July 2010

H.R. 5626, the Blowout Prevention Act of 2010

Committee on Energy and Commerce

The Blowout Prevention Act (H.R. 5626) establishes new federal regulatory requirements to prevent future spills from oil and gas wells. These new requirements apply to all oil and gas wells on the Outer Continental Shelf and to other high-risk wells that could cause extensive and widespread harm to public health and safety or the environment in the event of a blowout. The bill was reported by the Committee on Energy and Commerce on July 15, 2010, by a vote of 48 to 0, with one abstention.

Increased Oil Company Accountability. The Committee's investigation into the Gulf oil spill showed that BP CEO Tony Hayward and other top BP officials paid virtually no attention to the risks the company was taking. To ensure greater accountability, the bill requires the oil company CEO to certify that the well design is safe, that the blowout preventer (BOP) has redundant systems for all foreseeable blowout scenarios and failure modes, and that the company can promptly control and stop a blowout if the BOP and other well control measures fail.

Blowout Preventer Requirements. The Committee's investigation revealed multiple flaws in BP's BOP, including emergency controls that did not activate, dead batteries, leaking hydraulic systems, and disconnected rams. To increase the reliability of this essential safety device, the bill sets minimum standards for BOPs, including the requirement that the BOP have two sets of blind shear rams and redundant emergency backup control systems that can activate when communications from the rig are severed.

Well Design and Cementing Requirements. The Committee's investigation disclosed that BP made a series of risky well design and cementing decisions. To ensure risky wells are drilled with the highest possible safety standards, the bill requires the installation of at least three barriers across each hydrocarbon flow path, the installation and pressure testing of lockdown devices, adequate centralization of casing, the circulation of drilling fluids prior to cementing, and cement bond logs for all cementing programs intended to provide a barrier to hydrocarbon flow. New standards will also require steps to minimize the risk of ignition of hydrocarbons during a blowout or well control event. In addition, oil companies are required to maintain a team of experienced and highly qualified engineers to advise the well operator on safety.

Independent Third-Party Certification. To ensure compliance with the new requirements, the bill requires that BOPs, well designs, and cementing procedures be certified as safe by independent, third-party inspectors selected by the federal regulator, not the oil company.

Whistleblower and Stop-Work Requirements. The bill protects whistleblowers who raise safety concerns and establishes requirements for well operators and contractors to stop work when there are conditions indicating an immediate risk of a blowout.

Penalties for Violations. The bill establishes significant civil and criminal penalties for violations, including criminal fines of up to $10,000,000 per day for knowing and willful violations.

Independent Technical Advice and Certification. The bill establishes an independent Well Control Technical Advisory Committee to review proposed regulations, respond to requests for advice from the federal officials, assess implementation, and provide periodic reports assessing available well control technologies and practices.

Chemical Safety Board Investigation. The bill provides the Chemical Safety and Hazard Investigation Board with unrestricted access to personnel and records in investigating oil spills.

Covered Wells and Enforcement Responsibilities. The provisions of the Act apply to (1) all wells on the Outer Continental Shelf and (2) other wells if they could cause extensive and widespread impacts in the event of a blowout and are not effectively regulated by the state. For wells drilled on the Outer Continental Shelf, the federal regulator has the responsibility to enforce the provisions of the Act. For wells drilled offshore in state waters that could cause extensive and widespread impacts, the state has the responsibility to enforce the provisions of the Act or comparable provisions, unless the state lacks an adequate regulatory regime, in which case the federal regulator enforces the provisions. For wells drilled on land that could cause extensive and widespread impacts, the state or the federal government has the primary responsibility to regulate the wells effectively, depending on where the wells are located.