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Despite Moratorium, Drilling Projects Move Ahead

By IAN URBINA

WASHINGTON — In the days since [President Obama](#) announced a moratorium on permits for drilling new offshore [oil](#) wells and a halt to a controversial type of environmental waiver that was given to the Deepwater Horizon rig, at least [seven new permits for various types of drilling](#) and [five environmental waivers](#) have been granted, according to records.

The records also indicate that since the April 20 explosion on the rig, federal regulators have granted at least 19 environmental waivers for gulf drilling projects and at least 17 drilling permits, most of which were for types of work like that on the Deepwater Horizon shortly before it exploded, pouring a ceaseless current of oil into the Gulf of Mexico.

Asked about the permits and waivers, officials at the [Department of the Interior](#) and the [Minerals Management Service](#), which regulates drilling, pointed to public statements by Interior Secretary [Ken Salazar](#), reiterating that the agency had no intention of stopping all new oil and gas production in the gulf.

Department of the Interior officials said in a statement that the moratorium was meant only to halt permits for the drilling of new wells. It was not meant to stop permits for new work on existing drilling projects like the Deepwater Horizon.

But critics say the moratorium has been violated or too narrowly defined to prevent another disaster.

With crude oil still pouring into the gulf and washing up on beaches and in wetlands, President Obama is sending Mr. Salazar and Homeland Security Secretary [Janet Napolitano](#) back to the region on Monday.

In a toughly worded warning to BP on Sunday, Mr. Salazar said at a news conference outside the company's headquarters in Houston, "If we find they're not doing what they're supposed to

be doing, we'll push them out of the way appropriately.”

Mr. Salazar's position conflicted with one laid out several hours earlier, by the commandant of the [United States Coast Guard](#), Adm. Thad W. Allen, who said that the oil conglomerate's access to the mile-deep well site meant that the government could not take over the lead in efforts to stop the leak.

“They have the eyes and ears that are down there,” the admiral said on CNN's “State of the Union” program. “They are necessarily the modality by which this is going to get solved.”

Since the explosion, federal regulators have been harshly criticized for giving BP's Deepwater Horizon and hundreds of other drilling projects waivers from full environmental review and for failing to provide rigorous oversight of these projects.

In voicing his frustration with these regulators and vowing to change how they operate, Mr. Obama announced on May 14 a moratorium on drilling new wells and the granting of environmental waivers.

“It seems as if permits were too often issued based on little more than assurances of safety from the oil companies,” Mr. Obama said. “That cannot and will not happen anymore.”

“We're also closing the loophole that has allowed some oil companies to bypass some critical environmental reviews,” he added in reference to the environmental waivers.

But records indicated that regulators continued granting the environmental waivers and permits for types of work like that occurring on the Deepwater Horizon.

In testifying before Congress on May 18, Mr. Salazar and officials from his agency said they recognized the problems with the waivers and they intended to try to rein them in. But Mr. Salazar also said that he was limited by a statutory requirement that he said obligated his agency to process drilling requests within 30 days after they have been submitted.

“That is what has driven a number of the categorical exclusions that have been given over time in the gulf,” he said.

But critics remained unsatisfied.

Shown the data indicating that waivers and permits were still being granted, Senator [Benjamin L. Cardin](#), Democrat of Maryland, said he was “deeply troubled.”

“We were given the clear impression that these waivers and permits were not being granted,” said Mr. Cardin, who is a member of the Senate Environment and Public Works Committee,

where Mr. Salazar testified last week. “I think the presumption should be that there should be stronger environmental reviews, not weaker.”

None of the projects that have recently been granted environmental waivers have started drilling.

However, these waivers have been especially troublesome to environmentalists because they were granted through a special legal provision that is supposed to be limited to projects that present minimal or no risk to the environment.

At least six of the drilling projects that have been given waivers in the past four weeks are for waters that are deeper — and therefore more difficult and dangerous — than where Deepwater Horizon was operating. While that rig, which was drilling at a depth just shy of 5,000 feet, was classified as a deep-water operation, many of the wells in the six projects are classified as “ultra” deep water, including [four new wells](#) at over 9,100 feet.

In explaining why they were still granting new permits for certain types of drilling on existing wells, Department of the Interior officials said some of the procedures being allowed are necessary for the safety of the existing wellbore.

Pending the recommendations of the 30-day safety review, the officials said, drilling under permits approved before April 20 “may go forward, along with applications to modify existing wells and permits, if those actions are determined to be appropriate.”

But Interior Department officials have also explained that one of the main justifications of the moratorium on new drilling was safety. The moratorium was meant to ensure that no new accidents occurred while the administration had time to review the regulatory system.

And yet, the federal [Occupational Safety and Health Administration](#) has [classified](#) some of the drilling types that have been allowed to continue as being as hazardous as new well drilling. Federal records also indicate that there have been at least three major accidents involving spills, leaks or explosions on rigs in the gulf since 2002 caused by the drilling procedures still being permitted.

“The moratorium does not even cover the dangerous drilling that caused the problem in the first place,” said Daniel J. Rohlf, a law professor at Lewis & Clark Law School, adding he was not certain that the Interior Department was capable of carrying out the needed reforms.

The moratorium has created inconsistencies and confusion.

While Interior Department officials have said certain new drilling procedures on existing wells

can proceed, Mr. Salazar, when pressed to explain why new drilling was being allowed, testified on May 18 that “there is no deep-water well in the O.C.S. that has been spudded — that means started — after April 20,” referring to the gulf’s outer continental shelf.

However, Newfield Exploration Company has confirmed that it began drilling a deep-water well in 2,095 feet of water after April 20. Records indicate that Newfield was issued a [permit](#) on May 11 to initiate a sidetrack drill, with a required spud date of May 10. A sidetrack is a secondary wellbore drilled away from the original hole.

Among the types of drilling permits that the minerals agency is still granting are called bypass permits. These allow an operator to drill around a mechanical problem in the original hole to the original target from the existing wellbore.

Five days before the explosion, the Deepwater Horizon requested and received a revised bypass permit, which was the last drilling permit the rig received from the minerals agency before the explosion. The bore was created and it was the faulty cementing or plugging of that hole that has been cited as one of the causes of the explosion.

In reviewing the minerals agency, federal investigators are likely to pay close attention to how permits and waivers have been granted to drilling projects.

Even before the Deepwater Horizon disaster, the use of environmental waivers was a source of concern. In September 2009, the [Government Accountability Office](#) released a [report](#) concluding that the waivers were being illegally granted to onshore drilling projects.

This month, the Interior Department [announced plans](#) to restrict the use of the waivers onshore, though not offshore. It also began a [joint investigation](#) of the offshore waiver process with the [Council on Environmental Quality](#), an environmental arm of the White House.

The investigation, however, is likely to take months, and in the meantime the waivers are continuing to be issued. There is also a [60-day statute of limitations](#) on contesting the waivers, which reduces the chances that they will be reversed if problems are found with the projects or the Obama administration’s review finds fault in the exemption process.

At least three lawsuits to strike down the waivers have been filed by environmental groups this month. The lawsuits argue that the waivers are overly broad and that they undermine the spirit of laws like the National Environmental Policy Act and the Endangered Species Act, which forbid drilling projects from moving forward unless they produce detailed environmental studies about minimizing potential risks.

