

Comments on BOEM-2011-0003

Third Party Auditor

The third party auditor should not be selected by the operator. The proposal creates a system with a perverse incentive for the third party whose customer is the operator, not the government. In order to obtain repeat business the third party auditor must provide a pleasing product to the operator. Enron and Arthur Anderson is an example of the potential disfunction of the proposal. Selection of the third party via lottery is a method to avoid the problem. Another approach would be prohibition of same auditor doing the follow up audit.

Record Keeping

The proposal is that the records are to be kept at the facility for 30 days and retained for two years. The proper system is the records are to be transmitted to the government electronically. The government would use these records to build a knowledge base to:

- 1) Develop metrics of compliance and safety.
- 2) Assist in the of development of a risked based inspection system. Further the third party audit report should also be electronic and retained in the government knowledge base.

Small Operator Risk

The propose rule indicates the size of the operator does not matter: "Adverse consequences in the event of incidents, are the same regardless of the operator's size." I would suggest that this conclusion should be reevaluated because:

- 1) Smaller operators lack the financial resources and the scale of large operators. In the event of catastrophic incident they are more likely to declare bankruptcy and walk away from the problem.
- 2) The government failed to learn the lesson of *Deepwater Horizon*, that the risk is from managing high pressure wells and not from operating in deep water.

Statistical Staffing

Office of Regulatory Programs (OPR) has expressed a desire to "develop metrics that demonstrate industry's degree of compliance with new regulatory requirement" and elsewhere to have a risk based inspection system. From this observer, who provided statistical consulting to OPR it appears that OPR does not have the skill set to accomplish the mission. This conclusion results from:

- 1) No internal OPR Statistician
- 2) The oil spill expert who had some of those skills has retired and the professional designated to fill that role has taken other responsibilities.
- 3) The splitting of BOEMRE into BOEM and BSEE has created a departmental mandated firewall between OPR and the Economics Division which does have statistical expertise. Further the senior Statistician of the Economics Division is taking a position at ONRR.

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