

Bureau of Ocean Energy Management, Regulation and Enforcement

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BOEMRE Director Delivers Final Speech Before Agency Reorganization

WASHINGTON – Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) Director Michael R. Bromwich delivered remarks today at the Center for Strategic and International Studies (CSIS) Energy and National Security Program.

Director Bromwich detailed the reorganization of the former Minerals Management Service (MMS) and the creation of the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE) on October 1, 2011. Director Bromwich discussed the tremendous work of the bureau to reform the federal offshore energy regulatory structure while at the same time continuing to fulfill its responsibility to oversee the safe and environmentally responsible development of the nation's offshore energy resources.

Director Bromwich's remarks, as prepared for delivery, are below:

Good morning. Thank you for the opportunity to speak to you today about our efforts over the past fifteen months to design and implement our comprehensive overhaul of the former MMS.

This is my third appearance at Center for Strategic & International Studies since President Obama and Secretary Salazar asked me to lead the BOEMRE in June 2010. When I was here the first time in January 2011, we discussed the Presidential Commission's report on the *Deepwater Horizon* explosion and oil spill, which had just been released, and focused on the important new safety requirements BOEMRE had developed and was implementing. I also outlined in broad terms how we planned to separate and clarify the agency's multiple missions of energy development, revenue management, and safety and environmental enforcement.

When I was here in April, I addressed the not-so narrow topic of the future of offshore oil and gas development, but I also outlined what we were planning for the two new agencies that were going to result from the reorganization – the BOEM and the BSEE. I also discussed the regulatory reforms that we continued to implement, and our full engagement with the international regulatory community.

Today, I am pleased to report to you that we have accomplished what we set out to do. Seventeen days from now, BOEMRE will cease to exist, and in its place, BOEM and BSEE will open their doors. Together, they embody our collective efforts to institutionalize a set of structural and substantive reforms that will do several important things. They will greatly enhance our nation's ability to responsibly develop our offshore energy resources and reduce our dependence on foreign sources, they will improve the safety of operations, and they will provide greater environmental protection. We have done all of this at the same time as we have continued to move forward with our day-to-day operations. We have undertaken more rigorous environmental reviews; we have continued to approve plans and permits that comply with our new safety and environmental requirements; and we are preparing right now for an important, upcoming oil and gas lease sale. And this does not even touch on the hard work we have done in promoting offshore renewable energy development, which is an important story we will leave largely for another day.

When the Government Accountability Office placed the Department of the Interior on the 2011 High Risk List with respect to oil and gas oversight, it stated that the bureau must, "...meet its routine responsibilities to manage these resources in the public interest, while managing a major reorganization that has the potential to distract agency management from other important tasks and put additional strain on Interior staff. It must also do this in a constrained resource environment..."

Well, despite the concern of GAO and many others, we have met this enormous challenge.

I am extremely proud of what we have accomplished. I have been impressed each day by the dedication demonstrated by BOEMRE employees. I am confident we have selected the personnel and created the organizational structure that will enable the nation to move forward with responsible domestic energy exploration, development and production.

I. Regulatory Reform

The *Deepwater Horizon* explosion and oil spill highlighted a number of problems and weaknesses in the way that MMS had historically carried out its business. Those weaknesses included the adequacy of the agency's regulations, especially as they related to offshore safety and environmental protection. But they also included the excessively broad focus of the agency that was charged with multiple important and complex missions – and the enormous shortfall in resources that had historically been made available to that agency.

In the immediate aftermath of the spill, we found that existing regulations had not kept up with the advancements in technology used in deepwater drilling. In response, we quickly issued new, rigorous regulations that bolstered offshore drilling safety, and we also ratcheted up our efforts to evaluate and mitigate environmental risks. We introduced – for the first time – performance-based standards similar to those used by regulators in the North Sea, to make operators responsible for identifying and minimizing the risks associated with drilling operations. We did this through the development and implementation of two new rules that raised standards for the oil and gas industry's operations on the Outer Continental Shelf (OCS).

Even before the various reports in the *Deepwater Horizon* tragedy were completed, we knew that we needed to address drilling safety issues. We did this last October through our emergency Drilling Safety rule, which created tough new standards for well design, casing and cementing – and well control procedures and equipment, including blowout preventers. This rule requires operators to have a professional engineer certify the adequacy of the proposed drilling program. In addition, the new Drilling Safety rule requires an engineer to certify that the blowout preventer to be used in a drilling operation meets new standards for testing, maintenance and performance.

The second rule was our Workplace Safety rule. That rule requires operators to systematically identify risks and establish barriers to those risks. It seeks to reduce the human and organizational errors that cause many accidents and oil spills. Under the rule (also known as the SEMS rule), operators must develop a comprehensive safety and environmental management program that identifies the potential hazards and risk-reduction strategies for all phases of activity, from well design and construction through the decommissioning of platforms. Many companies had developed such SEMS systems on a voluntary basis in the past, but many had not. Because the rule required substantial work by many operators, we delayed enforcement of the rule for a year. Starting in November, we

will begin to enforce compliance. Based on my discussions with our own personnel who have been gearing up to ensure compliance with the SEMS rules, and my meetings with individual operators, I am confident that the vast majority of operators will be ready with their SEMS programs by that date.

Today, we proposed a follow-up rule that further advances the purposes of the SEMS rule. It addresses additional safety concerns not covered by the original rule and applies to all oil and natural gas activities and facilities on the OCS. We first announced that this rule would be forthcoming at the time we announced the original SEMS rule, so it comes as no surprise to anyone. The proposed SEMS II rule includes procedures that authorize any employee on a facility to cause the stoppage of work – frequently called Stop Work Authority – in the face of an activity or event that poses a threat to an individual, to property or to the environment. The proposed rule also establishes requirements relating to the clear delineation of who possesses ultimate authority on each facility for operational safety; establishes guidelines for reporting unsafe work conditions that give all employees the right to report a possible safety or environmental violation and to request a BOEMRE investigation of the facility; and requires third-party, independent audits of operators SEMS programs. We believe these are reasonable, appropriate, and logical extensions of our original SEMS rule. We look forward to the comments and suggestions of operators and other interested stakeholders as this proposed rule moves through the rulemaking process.

As you all know, we are in the final stages of completing our own investigation into the *Deepwater Horizon* tragedy. That report is the result of a collaborative effort between BOEMRE and the Coast Guard. Following the issuance of that report, which is imminent, we expect to make available for public comment additional proposals that will further enhance drilling safety and environmental protection. In order to ensure that we incorporate the very best ideas and best practices of the offshore industry and other interested stakeholders in offshore exploration, development and production, we will proceed through a notice and comment rulemaking process that will begin with an Advance Notice of Proposed Rulemaking. It is our hope and expectation that at the end of this process, we will develop consensus proposals that will significantly enhance safety and environmental protection. Again, this is not a new announcement. We have been discussing our intention to further enhance offshore safety regulation for the past year. We have waited this long because we thought it was important to wait until we were in a position to benefit from the insights and lessons learned from the joint investigation.

On previous occasions, I have mentioned other steps that we have taken to enhance offshore safety and environmental protections. These include elaborating on requirements that oil spill response plans include a well-specific blowout and worst-case discharge scenario, and that operators demonstrate that they have access to, and can deploy, subsea containment resources that would be sufficient to promptly respond to a deepwater blowout or other loss of well control.

These enhanced requirements are substantial and necessary – and many of them were long overdue. They have made the important enterprise of offshore exploration, development and production safer and more environmentally responsible than ever before. And the new regulations we are proposing and will propose are limited and common-sense elaborations of the rules we have already put in place. We believe they will have the support of the operator community, which shares our interest in promoting safe and responsible operations.

In addition, we have developed an entirely new mechanism that will assist us in making sure that our efforts to enhance safety will not languish in the future. In January, Secretary Salazar established the Ocean Energy Safety Advisory Committee to advise us on a broad range of issues related to offshore energy safety. I have met with the committee, led by former Sandia Labs Director Tom Hunter, on two occasions and am very pleased and impressed with their commitment to helping us address these challenges. The Advisory Committee will assist BSEE, and we expect to receive the first set of recommendations from its subcommittees by the end of this year.

II. Restructuring the Way We Do Business

One of the fundamental weaknesses highlighted by the *Deepwater Horizon* tragedy was the fact that the agency charged with enforcing federal regulations had three competing missions – revenue generation, responsible energy development, and safety and environmental enforcement. Through no fault of the agency's employees, the agency lacked the necessary resources, the leadership and vision to effectively fulfill all of its responsibilities. For decades and across Administrations, the prevailing focus was on revenue generation and energy development. The inspector workforce fell further and further behind as it tried to keep pace with the rapid growth in the number of facilities they were responsible for overseeing. In addition, industry's advances in technology significantly outpaced the agency and its development of regulations. It became clear that the agency had simply been asked to do too much with too little, and that there was inherent tension among the multiple missions it had been asked to fulfill.

The President's Commission found that the top priority of all of the prior MMS directors it interviewed was the generation of maximum revenues for the federal treasury through royalty and rental collections. It was inevitable that setting this as the top priority would have an effect on the ability to arrive at responsible and balanced decisions concerning the development of our offshore resources. It was also inevitable that the priority assigned to revenue collection would have an even greater adverse impact on the agency's ability to ensure that the appropriate rules were in place, and to aggressively enforce the rules that were in place. Therefore, it became apparent that those three missions had to be separated and made independent of each other to ensure that all three missions had appropriate focus and adequate resources.

On May 19, 2010, a month before I arrived, Secretary Salazar signed a Secretarial Order announcing his intention to separate the former MMS into three separate organizations with the goal of separating these functions and enhancing the ability of our personnel to accomplish these important but quite different missions. My job, then, was to lead this reorganization and make real the creation of three new entities, each with specific and independent missions, and each with the authority and resources necessary to effectively carry them out.

Last summer, we began a thorough review of all of our programs and processes. We took a very close look at the organizational structure and culture of the former MMS. We took prompt action to address conflicts of interest, real and perceived, by implementing a strict recusal policy and setting up an internal Investigation and Review Unit. We reinvigorated ethics training and made that training specific to the situations our employees encounter in their day-to-day jobs, and issued updated and more stringent guidance on the acceptance of gifts.

We also addressed the lack of resources that had plagued the agency for decades. The President submitted a substantial supplemental budget request in the summer of 2010, which was partially funded, and that enabled us to begin hiring additional staff. We launched an aggressive nationwide recruitment campaign, and I personally visited college campuses across the country to talk about the rewarding and challenging careers awaiting engineers and scientists in BOEMRE. We have since hired 122 new employees across various disciplines and specialties, but we need many more.

The creation of BOEM and BSEE, initially announced more than a year ago, separates resource management from safety and environmental oversight. This allows our permitting engineers and inspectors, who are central to overseeing safe offshore operations, greater independence, more budgetary autonomy, and clearer focus. Our goal has been to create a tough-minded, but fair regulator that can effectively keep pace with the risks of offshore drilling and will promote the development of safety cultures in offshore operations.

In BOEM, we have created a structure that ensures that sound environmental reviews are conducted and that the potential environmental effects of proposed operations are given appropriate weight during decision-making related to resource management. This is to ensure that leasing and plan approval activities are properly balanced. These processes must be rigorous and efficient so that operations can go forward in a timely way based on a thorough understanding of their potential environmental impacts and the confidence that appropriate mitigation against those potential environmental effects are in place.

We have renewed and reaffirmed our commitment to develop thorough, credible and unfiltered scientific data to serve as the basis for our resource development decisions. To that end, we have established the position of a Chief Environmental Officer in BOEM. This person will be empowered, at the national level, to make decisions and final recommendations when leasing and environmental program directors cannot reach agreement. This individual will also be a major participant in setting the scientific agenda for the nation's oceans. I have selected this first-ever Chief Environmental Officer and hope to be able to announce it in the very near future.

BOEMRE and its predecessor agencies have long maintained a robust scientific studies program. However, in the past, there was little effort to disseminate and promote the important work that was being performed. Further, there was insufficient attention paid to the program by senior leadership – again because of the emphasis given to revenue generation. We are refocusing our efforts to showcase the world-class research being conducted and directed by our scientists, and we are taking institutional steps to ensure that their research is given appropriate weight in the decision-making process.

To ensure adequate environmental reviews, we have launched a review of our historical policies on the use of Categorical Exclusions, as suggested by the Council on Environmental Quality. During the pendency of that review, we have been conducting site-specific environmental reviews for Exploration Plans submitted by operators. And even though we are doing more rigorous and more extensive environmental reviews, so far we have managed to make decisions on those plans within the 30-day timeframe set by Congress.

In shaping BSEE, we took a broad look at the best practices of domestic and international regulators to create strong enforcement mechanisms across the bureau. We have established for the first time an Environmental Enforcement Division. This Division will provide sustained regulatory oversight that is focused on compliance by operators with all applicable environmental regulations, as well as making sure that operators keep the promises they have made at the time they obtain their leases, submit their plans, and apply for their permits. Our new Chief of this Division, recruited from outside the agency, started work yesterday.

In BSEE, we have already established multi-person inspection teams that are being equipped with better and more advanced tools than ever more to do their jobs. Our new inspections process and protocols will allow teams to inspect multiple operations simultaneously and will enhance the quality of our inspections, especially of larger facilities.

We have established a National Training Center in BSEE whose initial focus will be on keeping our experienced inspectors current on new technologies and processes, and ensuring that our new inspectors are given the proper foundation for carrying out their duties rigorously and effectively. We have already run two sets of our newest inspectors through the initial inspector training curriculum. I have selected the first Director of our National Training Center from outside the agency and he too came on board yesterday.

As I have discussed on several occasions over the past several months, we will be extending our regulatory reach to include contractors as well as operators. We have not done so in the past, but we clearly have the legal authority to exercise such regulatory authority. And there is no compelling reason in law or logic not to do so. In my judgment, it is simply inappropriate to voluntarily limit our authority to operators if in fact we have authority that reaches more broadly to the activities of all entities involved in developing offshore leases. I am convinced that we can fully preserve the principle of holding operators fully responsible, and in most cases, solely responsible, without sacrificing the ability to pursue regulatory actions against contractors for serious violations. We will be careful and measured in applying our regulatory authority to contractors.

As we considered changes in how we do business, we worked to strengthen our collaboration with our international counterparts. Offshore regulators and senior policy officials have much to learn from regulators in other countries to improve safety and environmental protection. In this spirit, last April, the Department of the Interior hosted ministers and senior energy officials from twelve countries and the European Union for the Ministerial Forum on Offshore Drilling Containment. This historic meeting led to fruitful dialogue about best practices and how to develop cutting-edge, effective safety and containment technologies, and we are currently working with these other nations to make this forum permanent. We are also continuing to work through existing channels for international cooperation and the sharing of best practices across regulatory regimes such as the International Regulators Forum, an organization BOEMRE helped to found in 1994 and in which BSEE will continue to play an active role.

Throughout this process, we have been open and transparent with our intentions and our plans for regulatory reform and the reorganization of the former MMS. Our goal has been to do everything possible not to disturb the day-to-day operations of the bureau. We have worked very hard to ensure those in industry and all interested parties are aware of the changes being considered and made, that they have a voice in the discussion, and that the reforms we have implemented make sense and are appropriate to the goals we wish to achieve.

III. Our Work Goes On

In the midst of all this activity, we have continued to move forward with the full range of our important day to day activities – conducting environmental studies, performing environmental analyses, reviewing and approving plans, reviewing and approving permits, and conducting inspections. This has taken dedication and commitment, and our personnel have shown this to a truly impressive degree.

More specifically, we are reviewing and approving exploration and development plans and applications for permits to drill. We are conducting environmental reviews and making preparations for a Western Gulf of Mexico lease sale this December, and for a consolidated Central Gulf sale late next spring. We continue to review proposals to drill in the Arctic next summer. And we are aggressively working toward offshore wind energy development in the Atlantic and working with states on the Pacific Coast toward their renewable energy goals. The amount of work being accomplished every day by this relatively small bureau is quite remarkable.

We have made special efforts to ensure that offshore operators understand the new standards and that they have the tools and information needed to fully comply with those requirements. Our staff and I have participated in scores of meetings with individual operators, groups of operators, and trade associations to explain the requirements, answer questions, and address concerns. And, as we approach October 1, we are focusing substantial energy on making sure that those in industry, the conservation community, and our sister federal agencies understand the coming changes so there will be no interruptions in our operations.

Not everyone, however, is willing to see the facts as they are, nor to appreciate the level of effort of our personnel, nor to recognize that additional requirements designed to enhance the safety of offshore operations and protection of offshore operations mean that plan and permit approvals do not proceed at the same pace as they did in the past. I continue to be disappointed to see politically-motivated, erroneous reports and commentaries, sponsored by various industry associations and groups, criticizing the bureau for allegedly “slow-walking” permits and plans. That is a phrase we see repeated over and over again, and it is simply not true.

One trade association representative recently said, “While the industry has met every requirement for resuming operations in the Gulf, permits and leases have been issued too slowly, which is costing jobs, hurting the Gulf Coast, the national economy and reducing energy security.” Another described the rate of

permitting in this way: “It’s like leasing an apartment from the government for 20 million dollars and the government refuses to give you the key.” These groups continue to distort the facts and in some cases, use undisclosed or incomprehensible methodologies to suggest that the slower pace of plan and permit approval is part of a strategy to slow down offshore energy instead of the predictable product of more searching and rigorous reviews and analyses conducted by a small staff.

Last week, in a publicly-released letter to President Obama, twenty representatives from various industry associations again used incorrect and misleading statistics to make a case for returning permitting levels to a pace commensurate with the industry’s ability to invest. In the letter, the groups stated, “...some in your administration dispute the actual rate of permitting in the Gulf of Mexico...we would prefer less dispute on numbers and more action on permits.”

I fully understand why these groups are becoming increasingly uncomfortable about discussing our plan approval and permit approval numbers – it is because we have demonstrated that they are using flawed and frequently unstated methodologies – and numbers that are created out of thin air.

As of the close of business yesterday, September 12, the real statistics are as follows:

- **In shallow water:** To date, we have issued 74 new shallow water well permits since the implementation of new safety and environmental standards on June 8, 2010. Just 13 of these permits are currently pending; 10 have been returned to the operator for more information.

- **In deepwater:** Since an applicant first successfully demonstrated containment capabilities in mid-February, we have approved 129 permits for 40 unique wells **requiring subsea containment**, with 12 permits pending, and 23 permits returned to the operator with requests for additional information, particularly information regarding containment.

- **Also in deepwater:** We have approved 45 permits, with 1 permit pending, and 1 permit returned to the operator with requests for additional information for activities that include water injection wells and procedures using surface blowout preventers.

The simple fact is, we are reviewing and approving permits as expeditiously as we can given our current resources. Another fact that should not be overlooked is our employees have put in more than 1,350 hours of overtime reviewing plans and permits alone in the past 6 months. In light of that, it is unfair and inappropriate to accuse this bureau of “slow-walking” anything. I was pleased to see that, for the first time last week, the CEO of one of the major oil and gas companies said he thought the claim that we have been slow-walking permits was false. It was about time that we heard an oil company executive say publicly what many had been saying privately to us for many months. We understand that operators would like the permitting process to move more quickly. But that’s very different from suggesting that there have been concerted efforts to slow things down.

And the truth is that industry needs to step up its game if it is genuinely interested in a more efficient process. Instead of commissioning studies that don’t bother to understand how the process actually works, they would be better served by devoting more resources to improving the quality of their applications. The fact is that flawed and incomplete applications are a significant source of delays in the process. Operators need to stop turning in applications with missing or incomplete information, or that completely lack information about subsea containment. We are still receiving applications that use cookie-cutter templates. For example, we have had cases in which we received an application from an operator that detail their plans to drill Well A. The operator then submitted another application to drill Well B, except that the application included the specifications for Well A – they simply cut-and-pasted the information. This is unacceptable, and we will obviously not approve an application with such blatant errors. We are not talking about simple typographical errors. We are talking about applications with completely incorrect data, or that are missing key data, or that contain completely inconsistent data. We see this day in and day out – and then we face criticism for the high rate of drilling applications that are returned to operators.

Despite much unfair, inaccurate and misplaced criticism, we have been doing our best to assist industry, consulting with operators individually and in groups, and holding workshops to clarify what may remain unclear or confusing to operators. For example, in March 2011, we held a day-long workshop on Exploration and Development Plans, led by our personnel who are actively involved in reviewing and analyzing plans. More than 200 industry representatives attended the workshop, which focused on the many aspects of plan submissions. Much of the discussion from the workshop was subsequently incorporated into a web page focusing on “Submitting Complete Exploration and Development Plans.” Thanks to the input we received from that workshop, as well as other meetings and conversations, the page includes helpful information such as: a checklist of required information for plans, frequently asked questions, and a guidance document recently added that is entitled “Top Ways Operators Can Submit Stronger Plan Applications.”

We have made similar efforts regarding drilling permits. We have met regularly with oil and gas operators, both individually and in groups, to discuss their concerns and respond to requests for additional information and additional clarity regarding our permit review process. We have created a completeness checklist for our drilling engineers to use in ensuring a more efficient analysis and to aid in setting priorities for reviews, and we have shared the checklist with operators. We have developed an online tracking system that enables operators to track the status of their individual permits as they move through the review and approval process. Late last month, the Gulf of Mexico Regional staff presented a full-day Permitting Workshop for approximately 200 industry representatives. The workshop included a discussion of common errors and omissions found in the submission of permit applications, and overviews and updates on sub-sea containment and the software screening tool we use to evaluate permit applications. A panel of operators discussed proven methods and strategies for the completion of fully compliant permit applications.

We will continue to engage industry to ensure they understand the requirements. Many operators have demonstrated that they do, and that they are able to comply with the requirements. Their permit applications are being approved. The two ingredients we need to speed up the review and approval of permits are applications that contain all the elements of a fully compliant application, and additional agency resources. The drumbeat of criticism that urges us to approve plans and issue permits more rapidly will not cause us to cut corners or compromise safety to speed the process.

IV. Conclusion

All of us involved in creating our two new agencies – BOEM and BSEE – have worked to create the structure, select the leadership, and work to obtain the resources needed to fulfill our responsibilities to the American public. We need our people to approach environmental reviews and regulatory enforcement in a way that is tough, but fair, which places safety above all else, which promotes the responsible development of our nation’s energy resources, and ensures all reasonable steps are taken to protect the fragile coastal and marine environment.

We need everyone to embrace those goals and to recognize their importance. We cannot afford to have critics take liberties with the facts and act as though the only things that matter are the rapid approval of plans and permits, whether or not they comply with the standards and requirements that help ensure safety and environmental protection. Some may have forgotten *Deepwater Horizon* or wish to pretend it either did not happen or that it was a singular event that should not have a lasting impact on the way we do business. We recognize it as a seminal event in the history of offshore drilling. It has driven much of what we have done over the past fifteen months, and much of the agenda we will be pursuing in BOEM and BSEE as we move forward.

It has been a difficult and challenging year-and-a-half, for everyone involved with offshore energy development in the United States. As I look back, I am extremely proud of what we have accomplished, and I am very optimistic about what lies ahead. I firmly believe we can move forward, safely and responsibly, and continue to work toward energy independence for our nation.

Thank you for your time and your attention. I am happy to take any questions you might have in the time we have remaining.