



## Proposed Safety Rule Could Impact Offshore Oil and Gas Operators

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*R. Scott Nuzum and Jonathan Simon*

On April 17, 2015, the Bureau of Safety and Environmental Enforcement (BSEE) published in the *Federal Register* a proposed rule governing blowout preventer systems (BOPs) and well control. See “Oil and Gas and Sulphur Operations in the Outer Continental Shelf-Blowout Preventer Systems and Well Control,” 80 Fed. Reg. 21503 (Apr. 17, 2015) (proposed rule). This alert provides a brief overview of the proposed rule, highlighting provisions that may be of interest to operators engaged in oil and gas operations on the Outer Continental Shelf (OCS). Comments on the proposed rule are due by June 16, 2015.

### Overview of the Proposed Rule

With the proposed rule, BSEE seeks to codify industry best practices and lessons learned from the *Deepwater Horizon* incident in an effort “to better protect human lives and the environment from oil spills.” The proposed rule includes provisions related to BOPs and more general provisions related to well control.

With respect to BOP systems, the proposed rule incorporates revised industry standards establishing minimum requirements for the design, manufacture, repair, and maintenance of BOPs. BSEE would mandate annual independent third-party review of BOP repair and maintenance records, require the traceability of critical system components, and order that BOPs adhere to specific performance requirements. BSEE also would require operators to utilize BOPs with double shear rams, consistent with the baseline industry standard outlined in API Standard 53. Shearing capabilities would be subject to third-party certification requirements. In addition, BSEE would require that operators function test blind shear ram BOPs every 14 days.

On the issue of well control, the proposed rule would incorporate multiple recommendations from the myriad investigative reports commissioned following the *Deepwater Horizon* incident. This includes requiring real-time monitoring for deepwater and high-temperature/high-pressure drilling activities and the testing of subsea well containment equipment.

### Implications

The proposed rule is considered a “significant regulatory action” under section 3(f)(1) of Executive Order 12866. This means that the proposed rule may “[h]ave an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, [or] a sector of the economy[.]” Accordingly, BSEE conducted a Regulatory Impact Analysis (RIA) to project the costs associated with rule implementation.

BSEE’s RIA estimates that the initial cost of rule implementation would total near \$165 million in 2015, and between \$77 million and \$99 million in the years 2016 through 2024. BSEE also projects that the proposed rule would have a “significant impact on a substantial number of small entities” and would impose a federal mandate “that may result in the expenditure by the private sector of \$100 million or more[.]”

BSEE notes that these costs may decrease over time as the costs of purchasing and implementing safety technologies fall due to more widespread adoption of these technologies. BSEE also asserts that the proposed rule is “cost beneficial,” meaning that the benefits of the rule outweigh the potential costs. BSEE’s assessment is based on findings that the proposed rule would yield benefits in terms of reductions in oil spills and fatalities, and savings associated with streamlined BOP function testing criteria and increased intervals between BOP tests. BSEE also claims that the proposed rule would

benefit society through the reduced risk of environmental harm associated with an oil spill. The RIA did not quantify this potential value.

Ultimately, operators and others in the regulated community should carefully read the proposed rule to fully understand the potential implications that it could have on OCS drilling operations.

### **For more information**

Comments on the proposed rule are due by June 16, 2015. Van Ness Feldman LLP is available to assist clients in analyzing or commenting on the proposed rule. If you have any questions on the proposed rule or any of BSEE's regulatory activities, please contact [Jonathan Simon](#), [Kyle Danish](#), [Andrew VanderJack](#), or [R. Scott Nuzum](#) at 202-298-1800.

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