

## **Deepwater Drilling: Offshore Oil Progress Delayed Under "Slowmatorium"**

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Just over a year ago, in the wake of the Deepwater Horizon accident, the future of offshore oil exploration looked bleak. With the nation fixated on video of crude oil spewing into the Gulf of Mexico, President Obama quickly instituted a six-month deepwater drilling moratorium. Obama lifted the moratorium last October; however, many claim that the moratorium has not gone away, but was replaced by a de facto moratorium, colorfully called the "permitorium" or "slowmatorium." While the Obama Administration no longer blocks all deepwater drilling permits, new permits are still rare.

The Administration denies that it is purposefully delaying the issuance of deepwater drilling permits. Instead, Director of the Bureau of Ocean Energy Management, Regulation and Enforcement ("BOEMRE"), Michael Bromwich, claims the delays result from the enforcement of new strict environmental and safety rules. These new rules have sent companies scrambling to comply, while at the same time attempting to anticipate what new rules are coming. Critics also claim that BOEMRE is taking too long to issue permits. According to Bromwich, the delays "may be frustrating to some in the industry, but the additional rules and heightened scrutiny are completely appropriate and in the best interests of the nation."

With gas prices hovering around \$4 per gallon and 30% of the United State's domestic oil production coming from offshore sites, many political leaders have begun to question the wisdom of further delays. Congressman Darrell Issa, believes that because of "President Obama's ban and subsequent 'permitorium' against all drilling in the Gulf of Mexico, American production has dropped, and our country's energy needs have become increasingly dependent on foreign governments . . . ."

On May 11th, The House of Representatives passed two bills aimed at speeding up the deepwater drilling permit process and increasing offshore production. The first gives BOEMRE a maximum of 60 days to decide whether to approve or reject a deepwater permit application. The second bill would open up the Atlantic and California Coasts for drilling. Prior to the Deepwater Horizon accident, Obama pledged to expand offshore drilling to Atlantic Coast from Delaware down to and including the Eastern Coast of Florida. Obama reversed his position after the accident. Virginia Governor Bob

McDonnell is pushing to open his state's coast up to drilling, so Virginia can become "the energy capital of the East Coast . . . ."

Some in Congress also blame the Environmental Protection Agency ("EPA") for blocking permits. According to Rep. Fred Upton, "bureaucratic uncertainty and confusion under current federal law" has made the EPA's permitting processes for deepwater drilling permits unmanageable. Over the last five years, Shell Oil has spent over \$3.5 billion attempting to obtain permits to drill in the Beaufort Sea and Chukchi Sea, north of Alaska. On June 2nd, the House Energy and Commerce Committee voted in favor of a bill that will give the EPA six months to approve or deny a permit. The bill would also mandate that the EPA's Environmental Appeals Board would no longer hear permit appeals. Critics accuse the Environmental Appeals Board of needlessly delaying the issuance of permits.

The conflict over deepwater drilling permits has spilled over to the courts. In New Orleans, U.S. District Judge Martin Feldman gave the Administration until June 20th to act on six deepwater drilling permit applications that Ensco Oil claims were unreasonably delayed by regulators. Feldman describes the Administrations pace of issuing permits as "unreasonable, unacceptable, and unjustified." Earlier, Judge Feldman found the Obama Administration in contempt of court for failing to issue the permits. Judge Feldman also chastised the Administration for its handling of the deepwater moratoriums because "an important White House official had changed the Safety Report before its public release, which created the misleading appearance of scientific peer review."

The controversy surrounding the issuance of deepwater permits will not go away soon. In late February, the Obama Administration approved its first permit since the Deepwater Horizon accident. The Administrations action on permits is unlikely to placate critics. Senate Democrats have voiced opposition to the bills passed in the House. In April, Bromwich announced that major new offshore drilling safety rules are in the works. Bromwich recently reiterated that BOEMRE "will continue to search for additional ways to improve our processes without in any way modifying or relaxing the more stringent safety and environmental rules we have implemented over the past year."