



THE SECRETARY OF THE INTERIOR
WASHINGTON

JUN 16 2011

MEMORANDUM

TO: Director
Bureau of Ocean Energy Management, Regulation and Enforcement

FROM: Secretary *Ken Salazar*

SUBJECT: Extension of Deepwater Leases

I. BACKGROUND

Following the April 20, 2010 explosion and sinking of the *Deepwater Horizon* offshore drilling rig, and the resulting deaths of 11 workers and release of millions of barrels of oil in the Gulf of Mexico (collectively referred to as the Deepwater Horizon Oil Spill), I determined that it was necessary to temporarily suspend certain offshore permitting and drilling activities in deepwater on the Nation's Outer Continental Shelf (OCS). This temporary pause in deepwater drilling and permitting (Suspension Directive) was necessary because the conditions created by the Deepwater Horizon Oil Spill demonstrated that new deepwater drilling at that time posed an unacceptable threat of serious and irreparable harm to wildlife and the marine, coastal, and human environment (30 C.F.R. § 250.172(b)) and necessitated the installation of additional safety or environmental protection equipment to prevent injury or loss of life and damage to property and the environment (30 C.F.R. § 250.172(c)).

On October 12, 2010, I lifted the Suspension Directive based on your October 1, 2010 report that addressed the significant progress that had been made in addressing drilling safety, subsea blowout containment, and spill response. The October 12 Decision Memorandum also directed you, consistent with your statutory and regulatory authority, to require, prior to the approval of any permit to drill a well that would have been subject to the suspension, that the operator (1) demonstrate that containment resources are available promptly in the event of a blowout, and (2) certify that it has complied with all applicable regulations, including new drilling safety rules.

By the end of February 2011, operators seeking to drill in deepwater in the Gulf of Mexico were able to demonstrate compliance with all applicable regulations, including the requirement that each operator submit adequate information demonstrating that it has access to and can deploy surface and subsea containment resources that would be adequate to promptly respond to a blowout or other loss of well control. Accordingly, on February 28, 2011, the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) approved the first drilling permit that would have been subject to the Suspension Directive.

Ever since the Deepwater Horizon Oil Spill, BOEMRE policy has supported providing lease extensions to operators affected by last year's Suspension Directive. The BOEMRE already has

granted 11 such lease extensions at the request of individual operators. In light of the unique circumstances of responding to the Deepwater Horizon Oil Spill and the temporary suspension of deepwater drilling and permitting, I believe that BOEMRE should implement an expedited process for providing lease extensions to deepwater operators affected by the Suspension Directive.

Accordingly, and as more specifically set forth below, I am directing you to issue a Notice to Lessees and Operators (NTL), consistent with BOEMRE's existing regulations regarding lease suspensions, setting forth a one-time, expedited process through which leaseholders can request and obtain an up to one-year extension of deepwater leases in the Gulf of Mexico affected by last year's Suspension Directive.

II. EXTENSION OF DEEPWATER LEASES IN THE GULF OF MEXICO

Pursuant to the Outer Continental Shelf Lands Act (OCSLA), BOEMRE has promulgated regulations to provide for the "suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit . . . at the request of a lessee, in the national interest, to facilitate proper development of a lease . . . and for the extension of any permit or lease affected by suspension or prohibition . . . by a period equivalent to the period of such suspension or prohibition." 43 U.S.C. § 1334(a)(1). The BOEMRE's regulations permit those conducting operations on the OCS pursuant to OCSLA to request approval of a suspension in order to extend the term of a lease under enumerated circumstances. *See, e.g.*, 30 C.F.R. §§ 250.168(a), 169(a), 170(a), 171. The BOEMRE's regulations provide that the Agency may grant or direct suspensions of operations "[w]hen activities pose a threat of serious, irreparable, or immediate harm or damage" to human or animal life, property, any mineral deposit, or the marine, coastal, or human environment as described in OCSLA Section 1334(a)(1). 30 C.F.R. § 250.172(b). The regulations also authorize such suspensions "[w]hen necessary for the installation of safety or environmental protection equipment." 30 C.F.R. § 250.172(c). The regulations further authorize suspension "[w]hen necessary to carry out the requirements of NEPA or to conduct an environmental analysis." 30 C.F.R. § 250.172(d). Finally, a suspension may also be granted when necessary to allow time to begin drilling or other operations when the lessee is prevented from doing so for reasons beyond its control. 30 C.F.R. § 250.175(a).

I have determined that BOEMRE should issue an NTL consistent with BOEMRE's regulations described above, setting forth a one-time, expedited process through which leaseholders can request and obtain an up to one-year extension of deepwater leases in the Gulf of Mexico affected by last year's Suspension Directive. This would be accomplished by granting requested suspensions retroactive to May 28, 2010, the date the deepwater Suspension Directive went into effect. The NTL should offer lessees the opportunity to request and obtain this suspension by establishing satisfaction of the following eligibility criteria:

- No oil or gas production on the lease as of May 15, 2011;
- The lease includes water depths in excess of 500 feet (*i.e.*, deepwater); and
- The lease is scheduled to expire on or before December 31, 2015.

The granted lease suspension would be effective beginning May 28, 2010. The granted lease suspension would terminate on the earlier of (1) May 28, 2011, or (2) the commencement of operations under the lease of the type suspended under last year's Suspension Directive.

The purpose and effect of these suspensions is to extend the duration of the term of all qualified leases by the length of time prior to May 28, 2011, in which no suspended activity had resumed after May 28, 2010, up to a full year for those lessees who have not commenced operations of the types that were subject to the Suspension Directive beginning in May 2010. Parties who have been found, following an opportunity for a hearing, to have violated applicable regulations or lease terms should not be eligible for such a suspension. If a lessee previously sought to obtain a suspension on related grounds, that lessee may elect to pursue the expedited procedures and suspension described herein in substitution for its original request. Any lessee seeking to utilize this expedited procedure and suspension must agree to withdraw and waive any further review or appeal of previous efforts to obtain a suspension on related grounds.

The up to one-year duration of the lease extensions is based on several cumulative factors:

First, on May 28, 2010, I suspended certain deepwater drilling operations and paused the processing of any new applications for permits to drill deepwater wells in depths greater than 500 feet in the Gulf of Mexico, with limited exceptions. On July 12, 2010, I paused the processing of pending and future applications for permits to drill wells using subsea blowout preventers (BOPs) or surface BOPs on a floating facility. I based these decisions on all of the factors addressed at greater length in the various documents related to last year's Suspension Directive. *See, e.g.*, 30 C.F.R. § 250.172(b). The Suspension Directive remained in effect until October 12, 2010.

Second, following the Deepwater Horizon Oil Spill, BOEMRE clarified existing regulatory requirements and implemented a number of new informational, procedural, and prescriptive requirements, including safety requirements, applicable to offshore oil and gas drilling operations on the OCS. These clarifications and requirements included, but were not limited to, NTL 2010-N06 (Information Requirements for Exploration Plans, Development and Production Plans, and Development Operations Coordination Documents on the OCS), NTL 2010-N10 (Statement of Compliance with Applicable Regulations and Evaluation of Information Demonstrating Adequate Spill Response and Well Containment Resources), the Safety Interim Final Rule, and the Workplace Safety Rule. These new requirements, and clarifications of existing requirements, were necessary to ensure that drilling activity on the OCS is conducted in a manner that is safe for workers, coastal communities, and the environment, pursuant to OCSLA. 43 U.S.C. §§ 1332(6), 1334(a), 1347, 1348; 30 C.F.R. § 250.106. Operators on the OCS have needed time to install safety and environmental protection equipment, and to bring themselves into compliance with other elements called for by these new and pre-existing regulations and requirements. *See* 30 C.F.R. § 250.172(c). For example, industry was not able to demonstrate the ability to adequately respond to a subsea blowout or other loss of well control until late February 2011.

Third, operators and lessees have required time to provide information relevant to environmental analyses as part of updating or revising Oil Spill Response Plans, Exploration Plans, and Development Operations Coordination Documents. *See* 30 C.F.R. § 250.172(d).

Taken together, the time needed by lessees and operators to comply with new and pre-existing requirements before proceeding with exploration or development of their leaseholds, and the suspension of certain operations for a number of months in 2010, warrant the granting of suspensions (and corresponding lease extensions) for lessees meeting the criteria set forth above.

See 30 C.F.R. § 250.172(b), (c) and (d), and § 250.175(a). Preventing the inadvertent expiration of leases in the hydrocarbon-rich deepwater areas of the Gulf of Mexico, given the unique circumstances set forth above, serves the national interest in promoting domestic production of liquid fuels. I have also determined that the expedited process for extending qualified leases should be limited to leases that expire on or before December 31, 2015. The primary, if not exclusive, effects of the above-referenced actions have and will fall on lessees and operators whose exploration and development drilling activities may have been delayed and whose leases face expiration. The December 31, 2015 date lies more than five years beyond the termination of the Suspension Directive and imposition of the above-referenced regulations and requirements that underlie this decision. I have determined that it would not be necessary under 30 C.F.R. §§ 250.172 and 250.175(a) to provide the expedited suspensions to leases with expirations subsequent to December 31, 2015, because operators whose leases do not expire until after December 31, 2015, will have sufficient time in which to accommodate the identified circumstances and achieve production. Nothing in this Memorandum otherwise precludes the suspension and extension of such leases if justified under the procedures and circumstances provided for in the applicable regulations. *See* 30 C.F.R. §§ 250.168-177.

III. IMPLEMENTATION

I direct you to issue a Notice to Lessees and Operators (NLT) setting forth a one-time, expedited process through which leaseholders can request and obtain an up to one-year extension of deepwater leases in the Gulf of Mexico affected by last year's Suspension Directive, as more specifically described and limited above.