.

These functions will now be carried out by three separate agencies within the Department of the Interior. The Bureau of Ocean Energy Management (BOEM) will manage the development of the nation's offshore resources in an environmentally and economically responsible way; the Bureau of Safety and Environmental Enforcement (BSEE) will enforce safety and environmental regulations offshore; and the Office of Natural Resources Revenue (ONRR), which has been operating separately from the rest of the agency since October 2010, will be responsible solely for collecting revenues from offshore leases.

Weaknesses of the past addressed

But organisational changes alone are not enough to address the institutional weaknesses of the past. That is why we have taken a large number of important steps to strengthen key functions. This includes our environmental enforcement function, our inspections programme, and the way the agency deals with conflicts of interest.

- **Strengthening Environmental Enforcement:** First, we have taken a number of steps to strengthen the role of environmental analysis and enforcement in the new regulatory framework. We have created the new position of Chief Environmental Officer in BOEM to provide institutional assurance that environmental considerations will be given adequate weight in resource development decisions. These decisions include five-year plans, leasing decisions, exploration and development plan reviews, and other decisions that bear on resource management. In BSEE, we are creating a dedicated environmental enforcement and compliance programme. Historically, with very limited resources, our personnel have attempted to determine whether operators have fulfilled their

environmental commitments – in the form of stipulations and mitigations to minimise the adverse impact of operations to the environment. But the agency has never before had personnel specifically dedicated to that task.

- **Improving Inspections:** In addition to strengthening the role of environmental analysis and enforcement, we have also taken a number of steps to improve our inspections programme. We will begin to use multiple-person inspection teams for offshore oil and gas inspections. The new process will allow teams to inspect multiple operations simultaneously and thoroughly and will enhance the quality of inspections on larger facilities. In addition, we are creating for the first time a National Offshore Training Center led by a training director whom we selected after a nationwide search. The Director of the National Offshore Training Center will develop national training strategies, curricula and programmes to maintain and improve the technical capabilities of offshore inspections and compliance personnel throughout the bureau. This will be a dramatic improvement. In the past, our inspectors have learned how to do their jobs through a combination of on-the-job training and industry-sponsored courses aimed at teaching how certain types of equipment function. The agency has never had a training centre dedicated to training inspectors on how to do their jobs. Now we will.

- **Addressing Conflicts of Interest:** We are also taking steps to address conflicts of interest within the agency. We have issued a rigorous recusal policy that will reduce the potential for real or perceived conflicts of interest in our enforcement programmes. Under the policy, employees in our district offices, including our permitting engineers and inspectors, must notify their supervisors about any potential conflict of interest and request to be recused from performing any official duty where such a conflict exists. As a result, our inspectors are required to recuse themselves from performing inspections of the facilities of former employers. Also, our inspectors must report any attempt by industry or by other BOEMRE personnel to inappropriately influence, pressure or interfere with his or her official duties. A recent internal review demonstrated approximately 50 instances of our inspectors recognising a conflict barred by the policy and taking appropriate action to recuse themselves. That is an important step in assuring the public that our oversight and regulatory responsibilities are being carried out in a disinterested and objective manner. →



Promoting offshore safety through international collaboration

An important element of our long-term strategy is to maintain and strengthen collaboration with our international counterparts. Offshore regulators and senior policy officials have much to gain from collaborating with their counterparts in other countries to elevate the safety and environmental soundness of offshore operations around the world. To this end, in April 2011, the Department of the Interior hosted ministers and senior energy officials from twelve countries and the European Union for a Ministerial Forum on Offshore Drilling Containment. This was a historic meeting for the Department – and it led to a fruitful dialogue about best practices and how best to develop cutting edge, effective safety and containment technologies. The meeting concluded with the unanimous recognition that this dialogue should continue at the highest levels of government.

We also continue our work to strengthen existing channels for international cooperation and the sharing of best practices across different regulatory regimes. For example, we will continue our participation with the International Regulators Forum (IRF), an organisation that BOEMRE helped to found in 1994 to facilitate the cooperation and sharing of information among the leading offshore regulators. I attended the recent Forum in Norway, and am looking forward to the important role that BSEE will play in the IRF.

The United States will continue to participate in a number of government-to-government initiatives to share



best practices and build regulatory capacity in countries trying to develop offshore drilling regulatory regimes. Our experts have participated in needs assessments and have conducted workshops in Suriname, Uganda, Papua New Guinea, and Liberia. We will also continue our long-term technical assistance with the governments of Iraq and India. This past summer, we hosted a delegation from Mexico for the first of a series of information exchange workshops to fulfil the Secretary's mandate for developing the highest standards for operating in the Gulf of Mexico.

We will continue to collaborate with our foreign counterparts, both through bilateral government-to-government assistance programmes and through appropriate multilateral channels, in developing safer, more environmentally responsible drilling in the world's oceans.

The Future of offshore drilling in US waters

Offshore drilling in the United States, and indeed around the world, will never be the same as it was a year ago. That much is clear. The changes that we have put in place will endure because they were urgent, necessary and appropriate. And more change will surely come, although not at the rapid pace of the past year. The process of making offshore energy development both safe and sufficient to help meet the nation's and world's energy demands will never be complete. It is – and must be – a continuing, ongoing, dynamic enterprise.

The central challenge that Deepwater Horizon highlighted is the need to establish the institutions and systems – and the processes of cultural change and improvement – necessary to ensure that neither government nor industry ever again become so complacent that they think no further change is necessary – because that sort of complacency set the stage for Deepwater Horizon.

Following Deepwater Horizon, a broad consensus quickly emerged – in government and industry – that there was an urgent need for upgrading safety rules and practices within the offshore oil and gas industry. As we move forward, we must do everything possible to keep the complacency from creeping back. We must have the discipline to continue pushing for improvements that will enhance the safety of offshore drilling. Both industry and government regulators must continue to use the memory of Deepwater Horizon as a constant reminder of the continued urgency of improving safety. ■