

Honorable Ken Salazar
Secretary of the Interior

September 4, 2010

Dear Mr. Secretary:

Attached is the Implementation Plan of the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) in response to the Report of the Outer Continental Shelf Safety Oversight Board. We very much appreciate your providing us with the opportunity to review the Report in draft, provide comments and submit this Implementation Plan.

As the Report makes clear, the Board's recommendations are the product of substantial effort, including a large investment of DOI manpower over the course of many months. The Report acknowledges that many of its insights and recommendations directly flow from information and insights provided by BOEMRE personnel. As the Report states,

Overall, the [team] found the BOEMRE employees it interviewed to be dedicated, enthusiastic cadre of professionals who want nothing more than to do their jobs effectively and efficiently and to see their Bureau reorganize into a robust, high-performing and respected organization. However, BOEMRE employees also provided ample information about the weaknesses of the program and operations, and how they might be addressed. This report contains many of their observations, and the Board's recommendations that emanated from those observations.

Report at 4.

This is presented as a paradox, but of course it is not. Like you, I expect dedicated professionals to be candid and insightful about the weaknesses of their organization and their programs, and full of ideas on how to improve. That is what the Board found, and that is what we are counting on to transform the organization in the months ahead.

The theme of the Implementation Plan we are submitting is that the bulk of the Board's recommendations are being addressed – either directly or indirectly – by the ongoing reorganization that has already begun. This is not meant to suggest that the Board's observations and recommendations are irrelevant; quite the opposite is true. They are so centrally relevant that the very BOEMRE personnel who were the source of so many of the Board's observations and recommendations are the same players who are playing key roles in our reorganization and who have the mandate to improve what we do and how we do it.

I began as Director of BOEMRE on June 21. Since that time, we have done the following:

- Moved our reorganization efforts into high gear with the retention of McKinsey & Company and an ambitious schedule for meeting with BOEMRE personnel and seeking their assistance in making sure the reorganization succeeds;
- Conducted all-hands meetings in New Orleans, Herndon, Camarillo, Anchorage, and Washington, DC, to keep our personnel up to date on the reorganization and answer any and all questions, including questions submitted anonymously, on any subject;
- Taken the steps necessary to ensure the separation of the royalty and revenue function and the creation of the Office of Natural Resource Revenue (ONRR) as of October 1;
- Created the Investigations and Review Unit (IRU), which is taking the lead on the Vermilion fire investigation, and staffed it with personnel from the private sector and the Department of Justice;
- Held five of eight forums around the country to gather information relevant to your decision on the deepwater drilling moratorium, focusing on drilling and workplace safety, spill containment, and spill response;
- Requested the preparation of reports by BP on lessons learned from the Deepwater Horizon explosion and spill;
- Persuaded the American Petroleum Institute (API) to make those of its standards incorporated by reference in BOEMRE regulations truly public for the first time;
- Issued tough new conflict of interest/recusal rules for offshore drilling inspectors and related personnel.

In the very near future, we will be issuing an interim final rule that requires additional drilling safety measures and issuing a SEMS rule that will for the first time require industry to establish comprehensive safety and environmental management systems. To put it mildly, we have been busy.

We appreciate your support as well as the support of the rest of the Administration and Congress in our efforts to obtain the main ingredient that has been missing over the three decades of the agency's existence: adequate resources to do the job. For the first time, those resources appear to be on the way. They will provide grounds for optimism that the agency will, finally, have what it needs to perform the important tasks assigned to it.

We know that there is no magic wand that will make the shadow of the past disappear or that will magically usher in a new era for this agency. As long as the multiple investigations related to *Deepwater Horizon* continue – by the joint BOEMRE/USCG investigation into *Deepwater Horizon*, the President's Commission, the National Academy of Engineering, the OIG, the GAO, and multiple Congressional committees – the shadow of the past will continue to be with us. As we note in the Conclusion of the Implementation Plan, this creates a risk that because the results of these reviews will continue to flow in over time, and they are based largely on the state of

affairs within MMS as of April 20, 2010, the world's view of BOEMRE will continue to be frozen in the past and will not keep up with the reform efforts that are currently in full-swing.

That is misguided and unfair, especially to the extent that the agency continues to be stigmatized by the outrageous and unforgivable behavior of a few employees many years ago. It is critically important that as our reform efforts continue, the Department and the outside world acknowledge those efforts and recognize the enormous transformation the agency is undergoing.

Thank you again for providing us with the opportunity to review and respond to the Report.

Very truly yours,

Michael R. Bromwich



IMPLEMENTATION PLAN

In Response To The

**OUTER CONTINENTAL SHELF SAFETY OVERSIGHT BOARD'S
SEPTEMBER 1, 2010 REPORT TO THE SECRETARY OF THE INTERIOR**

September 4, 2010

Michael R. Bromwich, Director
Bureau of Ocean Energy Management, Regulation and Enforcement

I. Introduction

On April 20, 2010, the *Deepwater Horizon* offshore drilling rig caught fire and exploded, killing eleven people, destroying the rig, and leading to an oil spill of enormous and continuing national significance. Among the actions taken by the Secretary of the Interior immediately following the *Deepwater Horizon* incident, he created the Outer Continental Shelf Safety Oversight Board (Safety Oversight Board or Board). As stated in the Safety Oversight Board's September 1, 2010 report to the Secretary (the Report), it was charged with "providing recommendations to improve and strengthen the Department's overall management, regulation, and oversight of [outer continental shelf] operations." This Implementation Report responds to the 59 recommendations by the Safety Oversight Board that are contained in the Report.

The Report is a thorough and comprehensive document, based in considerable part on the information and insights provided by personnel from within the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE or the Bureau). That bears saying and repeating: although the Bureau has received far more than its share of condemnation and blame for the outrageous and intolerable sins of a small number of people, the majority of Bureau personnel are dedicated and talented professionals, many of whom know full well what needs to be done to improve the Bureau's performance in managing, regulating, and overseeing outer continental shelf (OCS) resources. They have not lacked the knowledge or the insight; they have lacked resources, a robust and coherent structure, and focused leadership. We believe all of that is changing, because it must.

We concur with the Safety Oversight Board's recommendations. This document is not a response in the usual sense; although we have minor differences with some of the observations contained in the Report, we do not address them here. We have chosen instead to describe how, without knowing in advance what the recommendations would be, we have already been moving to implement the bulk of them as part of our overall reform efforts.

The Board's recommendations are wholly consistent with the reform agenda that Secretary Salazar launched for the former MMS, including his May 19, 2010 Order directing the reorganization of MMS and his work in support of securing substantial additional funds for the Bureau, which are critical to ensuring the successful transformation of the agency. Director Bromwich has built upon and further developed this reform agenda for the Bureau since his arrival in late June 2010. The President's and Secretary's charge to Director Bromwich was explicit – reform the way the agency does business in managing and regulating offshore energy development on the nation's OCS. The Board's observations and recommendations are therefore both relevant and timely as we proceed with the reorganization of the Bureau and the implementation of other wide-ranging reforms in the way the Bureau manages and regulates activity on the OCS.

II. Overview: Implementation of the Board's Recommendations

Many of the Board's recommendations will be addressed through initiatives and programs that are already in process and are central to the reform agenda of BOEMRE. These initiatives and programs, through which the Report's recommendations and other reforms will be implemented, include:

Reorganization. On May 19, 2010, the Secretary issued Secretarial Order No. 3299, which assigned the responsibilities and functions of the former Minerals Management Service (MMS) to three new organizations – the Office of Natural Resources Revenue (ONRR), the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE). Broadly speaking, the purpose of the reorganization is to address real and perceived conflicts between the resource management, safety and environmental oversight and enforcement, and revenue collection responsibilities of the former MMS and to help restore credibility in the performance of all of these functions. On July 14, 2010, the Department issued a report setting forth the plan for implementing the reorganization (the Reorganization Implementation Report).

If the reorganization of the former MMS is to effect genuine improvements in the way in which the Department manages offshore energy resources and ensure that offshore energy development is conducted in a manner that ensures the safety of workers and adequately protects the environment, it must involve a great deal more than merely separating functions into the new organizations. Multiplying organizations does not by itself solve problems. Among other things, the implementation of the reorganization will involve:

- building new systems for processing and analyzing data and performing risk assessments in permitting and environmental reviews;
- designing and implementing a robust, effective, and aggressive safety and environmental enforcement regime based on rigorous analysis of best practices and the challenges presented by industry;
- creating new policies and guidance for both federal personnel and industry;
- developing training programs and curricula;
- recruitment of scores of new professionals;
- establishing efficient, modern information systems; and
- developing management structures and systems appropriate to the scale and missions of the new organizations.

As discussed in the Reorganization Implementation Report, the reorganization, including these central elements, are expected to be implemented through a phased program that will continue at least through 2011. Many of the recommendations contained in the Report bear on these issues related to the implementation of the reorganization and will be incorporated into that process.

Additional Resources. As the Board recognizes in the Report, the reform of the Bureau, including through the reorganization and the implementation of many of the Report's recommendations, will require the infusion of substantial resources, in form of funding, personnel, equipment, and information systems. Recommendations of the Board that will require additional resources in order to be properly implemented include, for example, the development of strengthened inspection and safety enforcement programs, creating new training and professional development programs, upgrading information systems and technological resources, and recruiting new staff and bringing additional, specialized expertise into the Bureau.

Indeed, managing the implementation of all the Board's recommendations, through the reorganization and other means, will itself require the addition and deployment of substantial resources to develop the policies, procedures, and other means necessary for the implementation of the recommendations as well as for tracking the status of the reforms and evaluating their effectiveness. The Administration, Congress, and the Department support providing the Bureau with the funding and resources necessary to implement broad reform of the offshore energy management and enforcement regimes. Those are vital to meaningful change and improvement within the Bureau.

Ethics Reform. One of the first reform measures taken by Director Bromwich was the creation, embodied in a Secretarial order, of the Investigations and Review Unit (IRU) within BOEMRE. The mission of the IRU includes, among other things, promptly and aggressively responding to allegations or evidence of misconduct or unethical behavior by BOEMRE employees or members of industry and aiding the Director in overseeing and reviewing the Bureau's regulatory and enforcement programs. The IRU, which is already functioning and is being staffed by experienced professionals, including federal prosecutors and investigative agents on detail to BOEMRE, will be central to ensuring that Bureau employees, as well as members of industry, adhere to high standards of conduct and that appropriate action is taken when those standards are not met.

The Report contains recommendations relating to the development of ethical rules and standards; such standards are key elements in establishing a culture of ethical conduct both within BOEMRE and industry. Prior to the issuance of the Report, Director Bromwich announced a new policy regarding "Interference with the Performance of Official Duties and Potential Conflicts of Interest." This new policy establishes standards and procedures relating to (1) reporting and responding to attempts by industry personnel to harass, intimidate, or improperly influence Bureau personnel with respect to the performance of their official duties, including the issuance of Incidents of

Noncompliance (INCs) based on inspection activity; (2) the reporting by Bureau employees of relationships and former employment that may give rise to a potential conflict of interest; (3) the avoidance of even the appearance of a conflict of interest or loss of impartiality; and (4) the mandatory recusal of employees under circumstances where a conflict of interest may be present, including a prohibition on employees performing official duties relating to a former employer for a period of two years. This policy focused on BOEMRE's offshore inspections program because that is where the most difficult and common issues have arisen. In the coming weeks and months, we will continue to review and enhance the ethical standards applicable to all Bureau employees, not just inspections personnel, as well as members of industry.

Inter-Agency Coordination. The Bureau currently is engaged in various actions designed to improve inter-agency coordination with respect to offshore energy development. These initiatives include the development of mechanisms to take advantage of expertise, resources, data, and information in the hands of various federal agencies – including the National Oceanic and Atmospheric Agency (NOAA), the Environmental Protection Agency (EPA) and other agencies – and which relate specifically to environmental science, environmental protection and enforcement, and the mitigation of the environmental effects of offshore energy development. The Bureau also is collaborating with the United States Coast Guard (USCG) and other relevant agencies on the issues of oil spill response and requirements relating to oil spill response plans (OSRPs).

The remainder of this Implementation Report discusses the specific recommendations offered by the Safety Oversight Board and the Bureau's plans for evaluating and implementing those recommendations within the broader context of our reform efforts, consistent with the President's and the Secretary's charge to Director Bromwich. This discussion is structured consistent with the organization of the Report.

III. Permitting: Resources and Protocol for Permit Review

This section of the Report discusses the demands and challenges confronting BOEMRE personnel involved in the offshore energy resource management process, including in particular the review of plans and permit applications. The issues identified by the Board focus on workload, staffing, and challenges facing the Bureau as a significant percentage of its employees involved in these activities are, or become in the near future, eligible for retirement.¹

Recommendations and Implementation

This section of the Report contains the following recommendations:

¹ Although the Report focuses on "succession issues" and the percentage of retirement-eligible employees in the Pacific Region, the need to retain experienced personnel while recruiting and training new personnel as staff turns over is a significant issue across the Bureau and all of its regions.

1. Review permit staffing needs in the Gulf of Mexico (GOM) district and regional offices to ensure that staffing levels are commensurate with increasing workloads.
2. Develop a succession plan for BOEMRE staff in all regions.
3. Develop a comprehensive and current handbook to compile and standardize policies and practices designed to assist permit reviewers in carrying out their responsibilities.
4. Review and revise the permit review protocols to ensure that: (a) permit requests from operators and district responses are documented promptly and properly; (b) BOEMRE engineers have appropriate access to permit databases after hours; and (c) procedures are established that prevent “engineer shopping” by operators.
5. Reexamine after-hours permit review services; the means by which any such services should be provided (*e.g.*, on-call or in-office staffing); and the feasibility of limiting its use by requiring operators to submit non-emergency requests and requests that could be reasonably anticipated during normal business hours.

The issues relating to the permitting process implicated by these recommendations are being actively studied and evaluated during the reorganization effort. This analysis, including the work being performed by experienced consultants retained in support of the reorganization, involves a close review of the plan and permit review and approval processes, as well as the allocation of existing – and anticipated new – personnel resources involved in these processes across the Bureau’s regions, including the Gulf of Mexico. As described above, a key part of implementing the reorganization will be the development of comprehensive, standardized policies, practices and protocols, including for the plan and permit application review processes. As these new procedures and protocols are being developed, we will consider developing interim guidance and measures to address issues such as after-hours access to databases, “engineer shopping” by operators, and after-hours requests by operators.

IV. Inspections: Program Structure, Training, Management Support, Personnel and Resources

A. Inspections: Program Structure and Effectiveness

This section of the Report relates to the structure and operation of the Bureau’s inspection program for offshore facilities.

Recommendations and Implementation

1. Develop an inspection program with strong representation at all levels of the agency. The program should facilitate good intra-agency communication in order to promote consistency, effectiveness, and efficiency and provide strong support to the front-line inspectors.
2. Compile a comprehensive and current handbook of all policies and practices designed to assist inspectors in carrying out their responsibilities.

3. Clarify the criteria for what constitutes unannounced inspections. Review and clarify the current policies under which unannounced inspections can be performed including, the USCG MARSEC restrictions, and special notification arrangements with certain companies, so that unannounced inspections can be conducted to the greatest extent practicable.
4. Identify critical operations conducted on all BOEMRE regulated facilities, and require that operators notify the agency about the timing of these operations so that inspectors can view operations first hand to the greatest extent practicable.
5. Evaluate the advantages of conducting inspections in two-person teams instead of individually.
6. Analyze the benefits of obtaining electronic access to real-time data transmitted from offshore platforms/drilling rigs, such as operators' surveillance cameras, blowout preventer monitoring systems, and/or other automated control and monitoring systems, to provide BOEMRE with additional oversight tools.
7. Examine the viability of performing multi-day inspections of critical operations on rigs and platforms.
8. Evaluate the advantages of rotating inspectors among districts and regions.

The Bureau's offshore inspections program is one of the most critical and pressing areas requiring the infusion of enhanced resources and capabilities. A significant proportion of the anticipated increases in the Bureau's funding and personnel resources will be devoted to the inspections program, including the hiring of scores of new inspectors and other personnel, including engineers, with expertise in drilling operations and safety. The Bureau currently is developing strategies for the recruitment of these personnel, including outreach and coordination with colleges and graduate programs relating to petroleum and systems engineering, environmental science, and other relevant areas of expertise. While the infusion of resources is essential to the establishment of a robust compliance regime that can keep pace with industry, so too is the development of new strategies and systems for conducting inspections and monitoring and evaluating the safety of operations.

The Report's recommendations will be closely considered and incorporated into the development of these new inspection and safety strategies and systems. These recommendations are particularly relevant to the establishment of the safety compliance and enforcement functions of BSEE. The Bureau has established a team that is focused on developing enhancements to the inspections program, including the measures recommended by the Board, that can be implemented in the near-term, as well as strategies and measures that will be incorporated into BSEE's programs as the reorganization progresses and new resources and personnel become available. This team is scheduled to provide a report to Director Bromwich by November 2010.

B. Inspections: Training and Professional Development

This section of the Report relating to the training and professional development of inspectors addresses another significant issue essential to improving the effectiveness of the inspections program and the ability of inspectors to keep pace with industry.

Recommendations and Implementation

1. Implement a bureau-wide certification or accreditation program for inspectors. Consider partnering with BLM and its National Training Center to establish a DOI oil and gas inspection certification program, with training modules appropriate to the offshore environment as needed.
2. Develop a standardized training program similar to other Interior bureaus to ensure that inspectors are knowledgeable in all pertinent regulations, policies, and procedures. Ensure that annual training keeps inspectors up-to-date on new technology, policies, and procedures.
3. Develop Individual Development Plans for inspectors designed to achieve career advancement strategies. Such strategies should promote sound succession planning and foster employee development and satisfaction.
4. Expand, to the greatest extent practicable, the sources from which BOEMRE draws inspector applicants, and identify incentives to recruit and retain inspectors. Re-evaluate whether inspectors can participate in the Student Loan Repayment Program and are eligible for hazard pay.
5. Consider developing more subject matter experts in the various types of inspections within district offices.

As discussed above, the recruitment of inspectors and other personnel, such as petroleum and systems engineers, necessary to fulfill the safety and enforcement mission of the Bureau is fundamental to improving the inspections program. Training and developing personnel in the inspections program is also important. The Bureau has assigned a team to review the current training program, identify skill sets that require further development, and recommend possible resources to provide additional training in the near-term. This report is scheduled to be delivered to the Director by November 2010. Development of comprehensive training programs and curricula, as well as career development programs for the Bureau's safety and enforcement personnel (and other employees in the Bureau) is also a long-term effort that will be closely analyzed and developed during the implementation of the reorganization. The Bureau will also consult with the Solicitor's office and the relevant federal agencies regarding the availability of loan forgiveness programs and other incentive and compensation programs that may enhance the Bureau's ability to recruit and retain safety and enforcement personnel.

C. Inspections: Personnel and Resources

The recommendations in this section of the Report relate to the workload and efficient utilization of personnel involved in the Bureau's safety and enforcement program.

Recommendations and Implementation

1. BOEMRE should undertake a comprehensive workforce and workload analysis of the inspection program, including succession planning, anticipated workload needs, and increased capacity, and implement appropriate recommendations.
2. Analyze ways to perform inspection activities more efficiently by using current technological tools, such as online review of reports and records and by using mobile technology in the field.
3. Information technology (IT) systems should be considered within the context of the BOEMRE reorganization. Specifically, BOEMRE should examine whether TIMS can be upgraded to meet business requirements and address user performance concerns by leveraging more current, web-based, user-friendly technologies together with existing tools already within the Department. BOEMRE should carefully consider factors such as speed, performance requirements, and cost-effectiveness.

These recommendations are directly tied to the infusion of additional resources into the Bureau's safety and enforcement program, including the hiring and distribution of new personnel and enhancements to the Bureau's information technology infrastructure. Further, these issues are central to the reorganization analysis and implementation. To evaluate these issues, a BOEMRE team has been assigned to report to the Director by November 2010 regarding measures to enhance the inspections program, including the use of mobile technology and web-based tools.

D. Management Support

These recommendations concern management issues relating to the development of policies and the provision of resources to support personnel involved in the Bureau's safety and enforcement program.

Recommendations and Implementation

1. Ensure that managers and inspectors have proper training, with emphasis on the importance of a strong safety culture.
2. Ensure that inspectors have appropriate technology, resources and management support for the issuance and defense of INCs.
3. Develop and implement clear rules of engagement for operations that are transparent to all entities, including both BOEMRE and industry personnel, particularly relating to industry exerting pressure on inspectors.

4. Further develop ethics rules and training that reflect the unique circumstances of working in the GOM with opportunities for questions and discussions.
5. Ensure that BOEMRE managers support and enforce established rules of engagement and ethics rules.

As discussed above, the provision of resources, training, and appropriate technological infrastructure is essential to improving the safety and enforcement program and are central considerations of the reorganization and the establishment of BSEE. Also as described above, Director Bromwich recently issued a policy providing guidance regarding reporting and responding to attempts by industry personnel to harass, intimidate, or improperly influence Bureau personnel with respect to the performance of their official duties, including the issuance of INCs based on inspection activity. The Bureau will continue to consider enhancements to this policy and ways to strengthen oversight and enforcement of these rules.

V. Enforcement: Financial Penalties and Incentives for Safety Compliance

This section of the Report contains a number of specific recommendations concerning the regulatory and civil enforcement regime for safety compliance.

Recommendations and Implementation

1. Reevaluate the full range of enforcement actions, including INCs, civil penalties, and lease suspensions and cancellations to determine whether the enforcement actions deter violations. For example, BOEMRE should consider sanctions for repeat offenders, including those who repeatedly engage in violations that do not trigger civil penalties under the current standards.
2. Consider evaluating INCs to determine which, if any, may be appropriate for an automatic assessment of a fine and how much the fine should be. BOEMRE's evaluation could be informed by a review of the penalty structure of other regulatory agencies.
3. Review the civil penalty process to determine whether a civil penalty case can be completed effectively in less time than the current one-year time period allowed to assess a civil penalty.
4. Evaluate the rates and the structure of the civil penalty program and, if necessary, initiate the legislative or rulemaking process to ensure that penalties are appropriately tied to the severity of the violation.
5. Evaluate the use of facility shut-in authority to ensure its appropriate and effective utilization.
6. Develop a transparent process and public notification policy for workplace safety incidents, offshore oil spill incidents, corrective actions, and proceedings related to INCs.
7. Require on-site follow-up inspections, or other forms of evidence, to document that operators have made the required corrections to INCs.

8. Improve the INC documenting and tracking system so the status and resolution of INCs are fully documented, properly tracked and corrected.
9. Consider updating the INC form and other operational reporting documents to require operators to certify under penalty of perjury that all information submitted to the agency is accurate.
10. Consider reevaluating, and making appropriate recommendations regarding, financial guarantees required from operators in case of catastrophic spills, linking the required level of financial guarantee to risk, past safety performance, and potential natural resource and economic damages.
11. Consider developing a voluntary self-disclosure policy as an incentive for companies that notify BOEMRE of safety concerns.
12. Consider working with Congress to establish whistleblower protections specifically for individuals employed in private sector oil and gas companies who disclose safety and environmental violations.
13. Consider changing the approval process for returning a facility or component to operation by limiting who has approval authority; creating a system for tracking approvals and disapprovals; and ensuring that all staff who have approval authority have access to and properly use the tracking system.

Many of the above recommendations are relevant to, and will be incorporated into, the current review and evaluation of the Bureau's safety and enforcement program, which includes an analysis that will be provided to the Director by November 2010 and the reorganization effort, particularly with respect to the development and establishment of BSEE. As to those recommendations relating to the legal and regulatory aspects of the enforcement regime – such as civil penalties and sanctions, financial guarantees from operators, development of a self-reporting or disclosure policy for industry, and whistleblower protections – the Bureau will consult with the Solicitor's office and review similar regimes and measures used by relevant agencies to evaluate enhancements in these areas, and where necessary we will suggest legislation.

We fully agree with the Safety Oversight Board that the civil enforcement regime that applies to offshore energy development, particularly the civil penalties and sanctions that currently are available to deter and punish violations of safety and environmental standards and regulations, must be substantially strengthened. Director Bromwich has addressed this issue publicly on a number of occasions and is committed to substantially increasing the rigor and aggressiveness of BOEMRE's enforcement program and related sanctions.

VI. Environment: Environmental and Cultural Resources Protection

The recommendations in this section of the Report relate to the balance between the dual mandates under the Outer Continental Shelf Lands Act (OCSLA), which require the Bureau to manage development of OCS resources while ensuring that such development is conducted in a manner that is safe for human and animal life and the environment.

Recommendations and Implementation

1. In future institutional structures implemented through the ongoing BOEMRE reorganization, separate the management of environmental functions from those of leasing and development to ensure that environmental concerns are given appropriate weight and consideration.
2. Consider creating a review panel within BOEMRE to resolve conflicts that arise during environmental and socio-cultural reviews.
3. Explore and encourage other processes, policies and incentives that promote a culture of balanced stewardship and evaluate existing policies and practices that may impede the ability to achieve this balance.

These recommendations directly relate to one of the central rationales underlying the reorganization and the separation of functions into BOEM and BSEE. The Board's recommendations will be considered as the roles and relationships of BOEM and BSEE are defined and then implemented through the reorganization.

VII. Post-Accident Investigation

These recommendations relate to the current program for investigating of accidents and incidents occurring on offshore facilities within the Bureau's jurisdiction.

Recommendations and Implementation

1. Consider restructuring the accident investigation program to dedicate additional full-time staff with appropriate training in accident investigations. Establish a supervisory chain, with investigative expertise, that includes responsibility and accountability in BOEMRE headquarters for the overall management of the accident investigations program.
2. Require operators to provide detailed descriptions of certain types of accidents (*e.g.*, gas releases), to determine whether accident investigations or other corrective actions are necessary.
3. Develop and implement internal procedures to fully conduct and document accident investigations, including basic investigation and evidence gathering protocol.
4. To supplement existing ethics requirements and recusal policy, create an independence policy for all accident investigation personnel that includes certifications signed by investigation personnel, prior to commencing work on a particular investigation, affirming the absence of any conflicts of interest.
5. Explore the utility of an independent peer review process for panel investigations.
6. Establish a system to track investigation recommendations and verify that they have been considered and implemented, as appropriate, and documented accordingly.

We are currently reviewing the Bureau's accident and incident investigations program, and the Safety Oversight Board's observations and recommendations will be incorporated into this review. The review involves personnel from the IRU as well as members of the accident investigation staff. We expect this review will result in the issuance of policy guidance and procedural changes on a rolling basis as necessary as well as a comprehensive report to the Director regarding policy and program improvements by early 2011. As a first step in that direction, we note that the investigation of the September 1, 2010, fire on Mariner Energy's Vermilion platform is being led by a member of the IRU with more than a decade of federal investigative experience and other investigative team members with substantial subject-matter expertise.

VIII. Environmental Stewardship: Regulatory Framework, OSRP Review, OSRP Content

A. Environmental Stewardship: Regulatory Framework

The recommendations contained in this section of the Report relate to the regulatory tools available to the Bureau and the process for developing and reviewing new regulations.

Recommendations and Implementation

1. Develop a dynamic regulatory framework that promotes efficiency in the development and promulgation of regulations; provides for interim and continuing guidance to operators; provides clear guidance and ensures the appropriate use of notices to lessees (NTLs) and safety alerts; addresses gaps, inconsistencies, comprehensiveness and organization within BOEMRE regulations; and facilitates working with other agencies to reconcile related regulations.
2. Ensure that BOEMRE has sufficient staff with the expertise needed to review and vet standards developed by industry group subject matter experts to determine the extent to which those standards should be used in developing regulations.
3. Identify actionable items from the TA&R studies, track concurrence and implementation of those items, document rejected recommendations, and consider broader opportunities for the TA&R program.
4. Consulting with technical experts, conduct further analysis of the effects of water depth on equipment and operations, and determine the adequacy of current regulations.

These recommendations are relevant to defining through the reorganization certain aspects of the roles and relationships of the new organizations BOEM and BSEE. We agree that the process for identifying regulatory gaps and areas for enhancement or modernization must be made robust, and this is an area that will receive significant attention in designing the structures, roles, and lines of communication between BOEM and BSEE. To facilitate this part of the reorganization analysis and to begin addressing

improvements in the Bureau's regulatory process, we are performing an operations functions analysis to be completed by the end of December 2010.²

B. Environmental Stewardship: OSRP Review

The recommendations in this section of the Report relate to the review and verification of OSRPs submitted by industry.

Recommendations and Implementation

1. Draft a new Memorandum of Agreement with the USCG, EPA, and other interested agencies, requiring appropriate participation of all parties in the review of OSRPs, and any related drills or exercises.
2. Develop a review process for OSRPs that incorporates risk-based and other strategies to ensure that all critical information and spill scenarios are included in the OSRP by operators, and are comprehensively reviewed and verified by BOEMRE and/or other appropriate officials.
3. Determine and ensure technical expertise necessary for staff to conduct comprehensive reviews of OSRPs.
4. Ensure that inspectors verify the availability and presence of all equipment, including third-party equipment, listed in OSRPs prior to conducting inspections.

The Bureau is actively reviewing the availability and adequacy of well containment and spill response resources in light of the *Deepwater Horizon* incident. We have multiple efforts ongoing in this area, including the series of public forums being conducted by Director Bromwich, which are obtaining substantial information on spill response-related issues. Although the public forums are specifically tied to the existing deepwater drilling suspensions, in fact the information being collected is of much broader importance.

In addition to gathering information through the public forums, the Bureau has engaged the USCG regarding the evaluation of OSRPs submitted by energy companies. The Director also has directed the Bureau to perform a comprehensive review of strategies with respect to spill response and OSRPs to be completed by early 2011. While this review is being conducted, BOEMRE personnel are working to develop interim guidance to ensure that spill response plans and resources are sufficient in light of the revised worst case discharge calculations required under NTL 2010-06. The Safety Oversight Board's recommendations in this area are relevant to the review that the Director has ordered, as well as to the reorganization analysis.

² The Report suggests that BOEMRE review the use of NTLs and safety alerts to ensure that they are used appropriately. First, we note that safety alerts are merely advisories to lessees and operators about incidents or areas of concern and do not impose any enforceable requirements on offshore operations. Second, we agree that the Bureau must ensure that NTLs are used appropriately, including by, for example, obtaining legal review of draft NTLs. For example, both NTL 2010-05 and NTL 2010-06, issued following the *Deepwater Horizon* incident, were reviewed by the Solicitor's office. We are confident, and believe strongly, that both NTL 2010-05 and NTL 2010-06 were appropriate uses of NTLs.

C. Environmental Stewardship: OSRP Content

This final section of the Report concerns policies and procedures relating to the submission of information by industry concerning well containment and spill response.

Recommendations and Implementation

1. Develop policies and procedures to require detailed descriptions of containment and control measures for the source of possible spills and determine where to incorporate these measures, either in the OSRP or elsewhere in the permitting process.
2. Review calculations for worst-case discharges, with input from United States Geological Survey, and make recommendations for changes to 30 CFR 254.47 as appropriate.
3. Conduct additional research on containment and control measures to determine appropriate requirements for oil discharge at the source.

As described in the previous section, the Bureau is actively reviewing the availability and adequacy of well containment and spill response resources in light of the *Deepwater Horizon* incident, including but not limited to the Director's eight public forums being conducted from early August through mid-September. The Director also has directed the Bureau to perform a comprehensive review of strategies with respect to spill response and OSRPs to be completed by early 2011. While this review is being conducted, BOEMRE are working to develop interim guidance to ensure that spill response plans and resources are sufficient in light of the revised worst case discharge calculations required under NTL 2010-06. The Safety Oversight Board's recommendations in this area are relevant to the review that the Director has ordered.

IX. Conclusion

The Report reflects a comprehensive and thorough effort to fulfill the Secretary's direction that the Board develop information and provide recommendations to strengthen the Department's management and regulation of offshore energy development. The Safety Oversight Board's recommendations are constructive and directly relevant to the broad-based reforms that the President and Secretary have ordered be implemented to improve the management and safety of offshore energy development on the OCS. We thank the Board for its valuable Report and recommendations.

The Report is only one among a large number of studies, reviews, and investigations being conducted by various entities of the former MMS. This obviously creates a risk that because the results of these reviews will continue to flow in over time, and they are based largely on the state of affairs within MMS as of April 20, 2010, the view of BOEMRE will continue to be frozen in the past and will not keep up with the reform efforts that are currently in full-swing. That is misguided and unfair. It is critically important that as these reform efforts continue, the Department and the outside

world acknowledge them and recognize the enormous transformation the agency is undergoing.