November 14, 2022

Department of the Interior
Bureau of Safety and Environmental Enforcement
Attention: Regulations and Standards Branch
45600 Woodland Road
Sterling, VA 20166

Re: *Blowout Preventer Systems and Well Control Revisions RIN 1014–AA52*

Via electronic submission to: http://www.regulations.gov/

To whom it may concern:

The American Petroleum Institute (API), the International Association of Drilling Contractors (IADC), the Independent Petroleum Association of America (IPAA), the National Ocean Industries Association (NOIA), the Offshore Operators Committee (OOC), the Energy Workforce and Technology Council, and the US Oil and Gas Association respectfully submit the following comments on the proposed regulatory revisions to Blowout Preventer Systems and Well Control requirements in 30 C.F.R. part 250. The Bureau of Safety and Environmental Enforcement (BSEE) published these proposed changes on September 14, 2022, in a notice of proposed rulemaking entitled, ''Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Blowout Preventer Systems and Well Control Revisions'' (Proposed Rule).

Safety is a core value for the oil and natural gas industry. We are committed to safe operations and support effective regulations, including in the areas of blowout preventer systems and well control. We appreciate BSEE providing the opportunity to comment on its efforts to achieve consistency and clarity regarding the blowout preventer (BOP) equipment and associated operational requirements. These trade associations represent oil and natural gas producers who conduct the vast majority of the Outer Continental Shelf (OCS) oil and natural gas exploration and production

activities in the United States as well as the companies supporting the drilling, equipment manufacturing, construction, and support services for the offshore oil and natural gas industry. Our collective commitment to safe operations motivates us to ensure that the regulations in place foster safe operations today and into the future.

The oil and natural gas industry is committed to developing and producing domestic energy resources for the benefit of all Americans and doing so in a safe and environmentally sound manner. The below context and the attached detailed response demonstrate areas for continued improvement to the safety and economic competitiveness of the OCS oil and natural gas industry.

Our comments are submitted without prejudice to any of our member companies' right to have or express different or opposing views. We have encouraged our members to submit comments on the proposal.

While the industry appreciates BSEE's stated efforts to provide consistency and clarity to industry on several aspects of the BOP system requirements and BOP equipment capability requirements in the proposed rule, there are several proposed changes that, in fact, raise more questions than answers and that industry disagrees with or that require further clarification and potential re-proposal. As noted in the Attachment "A", Industry disagrees with the proposed changes to the general requirements for BOP systems in §250.730 (a) and (c). Additionally, Industry requests additional clarification on proposed changes to independent third-party requirements in §250.732 (b), and surface BOP requirements in §250.733 (b)(1) prior to incorporation of those proposed changes into any final rule; specifically, we recommend that BSEE re-propose changes to these provisions with the necessary clarifications. Industry supports the proposed changes to two provisions (§250.737 (d)(2)(ii) and §250.737 (d)(3)(iii). Lastly, Industry recommends a delayed effective date to the changes proposed by BSEE in §250.734 (a)(4)).

In addition to our specific comments on the rule provisions described above and as set forth in greater detail in Attachment A, the industry offers the following overarching comments.

A. BSEE's Proposed Rule is ambiguous and does not provide fair notice.

Established precedent requires that "regulations and other public statements issued by [an] agency [must allow] a regulated party acting in good faith … to identify, with 'ascertainable certainty,' the standards with which the agency expects parties to conform." *General Electric Co. v. U.S.E.P.A.*, 53 F.3d 1324, 1329 (D.C. Cir. 1995); *see also FCC v. Fox TV Stations, Inc.*, 567 U.S. 239, 253 (2012). It follows that regulations that do not provide a "person of ordinary intelligence" with fair notice of what is required are impermissibly vague. *Fox*, 567 U.S. at 253.

The proposed revisions to §250.732 (b) and §250.733 (b)(1) are ambiguous and require additional information and clarification from BSEE for Industry to understand what compliance requirements BSEE is proposing, and how Industry can comply with those requirements should they be included in a final rule. Industry suggests BSEE provide the information and clarification required and then repropose these provisions based on that information through a supplemental proposed rule or other appropriate vehicle in accordance with the Administrative Procedures Act.

B. Requiring oil companies to report to BSEE rather than the U.S. Bureau of Transportation Statistics compromises safety sharing and lacks a reasoned basis.

The U.S. Bureau of Transportation Statistics (BTS) currently administers SafeOCS, a confidential reporting system (developed with BSEE's assistance) that collects and analyzes confidential and proprietary information described in the proposed rule to ensure safety in oil and natural gas operations on the Outer Continental Shelf.[1] For years, BSEE has relied on BTS to collect information from industry members, and BSEE has expressly supported the SafeOCS program based on rationale that is unaddressed in the Proposed Rule. For instance, BSEE Director Brian Salerno stated in October 2016, "We are encouraging industry to quickly begin taking advantage of the SafeOCS expansion…Shared awareness of safety trends better equips us all to quickly focus on emerging issues and thereby drive down the risk of serious incidents."[2] That reasoning which prompted BSEE to support reporting to BTS in the first place is ignored entirely in the Proposed Rule.

The confidentiality of information reported to BTS through SafeOCS is protected by the Confidential Information Protection and Statistical Efficiency Act ("CIPSEA"), which establishes protections for confidential and proprietary information collected by certain agencies, including BTS (but significantly, *not* BSEE). *See* 44 U.S.C. § 3561 *et seq.* *See* also 87 Fed. Reg. at 56356. CIPSEA protections encourage full and frank reporting of such information. As set forth in Attachment A, rather than abandoning reliance on SafeOCS and the CIPSEA safeguards, BSEE should work with BTS to modify its reporting schedule to BSEE to facilitate BSEE's timely review of data. *See Dep't of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1913 (2020) ("When an agency rescinds or alters a prior policy, its reasoned analysis must consider the alternatives that are within the ambit of the existing policy.").

C. Some of BSEE's proposed changes are not economically feasible.

Attachment A identifies sections of the proposed rule that are not economically feasible. Indeed, the proposed rule would impose a tremendous economic burden on the oil and natural gas industry. For example, in Section III.D of its Regulatory Impact Assessment for the Proposed Rule, BSEE indicates that the incremental cost of proposed section §250.733 (b)(1), which would require installing a second shear ram when replacing the entire BOP stack, would be $556,296, per replacement. However, that assessment, while it included both equipment and installation costs, did not account for rig structure modifications that would be required in circumstances where a second shear ram cannot physically fit on an existing facility. In notable contrast, BSEE recognized the structural implications of requiring dual shear rams on existing facilities when it revised the subject regulations in 2019. *See* 84 Fed. Reg. 21908, 21951 (May 15, 2019) ("These regulations do not apply to existing facilities, even if they are redeployed at another location because of several issues, including, but not limited to, **clearance and weight issues**." (emphasis added.)) Notwithstanding this missing assessment, some of the structural modifications required

[1] 87 Fed. Reg. 56356

[2] Bureau of Safety and Environmental Enforcement, BSEE Expands SafeOCS Program (, October 26, 2016), https://www.bsee.gov/newsroom/latest-news/statements-and-releases/press-releases/bsee-expands-safeocs-program#:~:text=%22We%20are%20encouraging%20industry%20to,the%20risk%20of%20serious%20incidents.%22 (last visited November 4, 2022).

should the proposed provision become final – could be so consequential as to render some leases economically unviable.

As further evidence of the significant underestimation of the Proposed Rule's costs, API contracted Blade Energy Partners to perform an independent cost estimate of the proposed revisions in the rule. According to the report, the cost of compliance is estimated to be approximately $200 million over a ten-year period. The report further demonstrates that, without reasonable changes as proposed in Attachment A, the proposed rule would impose unreasonable and economically infeasible burdens on energy development efforts without a measurable safety benefit. The report also found that the estimated time required for industry to comply with these proposed rule changes, for all assumed configurations, is two years or more. However, the Proposed Rule does not include a delayed effective date with respect to any of the proposed provisions.

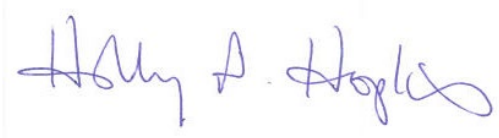
D. The Proposed Rule ignores requirements of the National Technology Transfer and Advancement Act ("NTTAA").

The NTTAA requires that "all Federal agencies and departments ***shall use*** technical standards that are ***developed or adopted by voluntary consensus standards bodies***." Pub. L. No. 104-113, § 12(d)(1) (emphasis added). An agency can only create its own, unique technical standard if adherence to a consensus standard would be "inconsistent with applicable law or otherwise impractical." *Id.* at § 12(d)(3). Where an agency elects to use or develop a government-unique standard in lieu of a voluntary consensus standard, Section 12(d) of the NTTAA requires the agency to submit a report describing the reason(s) to the Office of Management and Budget. *See also* Revised OMB Circular A-119 at p. 20. Technical standards are broadly defined under the NTTAA to include API Standards and API "guidelines" such as Recommended Practices and Bulletins. *Id.* at 15. BSEE's analysis in any final rule should include consideration of NTTAA obligations.

We look forward to continued engagement with BSEE on these important regulatory requirements to assure that the energy that is fundamental to our society and its economic prosperity can be developed and delivered safely. It is important that safety regulations indeed enhance safety, rather than hinder it.

Thank you for your consideration of these comments, please do not hesitate to contact us if you have any questions.

Sincerely,



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Attachment

ATTACHMENT A

Proposed Regulation Reference	Proposed New Regulation	Comments	Recommended Industry Text
§250.730 (a)	What are the general requirements for BOP systems and system components? (a) You must ensure that the BOP system and system components are designed, installed, maintained, inspected, tested, and used properly to ensure well control. The working pressure rating of each BOP component (excluding annular(s)) must exceed MASP as defined for the operation. For a subsea BOP, the MASP must be determined at the mudline. The BOP system includes the BOP stack, control system, and any other associated system(s) and equipment. The BOP system and individual components must be able to perform their expected functions and be compatible with each other. Your BOP system must be capable of closing and sealing the wellbore at all times to the well's maximum kick tolerance design limits. The BOP system must be capable of closing and sealing without losing ram closure time and sealing integrity due to the corrosiveness, volume, and abrasiveness of any fluids in the wellbore that the BOP system may encounter. Your BOP system must meet the following requirements: * * * * *	I. "At all times" Industry recognizes BSEE's intent to add clarity to the previous iterations of the Well Control Rule by revising the text to include "closing and sealing the wellbore at all times to the well's maximum kick tolerance design limits" and agrees with BSEE's definition of kick tolerance being "the maximum volume of gas kick influx that can be safely taken into the wellbore and circulated out of the well without breaking down the surrounding formation." However, Industry does not agree that including flow rates into a kick tolerance calculation or equation is appropriate as part of BOP capability, as that is inconsistent with standard practice, and leads to ambiguity in design without any demonstrated safety benefits. Flow rates and kick tolerance are distinct concepts that should not be intertwined because they address different responses. Therefore, while Industry understands the intent of the proposed regulation, we encourage BSEE to modify its proposed changes to better align with BSEE's intent. Importantly, inclusion of the phrase "at all times" will conflict with the BOP requirements within the existing regulation. As a result, Industry's suggested text would clarify that this only applies during the times at which a BOP would be expected to function based on the design requirements laid out by the Well Control Rule in 250.730(a)(1) through 250.730(a)(3) and API Standard 53. As an example, 250.734(a)(1)(ii) lists tubulars that might cross the BOP but are not required to be able to close and seal the wellbore – thereby creating confusion (or even conflict) with the "at all times" requirement that has been proposed to be included in 250.730(a). II. Changes to BOP Systems design In the preamble, it is stated that "a BOP functions as a mitigation device" and the purpose of a BOP "is not to halt a full blowout once it has commenced." 87 Fed. Reg. 56356 Additionally, BSEE states in the preamble that the volume of gas kick influx can be utilized to	(a) You must ensure that the BOP system and system components are designed, installed, maintained, inspected, tested, and used properly to ensure well control. The working pressure rating of each BOP component (excluding annular(s)) must exceed MASP as defined for the operation. For a subsea BOP, the MASP must be determined at the mudline. The BOP system includes the BOP stack, control system, and any other associated system(s) and equipment. The BOP system and individual components must be able to perform their expected functions and be compatible with each other. Your BOP system must be capable of closing and sealing the wellbore ~~at all times to the well's maximum kick tolerance design limits~~ as designed per the BOP system requirements of this Subpart, to the well's maximum anticipated surface pressure (MASP). The BOP system must be capable of closing and sealing without losing ram closure time and sealing integrity due to the corrosiveness, volume, and abrasiveness of any fluids in the wellbore that the BOP system may encounter. Your BOP system must meet the following requirements:

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		calculate a flowrate that is used to "validate that the BOP will function under flowing conditions while maintaining well integrity". Id. As required by this regulation, BOP Systems have been and are designed and tested to perform their functions at maximum anticipated surface pressure (MASP) for the well's conditions. This does not mean that BOPs have been tested to close under all flowing conditions in a laboratory environment. Instead, the redundancy of closure devices inherent in BOP system design (i.e., Ram BOP, Annular BOP, Valves, etc.) allows for flow to be restricted with one device and then fully closed off with a secondary / another device once the fluid in the well is static or quasi-static. Given Industry's compliance with these requirements of the existing regulations (first promulgated in 2016 and unchanged by BSEE thereafter) and considering the above stated redundancy, Industry requests BSEE confirm that BSEE does not anticipate that Industry will need to make any significant changes to its current or planned BOP systems to comply with the proposed rule, if finalized, as previously noted by BSEE on page 25940 of Volume 81 of the Federal Register (dated April 29, 2016) in the section entitled "Comments Related to Proposed § 250.730(a)–Flowing Conditions". III. "Maximum kick tolerance" Lastly, instead of establishing kick tolerance as the design criteria, industry suggests BSEE utilize MASP. The use of "maximum kick tolerance" does not make current regulations safe or clearer, and instead introduces ambiguity. Specifically: • Designing to maximum kick tolerance is dependent on many different factors (such as mud weight, drill string and bottom hole assembly in use, pore pressure and fracture gradient, rheology and temperature, and method used to circulate out a kick); • Adding a theoretical and speculative flow rate consideration into the kick tolerance equation would be disadvantageous compared to the use of MASP based on the	

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		complexity of varying well designs. Assumptions would have to be made for all of the above variables and multiple scenarios considered for design, leading to multiple different design scenarios without a single basis of design. Likewise, the selected scenario for the basis of design may differ from the scenario encountered in the field; • Designing to kick tolerance may lead to unintended consequences in design. For instance, in well sections with high formation strength the maximum kick tolerance is large, resulting in a conservative sizing of well control equipment. Conversely, in sections with low formation strength, this may result in less conservative sizing of well control equipment; and • Designing to MASP is more practical and includes a kick scenario (based on BSEE's existing requirements on how to calculate MASP) and MASP is used elsewhere in this subsection as well as the rest of the subpart.	
§250.730 (c)	What are the general requirements for BOP system and system components? (c) You must follow the failure reporting procedures contained in API Standard 53, (incorporated by reference in § 250.198), and: (1) You must provide a written notice of equipment failure to both the Chief, Office of Offshore Regulatory Programs (OORP), and the manufacturer of such equipment within 30 days after the discovery and identification of the failure. A failure is any condition that prevents the equipment from meeting the functional specification. (2) You must start an investigation and a failure analysis within 90 days of the failure to determine the cause of the failure and complete the investigation and the failure analysis within 120 days after initiation. You also must document the results and any corrective action. You must submit the analysis report to both the	Industry believes investigations and failure analyses should continue to be initiated within 120 days of the failure and not 90 days, as it takes about 120 days for Operators to transport larger BOP equipment to original equipment manufacturers and locations where the failure analyses will be performed. Further, in the proposed rule, BSEE summarily states that it has "determined that most operators can initiate the failure investigation and analysis more quickly[.]" But BSEE does not address the inconsistency between this conclusion and its conclusion at the time of the 2019 WCR that "certain operations would preclude operators" from meeting a 90-day requirement. Industry also does not support the proposed changes that would remove BSEE's option to direct failure	Recommend retaining language in existing regulations.

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	Chief, OORP and the manufacturer. If you cannot complete the investigation and analysis within the specified time, you must submit an extension request detailing when and how you will complete the investigation and analysis to BSEE for approval. You must submit the extension request to the Chief, OORP. (3) If the equipment manufacturer notifies you that it has changed the design of the equipment that failed or if you have changed operating or repair procedures as a result of a failure, then you must, within 30 days of such changes, report the design change or modified procedures in writing to the Chief, OORP. (4) Submit notices and reports to the Chief, Office of Offshore Regulatory Programs; Bureau of Safety and Environmental Enforcement; 45600 Woodland Road, Sterling, Virginia 20166.	reporting to third parties. Industry does not support these changes for three primary reasons. I. Firstly, the current regulation affords BSEE the *option*, not the *obligation*, to direct failure reporting to a third parties ("BSEE *may* designate a third party to receive the data and reports on behalf of BSEE." 30 CFR 250.730(c)(4) (Emphasis added.)) II. Secondly, BSEE already regularly receives the information from multiple venues that it purports to only receive from BTS on an annual basis. In the preamble of this proposed rule, BSEE states "if [it] does not become aware of certain failure reports and trend data until it receives an annual report from BTS, it limits BSEE's ability to address failures and trends in a timely and meaningful manner. Receiving failure reports directly would facilitate BSEE's timely review of the failure data to help more quickly identify trends and respond to systematic issues falling within BSEE's regulatory authority." (87 FR 56357). However, BSEE regularly receives failure data and has direct control to aggregate this data to become aware of developing failure trends and address these trends in timely and meaningful manner. For example, BSEE executes rig inspections within 45-day intervals, and directly witnesses testing. BSEE also launches panels to investigate any serious incidents, usually within days of the incident. Perhaps most importantly, BSEE Districts have access to failure data in *daily* reports, morning drilling meetings, and notifications of any stack pulls. BSEE receives Well Activity Reports from all Operators in the Gulf of Mexico on a weekly basis that includes granular data and daily comments that can be reviewed for trends. BSEE also receives manufacturer's investigation reports. All of this is in addition to the information BTS provides BSEE and all external stakeholders in BTS Annual Reports on Well Control Equipment failures, trends, and reoccurring failures (i.e., BTS evaluates the regulatory-required information that must be submitted to BSEE and looks for trends and develops	

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		informative reports by employing their statistical expertise). III. Thirdly, there is significant value in BSEE continuing to utilize the expertise of BTS to generate annually failure reports and quarterly components data, and there is no credible, technical, or analytical reason to change the method of Well Control Equipment failure reporting that has increased Industry's disclosure of events under the current regulations promulgated in 2016. Even before the 2016 Blowout Preventer and Well Control final rule, Industry recognized that improvements were needed to share failure data, so it voluntarily began reporting BOP failures amongst equipment owners and operators, and then to the Original Equipment Manufacturers. When developing the 2016 Blowout Prevent and Well Control final rule, Industry and BSEE recognized the need to go even further; therefore – after engaging with Industry and the broader federal government in 2016 BSEE codified the failure reporting process started by Industry, thereby mandating its failure reporting. Further, BSEE recognized it did not have the technical expertise to identify relevant trends in large and complex volumes of data. BSEE (and Industry) also wanted to encourage companies to report broadly, truthfully, and reliably, and to prevent companies from being singled out for information contained in these reports, so BSEE partnered with the Bureau of Transportation and Statistics (BTS) to assist with data collection and consolidation of failure data. In addition to the technical expertise this brought, it also prevented disclosure of proprietary and confidential data under the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) (Pub. L. No. 107-347). For several years after 2016, Industry, BSEE, and BTS regularly engaged to refine and increase reporting to	

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		achieve the current and meaningful analyses. Namely, BTS now provides BSEE and the public with a thorough yearly report and regular access to a monthly updated Dashboard on component failures. Those reports and updates can be found at https://SafeOCS.gov, and they include the type of failure, detection method, and root causes of failures occurring in the past three months. If BSEE would prefer more frequent access to the information collected by BTS, then BSEE should work with BTS to have more frequent access to information rather than abandoning reliance on SafeOCS and the CIPSEA safeguards.	
§250.732 (b)	What are the independent third party requirements for BOP systems and system components? * * * * * (b) The independent third party must be accredited by a qualified standards development organization and must be a technical classification society, a licensed professional engineering firm, or a registered professional engineer capable of providing the required certifications and verifications. BSEE may review the independent third party accreditation and qualifications to ensure that the independent third party has sufficient capabilities to perform the required functions.	Established precedent requires that "regulations and other public statements issued by [an] agency [must allow] a regulated party acting in good faith … to identify, with 'ascertainable certainty,' the standards with which the agency expects parties to conform." *General Electric Co. v. U.S.E.P.A.*, 53 F.3d 1324, 1329 (D.C. Cir. 1995); *see also FCC v. Fox TV Stations, Inc.*, 567 U.S. 239, 253 (2012). It follows that regulations that do not provide a "person of ordinary intelligence" with fair notice of what is required are impermissibly vague. *Fox*, 567 U.S. at 253. As drafted, the proposed regulatory language is not sufficient to give Industry fair notice of what is actually required for compliance. Thus, Industry requests that *before* BSEE adopts this requirement it clarify at least the following: 1) What is the standard(s) to which accreditation will be required? 2) What are the "qualified standards development organizations"? 3) What organization(s) is/are currently compliant with BSEE's expectations of accreditation? <u>After</u> BSEE further develops what would be required, it can then re-propose the suggested modification in a manner that would provide Industry with the notice to	Because the proposed rule (1) is ambiguous (and does not provide fair notice of what is required for compliance); (2) would require "qualified standards development organizations (SDOs)" to be identified and development of new accredited programs over a multi-year timeline, and (3) does not articulate the criteria by which BSEE would review accreditation, Industry suggests BSEE identify and meet with SDOs to determine how this concept might be implemented for the OCS and then repropose a revised provision based on those engagements. In the meantime, BSEE should keep the current regulations unchanged.

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		which it is entitled. Since the requirement for independent third-party verifiers, Industry has utilized in accordance with existing regulation a technical classification society, a licensed professional engineering firm, or a registered professional engineer capable of providing the required certifications and verifications. Since the requirement of independent third-party providers with the additional requirements made from BSEE, all wells have been approved in OCS waters using these independent third-party providers. An additional layer of accreditation by a standards development organization does not increase accountability and only increases the burden on industry. Furthermore, no accreditation exists and if this requirement goes into effect, all current independent third-party companies may be out of compliance until the process is develop over multiple years, thereby limiting Operators from completing BOP repairs and obtaining new permits and modifications of existing permits. At a minimum, this necessitates at least a two-year delayed effective date for this provision. Lastly, by creating additional hurdles for independent third parties to be qualified, BSEE will presumably narrow the field of vendors that can participate in the offshore oil and gas marketplace. Conversely, if BSEE believes no vendors will be removed from participating in the market, then the impetus and necessity for this proposed regulation are moot.	
§250.733 (b)(1)	What are the requirements for a surface BOP stack? * * * * * (b) * * * (1) On new floating production facilities installed after April 29, 2021, that include a surface BOP, or when you replace an entire surface BOP stack on an existing floating production facility, follow the BOP requirements in § 250.734(a)(1). * * * * *	The financial impact is grossly underestimated as structural impact would be massive by requiring operators to raise the substructure of existing platform rigs to accommodate a taller BOP system after adding another BOP cavity. This could have the effect of rendering some leases and projects uneconomic. Further, some operations have two different sized BOP systems: one for drilling and one for completions. Industry requests clarification from BSEE on whether	Because the proposed rule could require significant (and perhaps infeasible) modifications to be made to existing facilities on the OCS, and because BSEE's current data collection efforts in advance of this rulemaking do not fully account for these impacts, Industry suggests BSEE engage with Industry to determine how to achieve the intent of this proposal and then repropose a modified provision in a later rulemaking. In the meantime, BSEE should keep the current

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		the intent of the proposed change is to cover replacement of both BOP systems. Lastly, currently stacked platform rigs for floating facilities (i.e., those not already deployed on a facility) will likely not conduct structural modifications to comport with the proposed provision when they are not already under contract. However, if a safety critical well workover and / or plugging by a rig were needed on a facility, then extensive delays could result as an Operator attempts to mobilize a stacked rig.	regulations unchanged.
§250.734 (a)(4)	What are the requirements for a subsea BOP system? (a) * * * (4) * * * You must have the ROV intervention capability to open and close each shear ram, ram locks, one pipe ram, and disconnect the LMRP under MASP conditions as defined for the operation. You must be capable of performing these functions in the response times outlined in API Standard 53 (as incorporated by reference in § 250.198). The ROV panels on the BOP and LMRP must be compliant with API RP 17H (as incorporated by reference in § 250.198).	Industry recognizes BSEE's intent to reinstate the ROV open functions per the 2016 Blowout Prevent and Well Control final rule (81 FR 25887). Because this requirement was removed in the 2019 Blowout Prevent and Well Control final rule (84 FR 21908), it will take additional time for Industry to modify existing rigs. BSEE appears to acknowledge this in Section III.E of the Proposed Rule's Regulatory Impact Assessment by stating, "It is assumed that these eight modifications would be scheduled during the first year of the forecast horizon to comply with the effective date of the final rule." However, there is no delayed effective date in the Proposed Rule, suggesting compliance would be required immediate and not be scheduled. Therefore, Industry suggests BSEE delay the effective date of this provision to be 365 days after the final rule becomes effective. This delay would ensure that it is possible for Industry to timely implement the changes necessary to comply with BSEE's proposed requirement. *See Alliance v. Drug Enforcement Admin.*, 930 F.2d 936, 940 (D.C. Cir. 1991) ("Impossible requirements imposed by an agency are perforce unreasonable.").	What are the requirements for a subsea BOP system? (a) * * * (4) * * * You must have the ROV intervention capability to open and close each shear ram, ram locks, one pipe ram, and disconnect the LMRP under MASP conditions as defined for the operation. You must have the ROV intervention capability to open within 365 days from the effective date of the final rule. You must be capable of performing these functions in the response times outlined in API Standard 53 (as incorporated by reference in § 250.198). The ROV panels on the BOP and LMRP must be compliant with API RP 17H (as incorporated by reference in § 250.198).
§250.737 (d)(2)(ii)	What are the BOP system testing requirements? (2) * * * * * * (ii) Contact the District Manager at least 72 hours prior to beginning the initial test to allow BSEE representative(s) to witness the testing. If BSEE representative(s) are unable to witness the testing, you must provide the initial test results to the	No comment.	None.

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	appropriate District Manager within 72 hours after completion of the tests.		
§250.737 (d)(3)(iii)	What are the BOP system testing requirements? (3) * * * * * * (iii) Contact the District Manager at least 72 hours prior to beginning the stump test to allow BSEE representative(s) to witness the testing. If BSEE representative(s) are unable to witness the testing, you must provide the test results to the appropriate District Manager within 72 hours after completion of the tests.	No comment.	None.