

**Supplemental Information Regarding Approval Requirements
For Activities That Involve the Use of a Subsea Blowout Preventer (BOP)
Or a Surface BOP on a Floating Facility**

Purpose

This document provides operators with additional information that summarizes and clarifies regulations and guidance previously issued by the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE). This document also describes certain procedures being followed by BOEMRE's Gulf of Mexico OCS Region (GOMR) as they apply to Permits to Drill (APDs, RPDs, ASTs, RSTs, ABPs, RBPs), and supplements the information issued by BOEMRE on December 13, 2010.

Specifically, this document addresses (1) requirements under the Safety Interim Final Rule, including the circumstances under which operators must seek approval for departures from the Safety Measures Interim Final Rule's requirements, and (2) BOEMRE's process for evaluating whether an operator has submitted adequate information demonstrating that it has access to and can deploy surface and subsea containment resources adequate to respond to a blowout or other loss of well control.

This document is intended to provide additional information regarding the applicable requirements and procedures to obtain approval to conduct activities that propose using a drilling rig equipped with a subsea blowout preventer (BOP) system, a floating drilling rig equipped with a surface BOP system, or a drilling rig on a floating platform. The information contained in this document does not constitute new or additional regulatory requirements. Rather, this document is intended to provide lessees, operators and other relevant parties with information and clarity about the application and implementation of BOEMRE's existing regulations and guidance.

Background

On October 14, 2010, BOEMRE issued an interim final rule entitled "Increased Safety Measures for Energy Development on the Outer Continental Shelf" (75 FR 63346) (the Safety Measures Interim Final Rule). The Safety Measures Interim Final Rule implements certain safety measures recommended in the Department of the Interior's May 27, 2010, report to the President, "Increased Safety Measures for Energy Development on the Outer Continental Shelf." This rule amended drilling, well completion, well workover, and decommissioning regulations related to well control, including regulations governing: subsea and surface BOPs, well casing and cementing, secondary intervention, unplanned disconnects, well completion, and well plugging. Among other things, the Safety Measures Interim Final Rule incorporated by reference API RP 53, Recommended Practices for Blowout Prevention Equipment Systems for Drilling Wells and API RP 65-Part 2, Isolating Potential Flow Zones During Well Construction.

Effective November 8, 2010, BOEMRE issued NTL No. 2010-N10, Statement of

Compliance with Applicable Regulations and Evaluation of Information Demonstrating Adequate Spill Response and Well Containment Resources. This NTL directs operators conducting operations using subsea BOPs or surface BOPs on a floating facility to submit a statement, signed by an authorized company official, that the operator will conduct all activities authorized by a Permit to Drill in compliance with all applicable regulations, including the Safety Measures Interim Final Rule. This NTL also informed operators that BOEMRE will be evaluating whether they have submitted adequate information to demonstrate their ability to access and deploy containment resources that would be adequate to promptly respond to a blowout or other loss of well control, in accordance with BOEMRE's existing regulations.

1. Requirements under the Safety Measures Interim Final Rule

a. Scope of the Compliance Statement Under NTL No. 2010-N10

To increase the safety of activities that require approval of a Permit to Drill (including APDs, RPDs, ASTs, RSTs, ABPs, RBPs) operators must comply with the Safety Measures Interim Final Rule. NTL No. 2010-N10 provides as follows:

To ensure that an operator is knowledgeable of and will comply with all applicable regulations when using subsea BOP systems or surface BOPs on a floating facility, the operator must include with every application for a well permit a statement signed by an authorized company official stating that the operator will conduct all authorized activities in compliance with all applicable regulations, including the [Safety Measures Interim Final Rule].

BOEMRE has received questions from the offshore oil and gas industry regarding the scope of the compliance statement described in NTL No. 2010-N10, including, for example, whether the compliance statement encompasses compliance with BOEMRE's regulations unrelated to drilling, such as regulations relating to metering and pipelines. This document clarifies that the compliance statement described in NTL No. 2010-N10 relates only to compliance with BOEMRE's regulations related to activities authorized under a Permit to Drill, including the requirements of the Safety Measures Interim Final Rule.

b. Interpretation of Incorporated Documents

BOEMRE also has received questions from the offshore oil and gas industry concerning the interpretation of documents incorporated by reference into BOEMRE's regulations, as well as the circumstances under which companies and operators must seek approval of departures from BOEMRE's regulations, in light of the Safety Measures Interim Final Rule's provision that "[i]f any incorporated document uses the word *should*, it means *must* for purposes of these regulations." 30 C.F.R. 250.198(a)(3) (emphasis in original).

Although as an emergency rulemaking the Safety Measures Interim Final Rule was immediately effective, it was subject to public comment and BOEMRE currently is evaluating potential revisions to the Safety Measures Interim Final Rule in light of comments received from the public and other considerations. Pending any potential revisions to the Safety Measures Interim Final Rule, BOEMRE is interpreting and applying the incorporation provisions of the Safety Measures Interim Final Rule as follows.

1. As a general matter, the effect of incorporation by reference of a document into the regulations is that the practices and procedures in the incorporated document must be followed as if they were explicitly set out in the Code of Federal Regulations. Accordingly, when BOEMRE regulations incorporate an entire document, the operator is responsible for complying with the provisions of the entire document, except to the extent that the section that incorporates the document by reference specifically provides otherwise. When BOEMRE regulations incorporate part of a document, the operator is responsible for complying with those parts of the document specified in that section.

2. With regard to API RP 53 and API RP 65-Part 2, enumerated portions of which were incorporated by reference in the Safety Measures Interim Final Rule, the effect of incorporation is as stated above as well as:

- (a) Operators must submit a written description of how an operator evaluated the best practices included in API RP 65-Part 2, as provided in the Safety Interim Final Rule at § 250.415(f) and described in Appendix B of the December 13, 2010 document. An operator's written description must identify the mechanical barriers and cementing practices it will use for each casing string (API RP 65-Part 2, Sections 3 and 4). Section 250.198(a)(3) does not independently impose a requirement that the operator must satisfy each of the recommended practices in API RP 65-Part 2.
- (b) Operators must comply with the provisions of those sections of API RP 53 that are incorporated by reference in §§ 250.442, 250.446, 250.516(g) and (h), and 250.617(a) and (b), as provided in the Safety Measures Interim Final Rule. Operators must also document the procedures that they used and record the results of their BOP inspections and maintenance actions.

As a general matter, if an operator intends to deviate from a provision in a document incorporated by reference, it must apply for approval to use alternate procedures or equipment under 30 CFR 250.141 or for a departure from operating requirements under 30 CFR 250.142.

As a clarifying matter, the Safety Measures Interim Final Rule intended:

- When a document incorporated by reference provides options for different approaches that, depending on the circumstances, could be appropriate, an

operator will be in compliance if it selects any of the appropriate options. Accordingly, if an operator selects any of the appropriate options, it does not need to seek approval of a departure.

- Where a document incorporated by reference requires a particular practice or procedure (by, for example, stating in the incorporated document that the operator “must” or “shall” perform the practice or procedure), the operator must seek approval to deviate from that required practice.
- Where a document incorporated by reference recommends a particular practice or procedure (by, for example, stating that the operator “should” perform the practice or procedure), the specific regulation addressing the incorporated practice or procedure must be examined to determine if the recommended practice is nonetheless required (for example, specific regulations incorporating provisions of RP 53 state that operators “must meet or exceed” the recommended practices).
 - If the specific regulation makes mandatory the incorporated recommended practice or procedure, the operator must seek approval to deviate from that recommended practice or procedure.
 - If the specific regulation does not make mandatory the recommended practice or procedure and the operator needs to deviate from the recommended practice or procedure, the operator should maintain documentation demonstrating that it evaluated the recommended practice or procedure to reach an appropriate judgment as to whether the practice or procedure is appropriate for the operation to which the permit application applies.

To further ensure that all issues concerning implementation of the Safety Measures Interim Final Rule are addressed, BOEMRE intends in the near future to reopen the public comment period on the Rule. In addition, BOEMRE currently is considering whether to propose certain revisions to the Safety Measures Interim Final Rule. In particular, BOEMRE is considering proposing revisions that would address situations where a degree of flexibility exists for compliance with documents incorporated by reference and where the method of compliance is not reflected in a permit application or other document submitted to BOEMRE. In such situations, operators may be required to establish and maintain written documentation reflecting the specifics of compliance with the incorporated documents, describing the practices they have followed and explaining how such practices satisfy the objective of the incorporated provisions. In the meantime, operators are encouraged to develop and maintain documentation sufficient to demonstrate compliance with all of the standards that BOEMRE has incorporated by reference.

2. Process for Evaluating Subsea Containment Information

The December 13, 2010, document provided additional guidance on the types of information described in NTL No. 2010-N10 that BOEMRE will evaluate to determine whether an operator has access to and can deploy surface and subsea containment resources that would be adequate to promptly respond to a blowout or other loss of well

control, as required by BOEMRE's regulations.

This document supplements NTL No. 2010-N10 and the December 13, 2010, document by explaining that BOEMRE is conducting the evaluation described in those documents on a well-by-well basis with respect to each Permit to Drill for which subsea containment information is required. To facilitate this evaluation, BOEMRE, the Marine Well Containment Company (MWCC), the Helix Well Containment Group (HWCG), and certain companies have collaborated in the development of the Well Containment Screening Tool (WCST). The WCST is a software application tool that assists BOEMRE in evaluating whether a particular well could be shut in using a capping stack while maintaining wellbore integrity. The WCST facilitates well integrity calculations based on various factors including well design, geological characteristics, reservoir pressures and well bore fluid gradients.

Based on this well-by-well analysis, including use of the WCST, BOEMRE will determine which of the following categories the proposed well falls within:

- (1) Well can be shut in with full well bore integrity. This means a determination that an attempt to shut-in the well using a capping stack likely will not result in a rupture to the well casing or break down in the casing shoe causing an underground flow. If the well bore passes this evaluation, then containment can be approved without the need for an assessment of flowback and capture capacity, assuming the other information provided by the operator pursuant to NTL No. 2010-N10 is otherwise sufficient.
- (2) Well integrity might not be maintained, but no broach to the seafloor. If well bore integrity cannot be demonstrated and it is determined that a casing shoe likely would break down causing underground flow, BOEMRE evaluates whether the underground flow likely would eventually broach to the seafloor. This assessment includes an evaluation by BOEMRE resource evaluation personnel of seismic data to determine whether there is local faulting capable of transmitting flow to the seafloor. If this seismic data indicates that the underground flow will not broach to the seafloor, then containment can be approved without the need for an assessment of flowback and capture capacity, assuming the information provided by the operator is otherwise sufficient.
- (3) Well integrity might not be maintained and there likely will be a broach to the seafloor. If full well bore integrity cannot be demonstrated and it is determined that a shut-in likely will result in an underground flow that broaches to the seafloor, then containment can only be approved if an operator can adequately demonstrate capping, flowback, and collection capability in addition to the other information required to demonstrate that an operator has access to and can deploy surface and subsea containment resources that would be adequate to promptly respond to a blowout or other loss of well control. If a calculated discharge rate for a particular well is greater than the operator's available surface collection capability, then the Permit to Drill cannot be approved. The calculated

discharge rate for a particular well will be based on the “cap and flow” engineering solution developed for that well and, therefore, might not necessarily match the potential worst case discharge amount for the well.