

# Legal Issues and Challenges

# Safety Case Defined

- Complete set of safety documentation that provides a basis for determining whether a system is adequately safe for a given application in a given environment. (SB 3516)

# Regulator

- Competency
  - Compensation?
  - Education?
  - Training?
- Cooperative/Enforcer
  - American enforcement system
  - UK cooperative system

# Risk Acceptance/Tolerance

- Will Government accept/evaluate HSSE risk
- Will there be approved minimum levels or guidance
- Operator discretion
  - Operators likely to have (great) disparities
  - Can operator “risk away” safety concern?
- As low as reasonably practical
  - Can this be consistently defined in a “given application” or in a “given environment”

# Best Available Technologies

(as required by proposed legislation)

- Not Defined; No Guidance
- Exploration Plans: “Best available technology to ensure safety in carrying out the exploration activity and the blowout response plan”
- Drilling Permits: “Critical safety systems (including blowout prevention) will use best available technology”

# Future Regulations and Amendments

- How will they be adopted?
  - By Legislation
  - By Administrative Rule-Making (notice and comment period; APA)
  - By Enforcement
    - OSHA has “catch-all” requiring adoption of Recognized and Generally Accepted Good Engineering Practices (RAGAGEP)
    - Little warning of what is RAGAGEP

# Appeal Rights

- Important when requesting right to drill
- Vital when already drilling
  - Expedited process?
- Two options:
  - Stop and Appeal
  - Contest and Continuing Operating

# Legislative Update

- SB 3516 – OCS Reform Act of 2010
- HR 3534 – Consolidated Land, Energy, and Aquatic Resources Act (CLEAR)

# Legislative Update

- Potential Reforms
  - New enforcement agencies (e.g. Bureau of Safety and Environmental Enforcement (BSEE))
  - Conduct inspections and investigations of compliance with HSEE regulations, reported alleged violations & “each accident that presented a serious risk to human or environmental safety”
  - Increased daily fines to \$75,000
  - Required use of “best available technology”
  - Safety Case must be submitted along with each new application for permit to drill

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# Safety Case Scope of Review

- ✓ Technology
- ✓ Installation
- ✓ Maintenance
- ? Management