



Internal review and deliberation only

United States Department of the Interior

BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT
WASHINGTON, DC 20240-0001

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Memorandum

To: Acting Deputy Secretary

Through: Katharine S. MacGregor *Katharine S. MacGregor*
Acting Assistant Secretary, Land and Minerals Management

From: Margaret N. Schneider *Margaret N. Schneider*
Acting Director

Subject: BSEE Response to Secretary's Order 3349

In accordance with Section 5 c (v) of Secretary's Order 3349, signed on March 29, 2017, the President's Executive Order on Promoting Energy Independence and Economic Growth signed on March 28, 2017, as well as OMB guidance on Regulatory Review, BSEE is reviewing its final rules and upcoming planned rulemaking in order to identify potential opportunities to revise the rules in ways that would significantly reduce regulatory burdens without significantly reducing the safety and protection of the environment. To this end, BSEE has compiled a summary of the potential rules and issues that are currently under consideration. Further review of potential burden reductions and safety and environmental impacts is necessary before BSEE can complete its review and make specific recommendations for revisions that, in most cases, will require new rulemaking activity.

1. Well Control and Blowout Preventer (BOP) Rule

In April 2016, BSEE issued a final rule that consolidated existing equipment and operational requirements for well control, including drilling, completion, workover and decommissioning operations. The rule also incorporated or updated references to numerous industry standards and established new requirements reflecting advances in areas such as well design and control, casing and cementing, real-time monitoring (RTM), and subsea containment of leaks and discharges. In addition, the final rule adopted several reforms recommended by several bodies that investigated the *Deepwater Horizon* incident.

- a. **Controversial issues:** This was a controversial rulemaking and BSEE received over 175 sets of detailed comments on the proposed rule from industry, NGOs, and private citizens. BSEE also solicited input from industry, academics, NGOs and others through meetings and conferences in the years between the *Deepwater Horizon* and the proposed rule. Among the most controversial issues regarding the proposed rule were:
 - Whether to require a 0.5 ppg Safe Drilling Margin for well design, to be submitted with the Application for Permit to Drill (APD);

- The parameters of a volume capacity requirement for all surface accumulator systems;
 - Whether the inspection of BOP systems every 5 years means a complete breakdown and inspection of the entire BOP system and every associated component all at once;
 - Whether to adopt prescriptive requirements for RTM operations (e.g., continuous communications between onshore and offshore personnel, notifications to BSEE of disruptions); and
 - Whether to increase BOP testing intervals from 14 days to 21 days, which some estimated might reduce costs by up to \$400 million dollars per year (although industry comments in support of such a change failed to provide specific data to justify such cost reduction estimates).
- b. **Regulatory Review:** Although BSEE resolved most industry and commenter concerns, there are a number of areas where additional review and refinement may be in order. Accordingly, BSEE may consider potential regulatory reforms, including:

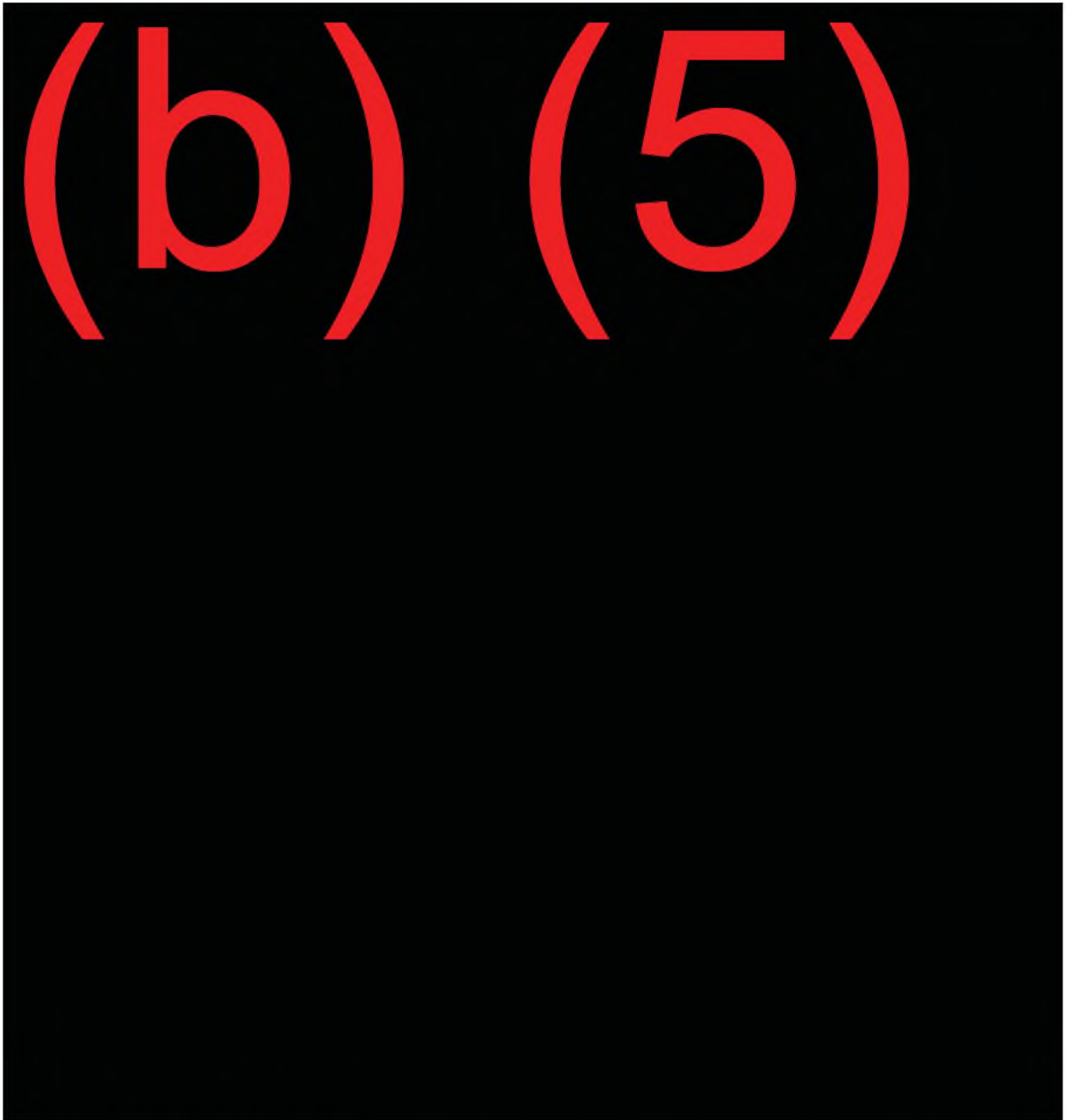
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- Revising the requirement for sufficient accumulator capacity and ROV capability to both open and close rams on subsea BOPs (to require only the close functions of the rams);
 - Removing the open function requirements would provide more flexibility with the accumulator system design and sizing (not as many accumulator bottles), and align more closely with API standard 53. Removing the open function would also reduce the number of required modifications to the subsea BOP control system ROV capabilities.
- Revising the requirement to shut-in platforms when a lift boat approaches within 500 feet (possibly depending on the size and relative risk of the lift boat);
 - Revising the shut-in requirements to identify higher risk activities surrounding the wells would limit the number of times a well may have to be shut-in and production stopped or delayed.
- Extending the 14-day interval between pressure testing of BOP systems to 21 days in some situations;

○ (b) (5)

- Clarifying the requirement for weekly testing of two BOP control stations means testing one (not both) station per week;
 - Revising the weekly testing to only one station provides flexibility for operators to coordinate testing, save time, and improve rig efficiency.
- Simplifying testing pressures for verification of ram closure;
 - Simplifying the BOP testing for certain situations would help improve overall rig efficiency, reduce component wear, and reduce testing time.
- Revising or deleting the requirement to submit test results to BSEE District Managers within 72 hours.
 - Revising the submittal of the testing results, if BSEE cannot witness the testing, would reduce the additional time for industry personnel to gather, format and then submit the data to BSEE. Furthermore, BSEE can review the test results on the rig during normal BSEE inspections.

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3. Arctic Exploratory Drilling Rule

In July 2016, BSEE and BOEM issued a joint rule that revised existing regulations and added new prescriptive and performance-based requirements for exploratory drilling and related operations on the Outer Continental Shelf (OCS) within the Beaufort Sea and Chukchi Sea Planning Areas (Arctic OCS). The Arctic region is characterized by extreme environmental conditions, geographic remoteness, and a relative lack of fixed infrastructure and existing operations. The final rule is intended to ensure safe, effective, and responsible exploration of Arctic OCS oil and gas resources, while protecting the marine, coastal, and human environments, and Alaska Natives' traditions and access to subsistence resources.


- a. **Controversial Issues:** Over 100,000 written comments were submitted by a wide range of stakeholders, including the oil and gas industry, State and local governments, various

Native Alaskan organizations, environmental and other NGOs, and many individuals who supported or opposed the proposed rule. In addition, BSEE and BOEM met and consulted with Native Alaska Tribal entities before and during the proposed rule stage. The most controversial issues included proposed requirements related to:

- The availability of a relief rig that could reach and kill an out-of-control well within 45 days of loss of well control and before the expected return of seasonal sea ice at the drill site;
- In areas of ice scour, use of a mudline cellar (i.e., a man-made hole in the seabed where the subsea BOP is placed to protect it from ice scouring the seabed) “or an equivalent” means of minimizing damage to the BOP from ice scour after the rig disconnects from the well and leaves the area;
- Access to a dedicated capping stack that is close enough to arrive at the well site within 24 hours, and to a cap and flow system and a containment dome that are close enough to arrive within 7 days, after loss of well control; and
- Discretionary authority for BSEE to impose limitations, under certain conditions, on discharge of drilling fluids and muds into the marine environment and to require capture (rather than discharge) of water-based muds and cuttings after completion of the conductor casing hole.

In addition, many commenters were critical of BOEM’s proposed requirement to submit an Integrated Operating Plan (IOP). Also, many individuals and NGOs urged BSEE-BOEM to prohibit all drilling in the Arctic, although that was never part of the proposal.

- b. **Regulatory Review:** Although BSEE and BOEM considered and responded to the comments on the proposed rule, and made numerous changes in the final rule to resolve or minimize many of the commenters’ concerns, BSEE may consider potential options for regulatory reform, including the possibility of:

- Revising BSEE’s discretionary authority to require capture of water-based muds and cuttings;
 - 
- Revising the requirement that cap & flow and containment dome equipment can arrive on the well site within 7 days of loss of well control;
 - Eliminating the 7-day time limit for arrival of this equipment would reduce the burden on operators by providing more flexibility regarding where to stage the equipment and how to arrange for its availability when needed.
- Revising the requirement that a relief rig be available to drill a relief well and kill the out-of-control well within 45 days and before return of seasonal sea ice to the drill site;

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- Revising the requirement for mudline cellars “or the equivalent”.

- (b) (5)

Any regulatory changes for Arctic operations will require consultation with Alaska Native tribes and corporations from the initial development of the proposed rule through publication of the final rule.

4. Other Potential Areas for Reform

In addition to the items identified in detail above, BSEE may explore several other topics areas that may lend themselves to revised regulations or policies, including:

- Review decommissioning infrastructure removal requirements and timelines for deepwater infrastructure;
- Review section 250.180 – time between drilling operations to hold a lease – as it relates to deepwater operations;
- Clarify Civil Penalties Guidance; and
- Review current policies associated with taking enforcement actions against contractors.

5. Implementation

(b) (5)