

**Environment America - Native Village of Point Hope
Northern Alaska Environmental Center - Ocean Conservation Research
Surfrider Foundation - The Wilderness Society**

December 13, 2010

Department of the Interior
Bureau of Ocean Energy Management, Regulation and Enforcement
Attention: Regulations and Standards Branch (RSB)
381 Elden Street, MS-4024
Herndon, VA 20170-4817

Re: Increased Safety Measures for Energy Development on the Outer Continental Shelf, 1010-AD68

Submitted via the Federal eRulemaking Portal: BOEM-2010-0034

Dear Sir or Madam:

The above-listed national, regional, and tribal organizations and our members appreciate this opportunity to submit comments on this interim final rule, the first of what is likely to be several safety-related rulemakings covering Outer Continental Shelf (OCS) oil and gas exploration and production. These new rules are necessary (but not sufficient¹) to avoid tragedies like the *Deepwater Horizon* fire and sinking that resulted in 11 deaths, several injuries, the worst oil spill in U.S. history, financial losses to tourism and fisheries, and ecological damage. Our comments on the interim final rule's safety measures were developed primarily by Professional Engineer Lois Epstein, P.E., Arctic Program Director for The Wilderness Society in Anchorage.

Comments Supporting the Interim Final Rule

As noted in the *Federal Register* notice for this rule (75 FR 63346, October 14, 2010):

BOEMRE recognizes that this interim final rule does not fully address all issues associated with OCS drilling operations, although it is a critical step. We anticipate future rulemakings as we learn more about the causes of the Deepwater Horizon event and other issues associated with deepwater² drilling operations. (75 FR 63362)

Our organizations agree that much work needs to be done by BOEMRE to increase the safety and environmental protection of OCS oil and gas exploration and production. There is no silver bullet that can be implemented quickly by BOEMRE which would, by itself, significantly increase the public's confidence that there will not be another major OCS tragedy.

¹ Other needed reforms at BOEMRE include additional staffing, improved inspection and enforcement practices, increased real-time operational data for decision-making by regulators, and greater information transparency to the public on the performance of both industry and government. These upgrades are being discussed with BOEMRE in other forums.

² Many of the requirements of this interim final rule apply to both deepwater *and* shallow water drilling operations.

Approximately one month after the *Deepwater Horizon* spill, the U.S. Department of the Interior delivered a comprehensive, 30 page report to the President listing specific ways to enhance the safety of offshore oil and gas activities (the Safety Measures Report).³ The report contains numerous recommendations for needed regulatory reforms, and provides much of the underlying technical rationale for this rulemaking. That this report was developed so quickly – and that its technical conclusions have remained virtually unchallenged by industry – demonstrates that BOEMRE’s regulatory deficiencies were widely-known and could have and should have been addressed previously by its predecessor agency, the Minerals Management Service.

Our organizations generally support the regulatory changes contained in the interim final rule which were recommended in the Safety Measures Report. We particularly endorse the provisions of the rule requiring independent verification, mandatory testing of BOPs *in situ*, installation of dual mechanical barriers in addition to cement casing, negative pressure testing of cement casing, making key portions of industry standards mandatory rather than discretionary by ensuring that the words “shall” and “should” in industry standards mean “must,” and not exempting small businesses from any portion of the rule.

Concerns with the Interim Final Rule

Our primary concern with the interim final rule is that it does not include provisions covering operator qualification particularly with respect to interpreting well integrity pressure test results, and instead only contains training requirements. Training alone does not ensure that workers are qualified, especially if certain tasks are rarely performed. Each OCS operator should have an operator qualification program that includes, at a minimum: covered tasks; an evaluative procedure including reevaluation as appropriate; explicit reasons why individuals no longer would be qualified; and record-keeping requirements. In general, operator qualification through periodic testing and/or certification is essential for critical safety-related tasks. To view an example of operator qualification requirements, see 49 CFR 195 Subpart G which details U.S. Department of Transportation’s minimum regulatory requirements for operator qualification for personnel performing covered tasks on hazardous liquid pipeline facilities.

Also missing from the interim final rule is a requirement that OCS operators and their contractors report to BOEMRE any accidental event, or near-accidents, that could significantly impact well integrity or blowout prevention. This proposed reporting requirement should include but not be limited to any event where blowout preventer seal material may be compromised.⁴

Thank you very much for your consideration of these comments from the undersigned organizations. If you have any questions, please contact Lois Epstein, P.E. at 907 272-9453, x107 or lois_epstein@tws.org.

³ *Increased Safety Measures for Energy Development on the Outer Continental Shelf*, U.S. Department of the Interior, May 27, 2010 (see <http://www.doi.gov/deepwaterhorizon/loader.cfm?csModule=security/getfile&PageID=33598>). The primary author of these comments was one of the “experts” consulted by the Department of the Interior for the Safety Measures Report (see p. 33).

⁴ See *60 Minutes*, CBS, May 16, 2010, which discusses such an incident four weeks prior to the *Deepwater Horizon* tragedy (see <http://www.cbsnews.com/stories/2010/05/16/60minutes/main6490197.shtml>.)



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