

BSEE Permits, Approvals, and Process Alternatives New Zealand

1. Overview of Offshore Oil and Gas Regulation in New Zealand

Oil and gas operators are under the jurisdiction of the Ministry of Business, Innovation & Employment of the New Zealand Department of Labour. The entity which receives submissions and notices is referred to as “Worksafe.”

The legislative framework is established under:

- The *Health and Safety in Employment (Petroleum Exploration and Extraction) Regulations 2013 (SR 2013/208)*
<http://www.legislation.govt.nz/regulation/public/2013/0208/latest/DLM5203558.html>

1.1. Alternatives to BSEE Permits, Approvals, and Processes

1.1.1. Labor (Occupational) Regulatory Approach

New Zealand is unique among the programs reviewed in that the regulation of oil and gas is done from the worker perspective, through the Department of Labour. This occupational regulatory approach could be considered an alternative approach from the BSEE perspective.

1.1.2. Plan-Based Approach/Health and Safety Plan (HSP)

New Zealand is in the process of aligning their offshore oil and gas regulatory controls to align with best practices in the U.K. and Australia, in part in response to international incidents. Specifically, the 2013 Regulations have been designed to:

- Strengthen the management of hazards having the potential to cause multiple fatalities of persons on or near petroleum installations (a major accident);
- Reduce the likelihood of an uncontrolled release of oil and gas (a blowout) occurring during well operations; and
- Ensure the regulator has sufficient data to inform the targeting of regulatory interventions and the preparation of preventative guidance.

Key changes to the health and safety regulation of petroleum exploration and extraction activities, made through the new regulations include:

- A safety case regime
- Goal setting regulations to cover activities over the full life cycle of wells
- Well examination scheme
- Notification and reporting of dangerous occurrences

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As the New Zealand Program is modeled after the U.K., the more robust U.K. approach may be a better model for BSEE to consider.

1.1.3. Third-Party Auditing Program

The New Zealand Program requires the developing company to obtain a “Certification of Fitness” for certain activities and employs the use of third party inspectors to verify the validity of activities.

1.1.4. Time-Bound Permit Application Review Process

One key feature of the New Zealand Program is time-based limits for certain inspections and notifications, typically in the range of 90 days. In some cases, if Worksafe does not respond within 90 days, the implication is that the notification is automatically approved and the applicant is free to conduct the activity.

A comparison of the New Zealand programs analogous to those in the BSEE Scope for this project are presented in Table 1.

1.2. Points for Further Research

1.2.1. Labor (Occupational) Regulatory Approach

If Labor Approach is pursued as an alternative, further research would be conducted to investigate current jurisdictional boundaries among Federal agencies to assess how BSEE would assume some of the responsibilities currently managed by other U.S. Regulatory Agencies, in particular the Occupational Safety and Health Administration (OSHA).

1.2.2. Plan-based Approach/Health and Safety Plan (HSP)

If the use of a Health and Safety Plan Approach is pursued as an alternative, further research would be conducted to assess the viability of applying a plan-based approach. The focus of this research would be a more detailed assessment of the methodology for applying the health and safety plan approach in New Zealand and an assessment of other program elements that could be needed by BSEE to make the shift from the existing permit-based approach to a plan-based approach.

1.2.3. Third-Party Auditing Approach

If use of third party auditing is pursued as an alternative approach, further investigation of how the New Zealand program uses third party auditing to support compliance assurance would be conducted to assess how the third-party auditing affects efficiency, effectiveness, and performance for the New Zealand program.

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1.2.4. Time-Bound Permit Application Review Process

If time-based limits for certain inspections and notifications is pursued as a potential alternative approach, further investigation how time-limited processes are being applied in the New Zealand would be conducted to assess the viability of BSEE applying time-bound processes. The focus of this research would be to assess how time limitations affect the efficiency, effectiveness, and suitability for purpose of the New Zealand permitting programs including what administrative structure is in place to support timely reviews, what content is required in the approval application, what restrictions exist in the underlying regulatory structure, and what fail-safe options are built in to prevent automatic approvals in unwanted cases.

1.3. Implications for BSEE

1.3.1. Labor (Occupational) Regulatory Approach

Efficiency

This approach could potentially lead to efficiency to consolidating certain overlapping review functions currently held by multiple agencies into the jurisdiction of one agency. However, the Congressional activity that would be required by such a move and the existing regulatory structure may be far too complicated to untangle without significant effort.

Effectiveness

Implementing this approach could reduce duplication among the Agencies involved, and potentially reduce the costs of enforcement as a result. In addition, it could reduce the confusion and overlapping responsibilities among the Agencies and the regulated parties.

Suitability for Purpose

It is not clear that this approach would be suitable for BSEE's desired purpose.

Implementation

BSEE would have to develop expertise and systems that OSHA, the US Coast Guard, the US Army Corps of Engineers, US Environmental Protection Agency, etc. already have developed.

1.3.2. Plan-based Approach/Health and Safety Plan (HSP)

Efficiency

This approach could potentially result in improved efficiency. In particular, if BSEE decided to adopt the HSP they would potentially (1) allow for self-enforcement of certain practices, (2) allow the use of third party assistance in evaluating/auditing the HSP, (3) align BSEE practices with ISO 14001 and other ISO

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standards in use globally, and (4) establish a disciplined management framework that protects the safety, health, and environment of the personnel and operations.

Effectiveness

BSEE has always relied on regulations to enforce safety standards and permitting obligations. If BSEE decided to do so, moving to a less-regulated and more plan-focused approach would require a more detailed assessment of other program elements necessary to make the adjustment and the prevalence of these elements in existence today.

Suitability for Purpose

BSEE is limited by internal staffing resources. This approach could potentially free BSEE resources to concentrate on auditing critical elements more frequently and at a greater level of effort while auditing specific elements periodically on a programmatic basis rather than element-by-element.

Implementation

BSEE staff training in the application of ISO principles as well as the development of guidance documents with and for stakeholders would likely be necessary if the Agency decided to implement this approach. BSEE would also need to demonstrate to stakeholders that the HSP adequately ensures improved safety and environmental performance beyond the current BSEE permit program.

1.3.3. Third Party Audit Program

Efficiency

This approach could potentially contribute to improvement in BSEE's efficiency in determining applicant compliance with permit conditions. Implementing a program that incorporates third party participation would free staff resources to concentrate on more critical elements.

Effectiveness

This approach could potentially improve effectiveness on the part of both BSEE and the applicants. BSEE could achieve improved effectiveness in assessing applicant compliance with permit conditions through application of a third-party audit approach. The implementation of a Third Party Audit Program would likely require pairing with other elemental changes to the BSEE Program that would include safety and risk program elements.

Suitability for Purpose

This approach could potentially contribute to improvement in safety and environmental performance. In combination with another elemental change, such as the inclusion of safety and risk programs, a Third Party Audit Program would provide manpower and expertise to assist BSEE in administering their program and providing conformance assurance. Implementing a program that requires third party

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auditing and evaluation could free BSEE resources to concentrate on auditing critical elements more frequently and at a greater level of effort while auditing delegated elements periodically on a programmatic basis rather than element-by-element.

Implementation

Precedent exists for implementing a Third Party Audit Program in the existing EMS/ISO 14001 program and would be transferrable, should BSEE decide to implement one.

1.3.4. Time-Bound Permit Application Review Process

Efficiency

This approach could potentially increase efficiency. BSEE would need to develop processes which might include standardized forms, upfront permit completeness review, issuance of standard terms and conditions, and a step-by-step permit evaluation process. Implementing this approach could potentially result in BSEE having to devote fewer labor-hours to review each permit application.

Effectiveness

This approach might or might not improve effectiveness. There is a risk that BSEE staffing and resource shortages would render the Agency unable to routinely complete reviews within the allotted timeframe. On the other hand, a more “mechanized” approach to permit review could result in more consistent permit review.

Suitability for Purpose

Implementing this approach may or may not result in improved safety and environmental performance, or may be neutral with respect to performance.

Implementation

Implementing this approach would require a fundamental change in how BSEE conducts reviews of permit applications and other decision documents. BSEE would need to provide for a fixed schedule for decision making as to whether to approve or disapprove an application, or request further information from the applicant. BSEE would need to develop the ability to deploy staff quickly and efficiently to meet the demand for permits or secure contract assistance. In addition, BSEE would likely want to consider adding a mechanism to provide an option other than automatic approval of a submittal.

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Table 1. Comparison of the New Zealand Offshore Oil and Gas Program to BSEE Permits and Plan Requirements Covered in the Scope of this Analysis

Type	BSEE Permit/Plan Requirement	What is it? Who is required to have it?	When is it required?	How does the New Zealand Compare to BSEE Scope?
Admin	Royalty Relief application	Operators may apply for royalty relief for leases or projects that meet criteria specified in 30 CFR 203	Optional	Have not found comparable provisions to BSEE Scope in New Zealand regulations
Admin	Compensation Royalty Determination Request	Operators may either: (1) Drill and produce the wells that the Regional Supervisor determines are necessary to protect the Federal government from loss due to production on other leases or units or from adjacent lands under the jurisdiction of other entities (e.g., State and foreign governments); or (2) Pay a sum that the Regional Supervisor determines as adequate to compensate the Federal government for your failure to drill and produce any well.	Optional	Have not found comparable provisions to BSEE Scope in New Zealand regulations.
Explor	Application for Permit to Drill (APD)	Lessees, operating rights owners, operators, and their contractors and subcontractors	Before drilling any well or before sidetracking, bypassing, or deepening a well	Different. Safety Case and Best Practices replace permit and approval.
Explor	Application for Permit to Modify (APM)	Lessees, operating rights owners, operators, and their contractors and subcontractors	An APM is required for operators that: <ul style="list-style-type: none"> • intend to revise a drilling plan, change major drilling equipment, or plugback; • determine a well's final surface location, water depth, and the rotary kelly bushing elevation; or • move a drilling unit from a wellbore before completing a well. 	Different. Safety Case and Best Practices replace permit and approval.

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Type	BSEE Permit/Plan Requirement	What is it? Who is required to have it?	When is it required?	How does the New Zealand Compare to BSEE Scope?
Devel	Deep Water Operations Plan (DWOP)	Required for operators with: <ul style="list-style-type: none"> • deepwater development projects; or • any development projects which will use non-conventional production or completion technology, regardless of water depth. 	The DWOP consists of two parts: a Conceptual Plan and the DWOP: <ul style="list-style-type: none"> • The Conceptual Plan is required before completing any production well or installing the subsea wellhead and well safety control system. • The DWOP is required before production. 	Different. Safety Case and Best Practices replace permit and approval.
Leasing	Lease Suspension Request	Operators may request a suspension, which will either take the form of Suspensions of Operations (SOO) or Suspensions of Production (SOP).	Before the end of the lease term (i.e., end of primary term, end of the 180-day period following the last leaseholding operation, and end of a current suspension)	Have not found comparable provisions to BSEE Scope in New Zealand regulations.
Leasing	Competitive Reservoir Determination Request	Optional request for preliminary determination by the Regional Supervisor as to whether a reservoir is competitive		Have not found comparable provisions to BSEE Scope in New Zealand regulations
Leasing	Voluntary Unitization Proposal or Unit Expansion	Optional request for voluntary unitization or expansion of a previously approved voluntary unit to include additional acres		Have not found comparable provisions to BSEE Scope in New Zealand regulations
Prod	Temporary Storage Request	Operators must obtain approval of the method of disposal of drill cuttings, sand, and other well solids		Different. Safety Case and Best Practices replace permit and approval.
Prod	Surface Commingling Application		Before commencing the commingling of production or making any changes to previously approved commingling procedures	Different. Safety Case and Best Practices replace permit and approval.

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Type	BSEE Permit/Plan Requirement	What is it? Who is required to have it?	When is it required?	How does the New Zealand Compare to BSEE Scope?
Prod	Production Approvals (Special Cases)		The following production activities require approval: <ul style="list-style-type: none"> • production within 500 feet of a unit or lease line; • production of gas-cap gas from an oil reservoir with an associated gas cap; • downhole commingling hydrocarbons; • flaring and venting gas; and • enhanced oil and gas recovery operations. 	Different. Safety Case and Best Practices replace permit and approval.
Prod	Facility Safety System Application (i.e. Production Safety System Application)	Required for surface production-safety systems	Prior to installation	Similar. New Zealand follows the Safety Case, which is similar to BSEE Safety Plan.
Platform	Platform Approval Program Application		Before the following circumstances: <ul style="list-style-type: none"> • installation of a platform; • major modification to any platform; • major repair of damage to any platform; • converting an existing platform at the current location for a new purpose; and • converting an existing mobile offshore drilling unit (MODU) for a new purpose. 	Different. Safety Case and Best Practices replace permit and approval
Platform	Platform Verification Program Plans/Documentation	The following kinds of platforms are subject to the Platform Verification Program: • floating platforms; • platforms of a new or unique design; • platforms in seismic areas; and • platforms located in deepwater or frontier areas.	For any platform subject to the Platform Verification Program, the following are also subject to the program: the conversion of that platform at that same site for a new purpose, or making a major modification of, or major repair to, that platform.	Similar. Certificate of Fitness is Required for New Zealand.

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Type	BSEE Permit/Plan Requirement	What is it? Who is required to have it?	When is it required?	How does the New Zealand Compare to BSEE Scope?
Pipeline	Pipeline Application		Before: <ul style="list-style-type: none"> • Installation, modification, or abandonment of a lease term pipeline; • Installation or modification of a right-of-way (other than lease term) pipeline; or • Modification or relinquishment of a pipeline right-of way. (250.1000) 	Different. Safety Case and Best Practices replace permit and approval.
Pipeline	Right-of-way (ROW) Assignment	Application for approval of an assignment of a ROW or of a lineal segment thereof		Have not found comparable provisions to BSEE Scope in New Zealand regulations
Pipeline	Pipeline Repair Application/Plan	Lessees or ROW holders must notify BSEE about repairs of pipelines or pipeline components and submit a detailed report after the completion of repairs	Before the repair of any pipeline or as soon as practicable. Report must be submitted within 30 days after completion of the repairs.	Similar. New Zealand follows the Safety Case, which is similar to BSEE Safety Plan
Pipeline	Pipeline Right-Of-Way Grant Application		Before installation of a right-of-way pipeline (250.1000, 250.1009)	Have not found comparable provisions to BSEE Scope in New Zealand regulations

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Type	BSEE Permit/Plan Requirement	What is it? Who is required to have it?	When is it required?	How does the New Zealand Compare to BSEE Scope?
Spill	Oil Spill Response Plan (OSRP)	<ul style="list-style-type: none"> Describes plans for responding to an oil spill, as well as training, equipment testing, and periodic drills Required for owners or operators of: <ul style="list-style-type: none"> oil handling, storage, or transportation facilities located seaward of the coast line; abandoned facilities until they are physically removed or dismantled, or the Regional Supervisor provides notification that the plan is no longer required; or offshore pipelines carrying oil, condensate that has been injected into the pipeline, or gas and naturally occurring condensate (not required for operators with essentially dry gas). 	Before operating a facility (or while BSEE reviews the plan, if there are appropriate certifications)	Similar. New Zealand follows the Safety Case, which is similar to BSEE Oil Spill Response Plan
Decommissioning	Site Clearance Waiver	For well sites, platforms, and other facility sites, operators must submit an APM to BSEE with specified information about site clearance	30 days after the completion of verification activities	Have not found comparable provisions to BSEE Scope in New Zealand regulations
Decommissioning	Structure Removal Application	For leases and pipeline ROWs in the Pacific OCS Region and Alaska OCS Region, operators must submit an initial platform removal application		Have not found comparable provisions to BSEE Scope in New Zealand regulations

References:

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- <http://www.nopsema.gov.au/>