

Congress of the United States

Washington, DC 20515

April 1, 2016

Mr. Howard Shelanski
Administrator, Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Administrator Shelanski:

As you conclude final meetings related to the Bureau of Safety and Environmental Enforcement's (BSEE) well-control rule, I write to call your attention to technical provisions of the rule that I believe will have unintended consequences that will severely limit both existing and future safe energy development on our nation's outer Continental Shelf.

Energy production in the Gulf of Mexico produces 16% of our nation's oil and 5% of our natural gas – and is a key driver for economic opportunity not only in the Gulf States but throughout our nation. From manufacturing, to refining, to the American families who are now seeing lower prices at the gas pump, all benefit from the increased energy production on our lands and waters.

There is no doubt that we all want a regulatory system that ensures the utmost commitment to the safety of human life and the protection of our waters and shorelines. Both industry and BSEE have made marked safety improvements in the many years since the Deepwater Horizon incident. An effective and transparent regulatory system will also incorporate feedback from our nation's deepwater engineering experts, allow for growth in innovative technological practices, and provide clear, evidentiary support to show the measurable impacts regulatory changes will have to further enhance a safe operating environment.

On October 27, 2015, a listening session was convened by the House Natural Resources Committee with over 40 technological experts – each of whom had years of experience in deepwater energy development in the Gulf. Their work and that of their colleagues is what has enabled our country to make such great strides in the field of energy development. What we learned from this workshop is that the geological characteristics of each well are different and when each team of drilling engineers develops a drilling plan, safety is paramount. What also became very clear is that BSEE would have benefitted greatly from collaboration with these experts as the rule included many technical flaws and ambiguous language that in some cases could impede safety rather than enhance it.

Current BSEE regulations require companies to submit a description of well drilling design criteria (30 CFR 250.413) as well as a drilling prognosis that includes planned safe drilling margins (30 CFR 250.414) in order for approval. Under the current regulations, BSEE has regulated drilling margins safely – permitting 63% of the wells drilled since the Deepwater Horizon incident to use a margin below .5 pounds per gallon (ppg)^[1] – without significant well control incidents or loss of containment. Setting an arbitrary margin of .5ppg that lacks any statistical evidence for its existence demonstrates adherence to an outmoded engineering practice. Without a clear regulatory process that provides certainty for obtaining a permit to drill, especially if a drilling plan will likely require sub .5ppg margins, companies will be unable to move forward on approving multi-billion dollar investments to develop our nation's offshore energy resources.

^[1] <http://www.regulations.gov/#!documentDetail;D=BSEE-2015-0002-0154>; p. 4.

A report issued this February by the U.S. Government Accountability Office (GAO) reviewed BSEE's incident investigative abilities, and found that: "...BSEE does not have reasonable assurance that it can identify trends in safety and environmental hazards that could inform bureau decisions and enhanced safety and environmental oversight." This is extremely concerning, given that BSEE provides no statistical evidence or trend analytics to support that setting an arbitrary drilling margin in the CFR will enhance safety. Even the Joint Investigation Team Report published in 2011 by the U.S. Coast Guard and the Bureau of Ocean Energy Management, Regulation and Enforcement specifically notes that: "...There may be instances where a safe drilling margin can be maintained outside of the 'kick' [.5ppg] or 'swab' [.2ppg] margins."^[2] If BSEE had analyzed data since 2010, they might find that what today constitutes a "safe drilling margin" in the deepwater Gulf of Mexico should be updated based upon current technological capabilities. The drilling margins provision of the rule is just one case study of several provisions in this rule that challenge the feasibility of future well designs and deviate from industry-proven safe operating standards without providing any proven measurable impact on safety.

Allowing for OCS development and promoting a safe operating environment are not mutually exclusive and it is vitally important to continue improvements and updates to existing safety regulations. However, these rules must be done well and done right. It is our hope that your review of this rule will be thoroughly vetted and we request that you make the necessary revisions to address these substantial concerns and work with BSEE to publish a supplemental notice of proposed rulemaking to allow for public comment of not less than 180 days to ensure regulatory transparency and due deference to the ultimate goal of offshore safety.

Sincerely,



Rob Bishop
Chairman
Committee on Natural Resources



Ken Calvert
Chairman
Subcommittee on Interior, Environment,
and Related Agencies
Committee on Appropriations

Cc: The Honorable Raul Grijalva, Ranking Member, Committee on Natural Resources

^[2] <http://www.bsee.gov/BSEE-Newsroom/Publications-Library/Joint-Investigation-Team-Report/>; p. 27.